

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2288

By: Wright

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6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to public health and safety; creating  
9 the Oklahoma Workplace Clean Air Act; defining terms;  
10 providing for applicability to certain government  
11 facilities; prohibiting smoking in enclosed public  
12 places; providing exception; prohibiting smoking in  
13 enclosed places of employment; prohibiting smoking in  
14 certain facilities and outdoor public places;  
15 providing exceptions; authorizing certain persons to  
16 declare establishment as nonsmoking; requiring  
17 certain persons to provide notice of smoking status;  
18 prohibiting retaliation; directing the State  
19 Department of Health to promulgate rules; directing  
20 appropriate entity to impose administrative fine;  
21 providing for penalties and violations; authorizing  
22 adoption of local ordinances; requiring the State  
23 Department of Health to provide continuing education;  
24 providing for interpretation; amending 21 O.S. 2011,  
Section 1247, as last amended by Section 1, Chapter  
110, O.S.L. 2017 (21 O.S. Supp. 2018, Section 1247),  
which relates to smoking in certain public areas;  
modifying exemptions; amending 37 O.S. 2011, Section  
600.10, as amended by Section 10, Chapter 162, O.S.L.  
2014, and as renumbered by Section 178, Chapter 366,  
O.S.L. 2016 (63 O.S. Supp. 2018, Section 1-229.20),  
which relates to regulation by agencies or political  
subdivisions; updating statutory reference; amending  
Section 6, Chapter 369, O.S.L. 2017 (63 O.S. Supp.  
2018, Section 1-1530), which relates to strategies  
preventing tobacco use by minors; expanding  
applicability; amending 3A O.S. 2011, Section 208.12,  
which relates to gaming areas not subject to certain  
smoking prohibitions; modifying exemptions; repealing  
63 O.S. 2011, Sections 1-1521, 1-1522, as amended by

1 Section 5, Chapter 259, O.S.L. 2015, 1-1523, as last  
2 amended by Section 2, Chapter 110, O.S.L. 2017, 1-  
3 1525, as amended by Section 3, Chapter 369, O.S.L.  
4 2017, 1-1526, 1-1526.1 and 1-1527, as amended by  
5 Section 2, Chapter 187, O.S.L. 2013 (63 O.S. Supp.  
6 2018, Sections 1-1522, 1-1523, 1-1525 and 1-1527) and  
7 Section 5, Chapter 369, O.S.L. 2017 (63 O.S. Supp.  
8 2018, Section 1-1529), which relate to the Smoking in  
9 Public Places and Indoor Workplaces Act; providing  
10 for codification; and providing an effective date.

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

12 SECTION 1. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-1533 of Title 63, unless there  
14 is created a duplication in numbering, reads as follows:

15 Sections 1 through 17 of this act shall be known and may be  
16 cited as the "Oklahoma Workplace Clean Air Act".

17 SECTION 2. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-1534 of Title 63, unless there  
19 is created a duplication in numbering, reads as follows:

20 As used in the Oklahoma Workplace Clean Air Act:

21 1. "Adult day care" means a nonresidential facility that  
22 supports the health, nutritional, social and daily living needs of  
23 adults who require assistance or supervision during the day;

24 2. "Business" means a sole proprietorship, partnership, joint  
venture, corporation or other business entity, either for-profit or  
not-for-profit, including retail establishments where goods or  
services are sold, professional corporations and other entities

1 where legal, medical, dental, engineering, architectural or other  
2 professional services are delivered, and private clubs;

3 3. "Cigar bar" means an establishment that exclusively occupies  
4 an enclosed indoor space and is primarily engaged in the retail sale  
5 of tobacco products for consumption by customers on the premises;

6 4. "Educational facilities" means any property, building,  
7 permanent structure, facility, auditorium, stadium, arena or  
8 recreational facility owned, leased or under the control of a public  
9 school district or private school located in the state. For  
10 purposes of this act, a public school district shall not include a  
11 technology center school district;

12 5. "Electronic smoking device" means any product containing or  
13 delivering nicotine or any other substance intended for human  
14 consumption that can be used by a person in any manner for the  
15 purpose of inhaling vapor or aerosol from the product. The term  
16 includes any such device, whether manufactured, distributed,  
17 marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah or  
18 vape pen, or under any other product name or descriptor;

