

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1389

By: Townley

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Sections 1-1522, as amended by Section
9 5, Chapter 259, O.S.L. 2015, and 1-1523, as last
10 amended by Section 2, Chapter 110, O.S.L. 2017 (63
11 O.S. Supp. 2018, Sections 1-1522 and 1-1523), which
12 relate to the Smoking in Public Places and Indoor
13 Workplaces Act; modifying definition to include
14 lighted marijuana and electronic cigarettes;
15 prohibiting smoking in the presence of minors; and
16 providing an effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-1522, as
19 amended by Section 5, Chapter 259, O.S.L. 2015 (63 O.S. Supp. 2018,
20 Section 1-1522), is amended to read as follows:

21 Section 1-1522. As used in this act:

22 1. "Educational facility" means a building owned, leased or
23 under the control of a technology center school district or a public
24 or private college or university;

2. "Health facility" means an entity which provides health
services, including, but not limited to, hospitals, nursing homes,

1 long-term care facilities, kidney disease treatment centers, health
2 maintenance organizations and ambulatory treatment centers;

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

18 4. "Meeting" means a meeting as defined in the Oklahoma Open
19 Meeting Act;

20 5. "Public body" means a public body as defined in the Oklahoma
21 Open Meeting Act;

22 6. "Public place" means any enclosed indoor area where
23 individuals other than employees are invited or permitted;

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1 7. "Restaurant" means any eating establishment regardless of
2 seating capacity;

3 8. "Smoking" means the carrying by a person of a lighted cigar,
4 cigarette, pipe, ~~or~~ other lighted smoking device or lighted
5 marijuana or the use of an electronic cigarette or similar device;
6 and

7 9. "Stand-alone bar", "stand-alone tavern", and "cigar bar"
8 mean an establishment that derives more than sixty percent (60%) of
9 its gross receipts, subject to verification by competent authority,
10 from the sale of alcoholic beverages and low-point beer and no
11 person under twenty-one (21) years of age is admitted, except for
12 members of a musical band employed or hired as provided in paragraph
13 2 of ~~subsection B~~ of Section ~~537~~ 6-102 of Title ~~37~~ 37A of the
14 Oklahoma Statutes and that is not located within, and does not share
15 any common entryway or common indoor area with, any other enclosed
16 indoor workplace, including a restaurant.

17 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1523, as
18 last amended by Section 2, Chapter 110, O.S.L. 2017 (63 O.S. Supp.
19 2018, Section 1-1523), is amended to read as follows:

20 Section 1-1523. A. Except as specifically provided in the
21 Smoking in Public Places and Indoor Workplaces Act, no person shall
22 smoke in a public place, in any part of a zoo to which the public
23 may be admitted, whether indoors or outdoors, in an indoor
24 workplace, in any vehicle providing public transportation, at a

1 meeting of a public body, in a nursing facility licensed pursuant to
2 the Nursing Home Care Act, ~~or~~ in a child care facility licensed
3 pursuant to the Oklahoma Child Care Facilities Licensing Act or in
4 the presence of persons under the age of eighteen (18). A nursing
5 facility licensed pursuant to the Nursing Home Care Act may
6 designate smoking rooms for residents and their guests. Such rooms
7 shall be fully enclosed, directly exhausted to the outside, and
8 shall be under negative air pressure so that no smoke can escape
9 when a door is opened and no air is recirculated to nonsmoking areas
10 of the building. Commercial airport operators may prohibit ~~the use~~
11 ~~of lighted tobacco~~ smoking in any area that is open to or used by
12 the public whether located indoors or outdoors, provided that the
13 outdoor area is within one hundred seventy-five (175) feet from an
14 entrance.

15 B. 1. Except as otherwise provided in paragraph 2 of this
16 subsection, a technology center school district which offers an
17 early childhood education program or in which children in grades
18 kindergarten through twelve are educated shall prohibit smoking, the
19 use of snuff, chewing tobacco ~~or~~, any other form of tobacco product,
20 lighted marijuana or the use of an electronic cigarette or similar
21 device in the educational facility buildings and on the grounds of
22 the facility by all persons including, but not limited to, full-
23 time, part-time, and contract employees, during the hours of 7:00
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1 a.m. to 4:00 p.m., during the school session, or when class or any
2 program established for students is in session.

