

1 **SENATE FLOOR VERSION**

2 February 18, 2019

3 **AS AMENDED**

4 SENATE BILL NO. 765

5 By: McCortney

6 [ **smoking in public places - prohibitions on smoking**  
7 **- marijuana -** **emergency ]**

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9  
10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1247, as  
12 last amended by Section 1, Chapter 110, O.S.L. 2017 (21 O.S. Supp.  
13 2018, Section 1247), is amended to read as follows:

14 Section 1247. A. The possession of lighted tobacco or lighted  
15 marijuana in any form is a public nuisance and dangerous to public  
16 health and is hereby prohibited when such possession is in any  
17 indoor place used by or open to the public, all parts of a zoo to  
18 which the public may be admitted, whether indoors or outdoors,  
19 public transportation, or any indoor workplace, except where  
20 specifically allowed by law. Commercial airport operators may  
21 prohibit the use of lighted tobacco or lighted marijuana in any area  
22 that is open to or used by the public whether located indoors or  
23 outdoors, provided that the outdoor area is within one hundred  
24 seventy-five (175) feet from an entrance.

1 As used in this section, "indoor workplace" means any indoor  
2 place of employment or employment-type service for or at the request  
3 of another individual or individuals, or any public or private  
4 entity, whether part-time or full-time and whether for compensation  
5 or not. Such services shall include, without limitation, any  
6 service performed by an owner, employee, independent contractor,  
7 agent, partner, proprietor, manager, officer, director, apprentice,  
8 trainee, associate, servant or volunteer. An indoor workplace  
9 includes work areas, employee lounges, restrooms, conference rooms,  
10 classrooms, employee cafeterias, hallways, any other spaces used or  
11 visited by employees, and all space between a floor and ceiling that  
12 is predominantly or totally enclosed by walls or windows, regardless  
13 of doors, doorways, open or closed windows, stairways, or the like.  
14 The provisions of this section shall apply to such indoor workplace  
15 at any given time, whether or not work is being performed.

16 B. All buildings and other properties, or portions thereof,  
17 owned or operated by this state shall be designated as nonsmoking.  
18 The tobacco smoking provisions of this subsection shall not apply to  
19 veterans centers operated by this state pursuant to the provisions  
20 of Section 221 et seq. of Title 72 of the Oklahoma Statutes, which  
21 shall be designated nonsmoking effective January 1, 2015, at which  
22 time veterans centers may establish outdoor designated smoking areas  
23 for resident veterans only. Smoking tobacco shall only be allowed  
24 in designated outdoor smoking areas.

1 C. All buildings and other properties, or portions thereof,  
2 owned or operated by a county or municipal government, at the  
3 discretion of the county or municipal governing body, may be  
4 designated as entirely nonsmoking.

5 D. All educational facilities or portions thereof as defined in  
6 the Smoking in Public Places and Indoor Workplaces Act and all  
7 educational facilities as defined in the 24/7 Tobacco-free Schools  
8 Act shall be designated as nonsmoking as provided for in Section 1-  
9 1523 of Title 63 of the Oklahoma Statutes. All campuses, buildings  
10 and grounds, or portions thereof, owned or operated by an  
11 institution within ~~The~~ the Oklahoma State System of Higher Education  
12 may be designated as tobacco and marijuana free, including smoking  
13 or smokeless tobacco and marijuana or marijuana products, by the  
14 institution upon adoption of a policy stating the tobacco  
15 restrictions for the institution and an intent to enforce the  
16 penalty for violations as set forth in subsection M of this section.

17 E. No tobacco or marijuana smoking shall be allowed within  
18 twenty-five (25) feet of the entrance or exit of any building  
19 specified in subsection B, C or D of this section.

20 F. The restrictions on tobacco smoking provided in this section  
21 shall not apply to stand-alone bars, stand-alone taverns and cigar  
22 bars as defined in Section 1-1522 of Title 63 of the Oklahoma  
23 Statutes.