19 6. "Employee" means a person who performs services for, whether  
20 full time or part time, an employer in consideration for direct or  
21 indirect monetary wages or profit or a person who volunteers his or  
22 her services for any private or public entity or individual whether  
23 for compensation or not;

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1       7. "Employer" means a person, business, partnership,  
2 association, corporation, including a municipal corporation, trust,  
3 nonprofit entity or any other entity recognized by law that employs  
4 the services of one or more individual persons;

5       8. "Enclosed area" means all space between a floor and a  
6 ceiling that is bounded on at least two sides by walls, doorways or  
7 windows, whether open or closed. A wall includes any retractable  
8 divider, garage door or other physical barrier, whether temporary or  
9 permanent and whether or not containing openings of any kind;

10       9. "Health care facility" means any entity which provides  
11 health services, including, but not limited to, hospitals,  
12 rehabilitation hospitals or other clinics, including weight control  
13 clinics, nursing homes, long-term care facilities, homes for the  
14 aging or chronically ill, laboratories and offices of surgeons,  
15 chiropractors, physical therapists, physicians, psychiatrists,  
16 dentists and all specialists within these professions. This  
17 definition shall include all waiting rooms, hallways, private rooms,  
18 semiprivate rooms and wards within health care facilities;

19       10. "Hookah" means a water pipe and any associated products and  
20 devices which are used to produce fumes, smoke and/or vapor from the  
21 heating or burning of material, including, but not limited to,  
22 tobacco, shisha or other plant matter;

23       11. "Indoor workplace" means any indoor place of employment or  
24 employment-type service for or at the request of another individual

1 or individuals or any public or private entity, whether part time or  
2 full time and whether for compensation or not. Such services shall  
3 include, without limitation, any service performed by an owner,  
4 employee, independent contractor, agent, partner, proprietor,  
5 manager, officer, director, apprentice, trainee, associate, servant  
6 or volunteer. An indoor workplace includes work areas, employee  
7 lounges, restrooms, conference rooms, classrooms, employee  
8 cafeterias, hallways, any other spaces used or visited by employees  
9 and all space between a floor and ceiling that is bounded on at  
10 least two sides by walls, doorways or windows whether open or  
11 closed. The provisions of this section shall apply to such indoor  
12 workplace at any given time, whether or not work is being performed;

13 12. "Place of employment" means an area under the control of a  
14 public or private employer, including, but not limited to, work  
15 areas, private offices, employee lounges, restrooms, conference  
16 rooms, meeting rooms, classrooms, employee cafeterias, hallways,  
17 construction sites, temporary offices and vehicles. A private  
18 residence is not a place of employment unless it is used as a child  
19 care, adult day care or health care facility;

20 13. "Playground" means any park or recreational area designed  
21 in part to be used by children that has play or sports equipment  
22 installed or that has been designated or landscaped for play or  
23 sports activities, or any similar facility located on public or  
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1 private school grounds or on state grounds or grounds of any  
2 political subdivision of the state;

3 14. "Private club" means an organization, whether incorporated  
4 or not, which is the owner, lessee or occupant of a building or  
5 portion thereof used exclusively for club purposes at all times,  
6 which is operated solely for a recreational, fraternal, social,  
7 patriotic, political, benevolent or athletic purpose, but not for  
8 pecuniary gain, and which only sells alcoholic beverages incidental  
9 to its operation. The affairs and management of the organization  
10 are conducted by a board of directors, executive committee or  
11 similar body chosen by the members at an annual meeting. The  
12 organization has established bylaws and/or a constitution to govern  
13 its activities. The organization has been granted an exemption from  
14 the payment of federal income tax as a club under 26 U.S.C. Section  
15 501;

16 15. "Public event" means an event which is open to and may be  
17 attended by the general public, including, but not limited to, such  
18 events as concerts, fairs, farmers' markets, festivals, parades,  
19 performances and other exhibitions, regardless of any fee or age  
20 requirement;

21 16. "Public place" means an area to which the public is invited  
22 or in which the public is permitted, including, but not limited to,  
23 banks, bars, educational facilities, health care facilities, hotels  
24 and motels, laundromats, parking structures, public transportation