3 2. A technology center school district may designate smoking
4 areas outside of buildings, away from general traffic areas and
5 completely out of sight of children under eighteen (18) years of
6 age, for use by adults attending training courses, sessions,
7 meetings or seminars.

8 3. A technology center school district or college or university
9 may designate smoking areas outside the educational facility
10 buildings for the use of adults during certain activities or
11 functions, including, but not limited to, athletic contests.

12 4. Smoking shall be prohibited in an educational facility as
13 defined in the 24/7 Tobacco-free Schools Act and as provided for in
14 Section 1210.213 of Title 70 of the Oklahoma Statutes.

15 C. Nothing in this section shall be construed to prohibit
16 educational facilities from having more restrictive policies
17 regarding smoking and the use of other tobacco products in the
18 buildings or on the grounds of the facility.

19 D. A private residence is not a "public place" within the
20 meaning of the Smoking in Public Places and Indoor Workplaces Act
21 except that areas in a private residence that are used as a licensed
22 child care facility during hours of operation are "public places"
23 within the meaning of the Smoking in Public Places and Indoor
24 Workplaces Act.

1 E. Smoking is prohibited in all vehicles owned by the State of
2 Oklahoma and all of its agencies and instrumentalities.

3 F. Veterans centers operated by this state pursuant to the
4 provisions of Section 221 et seq. of Title 72 of the Oklahoma
5 Statutes shall be designated nonsmoking effective January 1, 2015,
6 at which time veterans centers may establish outdoor designated
7 smoking areas for resident veterans only. Smoking shall only be
8 allowed in designated outdoor smoking areas.

9 G. An employer not otherwise restricted from doing so may elect
10 to provide smoking rooms where no work is performed except for
11 cleaning and maintenance during the time the room is not in use for
12 smoking, provided each smoking room is fully enclosed and exhausted
13 directly to the outside, in such manner that no smoke can drift or
14 circulate into a nonsmoking area. No exhaust from a smoking room
15 shall be located within fifteen (15) feet of any entrance, exit or
16 air intake. If smoking is to be permitted in any space exempted in
17 subsection H of this section or in a smoking room pursuant to
18 subsection I of this section, such smoking space must either occupy
19 the entire enclosed indoor space or, if it shares the enclosed space
20 with any nonsmoking areas, the smoking space shall be fully
21 enclosed, exhausted directly to the outside with no air from the
22 smoking space circulated to any nonsmoking area, and under negative
23 air pressure so that no smoke can drift or circulate into a
24 nonsmoking area when a door to an adjacent nonsmoking area is

1 opened. Air from a smoking room shall not be exhausted within
2 fifteen (15) feet of any entrance, exit or air intake.

3 H. The Smoking in Public Places and Indoor Workplaces Act shall
4 not prohibit smoking in:

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

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

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

11 4. Retail tobacco stores predominantly engaged in the sale of
12 tobacco products and accessories and in which the sale of other
13 products is merely incidental and in which no food or beverage is
14 sold or served for consumption on the premises;

15 5. Workplaces where only the owner or operator of the
16 workplace, or the immediate family of the owner or operator,
17 performs any work in the workplace, and the workplace has only
18 incidental public access;

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

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

2 8. Workplaces within private residences, except that smoking
3 shall not be allowed inside any private residence that is used as a
4 licensed child care facility during hours of operation;

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

13 10. Any outdoor seating area of a restaurant; provided, smoking
14 shall not be allowed within fifteen (15) feet of any exterior public
15 doorway or any air intake of a restaurant; and

16 11. Medical research or treatment centers, if smoking is
17 integral to the research or treatment.

18 I. Notwithstanding any other provision of the Smoking in Public
19 Places and Indoor Workplaces Act, until March 1, 2006, restaurants
20 may have designated smoking and nonsmoking areas or may be
21 designated as being a totally nonsmoking area. Beginning March 1,
22 2006, restaurants shall be totally nonsmoking or may provide
23 nonsmoking areas and designated smoking rooms. Food and beverage
24 may be served in such designated smoking rooms which shall be in a

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

8 SECTION 3. This act shall become effective November 1, 2019.

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