24

1 G. The restrictions on tobacco smoking provided in this section  
2 shall not apply to the following:

3 1. The room or rooms where licensed charitable bingo games are  
4 being operated, but only during the hours of operation of such  
5 games;

6 2. Up to twenty-five percent (25%) of the guest rooms at a  
7 hotel or other lodging establishment;

8 3. Retail tobacco stores predominantly engaged in the sale of  
9 tobacco products and accessories and in which the sale of other  
10 products is merely incidental and in which no food or beverage is  
11 sold or served for consumption on the premises;

12 4. Workplaces where only the owner or operator of the  
13 workplace, or the immediate family of the owner or operator,  
14 performs any work in the workplace, and the workplace has only  
15 incidental public access. "Incidental public access" means that a  
16 place of business has only an occasional person, who is not an  
17 employee, present at the business to transact business or make a  
18 delivery. It does not include businesses that depend on walk-in  
19 customers for any part of their business;

20 5. Workplaces occupied exclusively by one or more smokers, if  
21 the workplace has only incidental public access;

22 6. Private offices occupied exclusively by one or more smokers;

23 7. Workplaces within private residences, except that smoking  
24 tobacco or marijuana shall not be allowed inside any private

1 residence that is used as a licensed child care facility during  
2 hours of operation;

3 8. Medical research or treatment centers, if tobacco smoking is  
4 integral to the research or treatment. Furthermore, the  
5 restrictions on marijuana smoking provided in this section shall not  
6 apply to medical research or treatment centers, if marijuana smoking  
7 is integral to the research or treatment;

8 9. A facility operated by a post or organization of past or  
9 present members of the Armed Forces of the United States which is  
10 exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or  
11 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section  
12 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized  
13 exclusively by its members and their families and for the conduct of  
14 post or organization nonprofit operations except during an event or  
15 activity which is open to the public; and

16 10. Any outdoor seating area of a restaurant; provided, smoking  
17 tobacco or smoking marijuana shall not be allowed within fifteen  
18 (15) feet of any exterior public doorway or any air intake of a  
19 restaurant.

20 H. An employer not otherwise restricted from doing so may elect  
21 to provide tobacco smoking rooms where no work is performed except  
22 for cleaning and maintenance during the time the room is not in use  
23 for tobacco smoking, provided each tobacco smoking room is fully  
24 enclosed and exhausted directly to the outside in such a manner that

1 no tobacco smoke can drift or circulate into a nonsmoking area. No  
2 exhaust from a tobacco smoking room shall be located within fifteen  
3 (15) feet of any entrance, exit or air intake.

4 I. If tobacco smoking is to be permitted in any space exempted  
5 in subsection F or G of this section or in a tobacco smoking room  
6 pursuant to subsection H of this section, such tobacco smoking space  
7 must either occupy the entire enclosed indoor space or, if it shares  
8 the enclosed space with any nonsmoking areas, the tobacco smoking  
9 space shall be fully enclosed, exhausted directly to the outside  
10 with no air from the tobacco smoking space circulated to any  
11 nonsmoking area, and under negative air pressure so that no tobacco  
12 smoke can drift or circulate into a nonsmoking area when a door to  
13 an adjacent nonsmoking area is opened. Air from a tobacco smoking  
14 room shall not be exhausted within fifteen (15) feet of any  
15 entrance, exit or air intake. Any employer may choose a more  
16 restrictive tobacco smoking policy, including being totally tobacco  
17 smoke free.

18 J. Notwithstanding any other provision of this section, until  
19 March 1, 2006, restaurants may have designated tobacco smoking and  
20 nonsmoking areas or may be designated as being a totally nonsmoking  
21 area. Beginning March 1, 2006, restaurants shall be totally  
22 nonsmoking or may provide nonsmoking areas and designated tobacco  
23 smoking rooms. Food and beverage may be served in such designated  
24 tobacco smoking rooms which shall be in a location which is fully

1 enclosed, directly exhausted to the outside, under negative air  
2 pressure so tobacco smoke cannot escape when a door is opened, and  
3 no air is recirculated to nonsmoking areas of the building. No  
4 exhaust from such room shall be located within twenty-five (25) feet  
5 of any entrance, exit or air intake. Such room shall be subject to  
6 verification for compliance with the provisions of this subsection  
7 by the State Department of Health.

8 K. The person who owns or operates a place where tobacco  
9 smoking or ~~tobacco~~ use is prohibited by law shall be responsible for  
10 posting a sign or decal, at least four (4) inches by two (2) inches  
11 in size, at each entrance to the building indicating that the place  
12 is smoke-free or tobacco-free.

13 L. Responsibility for posting signs or decals shall be as  
14 follows:

15 1. In privately owned facilities, the owner or lessee, if a  
16 lessee is in possession of the facilities, shall be responsible;

17 2. In corporately owned facilities, the manager and/or  
18 supervisor of the facility involved shall be responsible; and

19 3. In publicly owned facilities, the manager and/or supervisor  
20 of the facility shall be responsible.

21 M. Any person who knowingly violates the provisions of this  
22 section shall be punished by a citation and fine of not more than  
23 One Hundred Dollars (\$100.00).