1 vehicles and facilities, reception areas, restaurants, retail food  
2 production and marketing establishments, retail service  
3 establishments, retail stores, shopping malls, sports arenas,  
4 theaters and waiting rooms. A private residence is not a public  
5 place unless it is used as a child care, adult day care or health  
6 care facility;

7 17. "Recreational area" means any indoor or outdoor, public or  
8 private area open to the public for recreational purposes, whether  
9 or not any fee for admission is charged, including, but not limited  
10 to, amusement parks, athletic fields, beaches, fairgrounds, gardens,  
11 golf courses, parks, plazas, skate parks, swimming pools, trails and  
12 zoos;

13 18. "Restaurant" means any eating establishment regardless of  
14 seating capacity, including, but not limited to, coffee shops,  
15 cafeterias and sandwich stands, as well as kitchens and catering  
16 facilities in which food is prepared on the premises for serving  
17 elsewhere. The term "restaurant" shall include a bar area within  
18 the restaurant;

19 19. "Service line" means an indoor or outdoor line in which one  
20 or more persons are waiting for or receiving service of any kind,  
21 whether or not the service involves the exchange of money,  
22 including, but not limited to, ATM lines, concert lines, food vendor  
23 lines, movie ticket lines and sporting event lines;

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1       20. "Shopping mall" means an enclosed or unenclosed public  
2 walkway or hall area that serves to connect retail or professional  
3 establishments;

4       21. "Smoking" means inhaling, exhaling, burning or carrying any  
5 lighted or heated cigar, cigarette, pipe, hookah or any other  
6 lighted or heated tobacco or plant product intended for inhalation,  
7 including marijuana, whether natural or synthetic, in any manner or  
8 in any form. Smoking includes the use of an electronic smoking  
9 device which creates an aerosol or vapor, in any manner or in any  
10 form, or the use of any oral smoking device for the purpose of  
11 circumventing the prohibition of smoking in this act;

12       22. "Sports arena" means a place where people assemble to  
13 engage in physical exercise, participate in athletic competition or  
14 witness sports or other events, including sports pavilions,  
15 stadiums, gymnasiums, health spas, boxing arenas, swimming pools,  
16 roller and ice rinks and bowling alleys;

17       23. "Bar" and "tavern" means an establishment that derives more  
18 than sixty percent (60%) of its gross receipts, subject to  
19 verification by competent authority, from the sale of alcoholic  
20 beverages and low-point beer and no person under twenty-one (21)  
21 years of age is admitted, except for members of a musical band  
22 employed or hired as provided in paragraph 2 of Section 6-102 of  
23 Title 37A of the Oklahoma Statutes, and that is not located within,  
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1 and does not share any common entryway or common indoor area with,  
2 any other enclosed indoor workplace, including a restaurant; and

3 24. "Vapor product" means noncombustible products that may or  
4 may not contain nicotine that employ a mechanical heating element,  
5 battery, electronic circuit or other mechanism, regardless of shape  
6 or size, that can be used to produce a vapor in a solution or other  
7 form. Vapor products shall include any vapor cartridge or other  
8 container, with or without nicotine, or other form that is intended  
9 to be used with an electronic cigarette, electronic cigar,  
10 electronic cigarillo, electronic pipe or similar product or device  
11 and any vapor cartridge or other container of a solution that may or  
12 may not contain nicotine and that is intended to be used with or in  
13 an electronic cigarette, electronic cigar, electronic cigarillo or  
14 electronic device. Vapor products do not include any products  
15 regulated by the United States Food and Drug Administration under  
16 Chapter V of the Food, Drug, and Cosmetic Act.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-1535 of Title 63, unless there  
19 is created a duplication in numbering, reads as follows:

20 All enclosed areas, including buildings and vehicles owned,  
21 leased, operated or contracted for use by the state or any of its  
22 subdivisions, as well as all outdoor property adjacent to such  
23 buildings and under the control of the state, shall be subject to  
24 the provisions of the Oklahoma Workplace Clean Air Act.