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1 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1523, as  
2 last amended by Section 2, Chapter 110, O.S.L. 2017 (63 O.S. Supp.  
3 2018, Section 1-1523), is amended to read as follows:

4 Section 1-1523. A. Except as specifically provided in the  
5 Smoking in Public Places and Indoor Workplaces Act, no person shall  
6 smoke tobacco or marijuana in a public place, in any part of a zoo  
7 to which the public may be admitted, whether indoors or outdoors, in  
8 an indoor workplace, in any vehicle providing public transportation,  
9 at a meeting of a public body, in a nursing facility licensed  
10 pursuant to the Nursing Home Care Act, or in a child care facility  
11 licensed pursuant to the Oklahoma Child Care Facilities Licensing  
12 Act. A nursing facility licensed pursuant to the Nursing Home Care  
13 Act may designate tobacco smoking rooms for residents and their  
14 guests. Such rooms shall be fully enclosed, directly exhausted to  
15 the outside, and shall be under negative air pressure so that no  
16 tobacco smoke can escape when a door is opened and no air is  
17 recirculated to nonsmoking areas of the building. Commercial  
18 airport operators may prohibit the use of lighted tobacco or lighted  
19 marijuana in any area that is open to or used by the public whether  
20 located indoors or outdoors, provided that the outdoor area is  
21 within one hundred seventy-five (175) feet from an entrance.

22 B. 1. Except as otherwise provided in paragraph 2 of this  
23 subsection, a technology center school district which offers an  
24 early childhood education program or in which children in grades

1 kindergarten through twelve are educated shall prohibit tobacco or  
2 marijuana smoking, the use of marijuana products, snuff, chewing  
3 tobacco or any other form of tobacco product in the educational  
4 facility buildings and on the grounds of the facility by all persons  
5 including, but not limited to, full-time, part-time, and contract  
6 employees, during the hours of 7:00 a.m. to 4:00 p.m., during the  
7 school session, or when class or any program established for  
8 students is in session.

9       2. A technology center school district may designate tobacco  
10 smoking areas outside of buildings, away from general traffic areas  
11 and completely out of sight of children under eighteen (18) years of  
12 age, for use by adults attending training courses, sessions,  
13 meetings or seminars.

14       3. A technology center school district or college or university  
15 may designate tobacco smoking areas outside the educational facility  
16 buildings for the use of adults during certain activities or  
17 functions, including, but not limited to, athletic contests.

18       4. Smoking tobacco or marijuana shall be prohibited in an  
19 educational facility as defined in the 24/7 Tobacco-free Schools Act  
20 and as provided for in Section 1210.213 of Title 70 of the Oklahoma  
21 Statutes.

22       C. Nothing in this section shall be construed to prohibit  
23 educational facilities from having more restrictive policies  
24 regarding tobacco or marijuana smoking and the use of other

1 marijuana or tobacco products in the buildings or on the grounds of  
2 the facility.

3 D. A private residence is not a "public place" within the  
4 meaning of the Smoking in Public Places and Indoor Workplaces Act  
5 except that areas in a private residence that are used as a licensed  
6 child care facility during hours of operation are "public places"  
7 within the meaning of the Smoking in Public Places and Indoor  
8 Workplaces Act.

9 E. Smoking tobacco or marijuana is prohibited in all vehicles  
10 owned by the State of Oklahoma and all of its agencies and  
11 instrumentalities.

12 F. Veterans centers operated by this state pursuant to the  
13 provisions of Section 221 et seq. of Title 72 of the Oklahoma  
14 Statutes shall be designated nonsmoking effective January 1, 2015,  
15 at which time veterans centers may establish outdoor designated  
16 smoking areas for resident veterans only. Smoking tobacco shall  
17 only be allowed in designated outdoor smoking areas.

18 G. An employer not otherwise restricted from doing so may elect  
19 to provide tobacco smoking rooms where no work is performed except  
20 for cleaning and maintenance during the time the room is not in use  
21 for tobacco smoking, provided each tobacco smoking room is fully  
22 enclosed and exhausted directly to the outside, in such manner that  
23 no tobacco smoke can drift or circulate into a nonsmoking area. No  
24 exhaust from a tobacco smoking room shall be located within fifteen

1 (15) feet of any entrance, exit or air intake. If tobacco smoking  
2 is to be permitted in any space exempted in subsection H of this  
3 section or in a tobacco smoking room pursuant to subsection I of  
4 this section, such tobacco smoking space must either occupy the  
5 entire enclosed indoor space or, if it shares the enclosed space  
6 with any nonsmoking areas, the tobacco smoking space shall be fully  
7 enclosed, exhausted directly to the outside with no air from the  
8 tobacco smoking space circulated to any nonsmoking area, and under  
9 negative air pressure so that no tobacco smoke can drift or  
10 circulate into a nonsmoking area when a door to an adjacent  
11 nonsmoking area is opened. Air from a tobacco smoking room shall  
12 not be exhausted within fifteen (15) feet of any entrance, exit or  
13 air intake.

14 H. The Smoking in Public Places and Indoor Workplaces Act shall  
15 not prohibit tobacco smoking in:

16 1. Stand-alone bars, stand-alone taverns or cigar bars;

17 2. The room or rooms where licensed charitable bingo games are  
18 being operated, but only during the hours of operation of such  
19 games;

20 3. Up to twenty-five percent (25%) of the guest rooms at a  
21 hotel or other lodging establishment;

22 4. Retail tobacco stores predominantly engaged in the sale of  
23 tobacco products and accessories and in which the sale of other  
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1 products is merely incidental and in which no food or beverage is  
2 sold or served for consumption on the premises;

3 5. Workplaces where only the owner or operator of the  
4 workplace, or the immediate family of the owner or operator,  
5 performs any work in the workplace, and the workplace has only  
6 incidental public access;

7 6. Workplaces occupied exclusively by one or more smokers, if  
8 the workplace has only incidental public access. "Incidental public  
9 access" means that a place of business has only an occasional  
10 person, who is not an employee, present at the business to transact  
11 business or make a delivery. It does not include businesses that  
12 depend on walk-in customers for any part of their business;

13 7. Private offices occupied exclusively by one or more smokers;

14 8. Workplaces within private residences, except that smoking  
15 tobacco or marijuana shall not be allowed inside any private  
16 residence that is used as a licensed child care facility during  
17 hours of operation;

18 9. A facility operated by a post or organization of past or  
19 present members of the Armed Forces of the United States which is  
20 exempt from taxation pursuant to Sections 501(c)(8), 501(c)(10) or  
21 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section  
22 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized  
23 exclusively by its members and their families and for the conduct of  
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1 post or organization nonprofit operations except during an event or  
2 activity which is open to the public;

3 10. Any outdoor seating area of a restaurant; provided, tobacco  
4 or marijuana smoking shall not be allowed within fifteen (15) feet  
5 of any exterior public doorway or any air intake of a restaurant;  
6 and

7 11. Medical research or treatment centers, if tobacco smoking  
8 is integral to the research or treatment. Furthermore, the  
9 restrictions on marijuana smoking provided in this section shall not  
10 apply to medical research or treatment centers, if marijuana smoking  
11 is integral to the research or treatment.

12 I. Notwithstanding any other provision of the Smoking in Public  
13 Places and Indoor Workplaces Act, until March 1, 2006, restaurants  
14 may have designated tobacco smoking and nonsmoking areas or may be  
15 designated as being a totally nonsmoking area. Beginning March 1,  
16 2006, restaurants shall be totally nonsmoking or may provide  
17 nonsmoking areas and designated tobacco smoking rooms. Food and  
18 beverage may be served in such designated tobacco smoking rooms  
19 which shall be in a location which is fully enclosed, directly  
20 exhausted to the outside, under negative air pressure so tobacco  
21 smoke cannot escape when a door is opened, and no air is  
22 recirculated to nonsmoking areas of the building. No exhaust from  
23 such room shall be located within twenty-five (25) feet of any  
24 entrance, exit or air intake. Such room shall be subject to

1 verification for compliance with the provisions of this subsection  
2 by the State Department of Health.

3 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1525, as  
4 amended by Section 3, Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2018,  
5 Section 1-1525), is amended to read as follows:

6 Section 1-1525. The state or local governmental agency or the  
7 person who owns or operates a public place shall, at a minimum, do  
8 the following in order to prevent tobacco or marijuana smoking in  
9 public places:

10 1. Post conspicuous signs at entrances to and in prominent  
11 locations within places where tobacco or marijuana smoking is  
12 prohibited which state that tobacco or marijuana smoking is  
13 prohibited or that the indoor environment is free of tobacco or  
14 marijuana smoke; and

15 2. Ask tobacco or marijuana smokers to refrain from smoking  
16 upon observation of anyone violating the provisions of Section 1-  
17 1521 et seq. of this title.

18 ~~SECTION 4. It being immediately necessary for the preservation~~  
19 ~~of the public peace, health or safety, an emergency is hereby~~  
20 ~~declared to exist, by reason whereof this act shall take effect and~~  
21 ~~be in full force from and after its passage and approval.~~

22 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
23 February 18, 2019 - DO PASS AS AMENDED  
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