1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-1536 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. Smoking shall be prohibited in all enclosed public places  
5 and indoor recreational areas within the State of Oklahoma,  
6 including, but not limited to, the following places:

- 7 1. Aquariums, galleries, libraries and museums;
- 8 2. Areas available to the general public in businesses and  
9 nonprofit entities patronized by the public, including, but not  
10 limited to, banks, laundromats, professional offices and retail  
11 service establishments;
- 12 3. Bars;
- 13 4. Bingo facilities;
- 14 5. Child care and adult day care facilities;
- 15 6. Convention facilities;
- 16 7. Educational facilities;
- 17 8. Elevators;
- 18 9. Health care facilities;
- 19 10. Hotels and motels;
- 20 11. Lobbies, hallways and other common areas in apartment  
21 buildings, condominiums, trailer parks, retirement facilities,  
22 nursing homes and other multiple-unit residential facilities;
- 23 12. Parking structures;
- 24 13. Polling places;

1 14. Public transportation vehicles, including buses and  
2 taxicabs under the authority of the state, and public transportation  
3 facilities, including bus, train and airport facilities;

4 15. Restaurants;

5 16. Restrooms, lobbies, reception areas, hallways and other  
6 common-use areas;

7 17. Retail stores;

8 18. Rooms, chambers, places of meeting or public assembly,  
9 including school buildings, under the control of an agency, board,  
10 commission, committee or council of the state or a political  
11 subdivision of the state;

12 19. Service lines;

13 20. Shopping malls;

14 21. Sports arenas, including enclosed places in outdoor arenas;  
15 and

16 22. Theaters and other facilities primarily used for exhibiting  
17 motion pictures, stage dramas, lectures, musical recitals or other  
18 similar performances.

19 B. The Oklahoma Workplace Clean Air Act shall not prohibit  
20 smoking in medical research or treatment centers, if smoking is  
21 integral to research or treatment.

22 SECTION 5. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1-1537 of Title 63, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. Smoking shall be prohibited in all enclosed areas of places  
2 of employment without exception. This includes, without limitation,  
3 work areas, auditoriums, classrooms, conference and meeting rooms,  
4 private offices, elevators, hallways, medical facilities,  
5 cafeterias, employee lounges, stairs, restrooms, vehicles and all  
6 other enclosed facilities, and any other spaces used or visited by  
7 employees.

8       B. This prohibition on smoking shall be communicated to all  
9 existing employees by the effective date of this act and to all  
10 prospective employees upon their application for employment.

11       SECTION 6.       NEW LAW       A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1-1538 of Title 63, unless there  
13 is created a duplication in numbering, reads as follows:

14       Smoking shall be prohibited in the following indoor and outdoor  
15 places:

- 16       1. All private clubs;
- 17       2. All private and semiprivate rooms in nursing homes;
- 18       3. All hotel and motel guest rooms;
- 19       4. Within twenty-five (25) feet of outside entrances, operable  
20 windows and ventilation systems of enclosed areas where smoking is  
21 prohibited, so as to prevent tobacco smoke from entering those  
22 areas;

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1       5. On all outdoor property that is adjacent to buildings owned,  
2 leased or operated by the state and that is under the control of the  
3 state;

4       6. In, and within twenty-five (25) feet of, outdoor seating or  
5 serving areas of restaurants and bars;

6       7. In outdoor shopping malls, including parking structures;

7       8. In all outdoor arenas, stadiums and amphitheaters. Smoking  
8 shall also be prohibited in, and within twenty-five (25) feet of,  
9 bleachers and grandstands for use by spectators at sporting and  
10 other public events;

11       9. In outdoor recreational areas, including parking lots;

12       10. In, and within twenty-five (25) feet of, all outdoor  
13 playgrounds;

14       11. In, and within twenty-five (25) feet of, all outdoor public  
15 events;

16       12. In, and within twenty-five (25) feet of, all outdoor public  
17 transportation stations, platforms and shelters under the authority  
18 of the state or any of its subdivisions;

19       13. In all outdoor service lines, including lines in which  
20 service is obtained by persons in vehicles, such as services that  
21 are provided by bank tellers, parking lot attendants and toll  
22 takers. In lines in which service is obtained by persons in  
23 vehicles, smoking is prohibited by both pedestrians and persons in  
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1 vehicles, but only within twenty-five (25) feet of the point of  
2 service; and

3 14. In outdoor common areas of apartment buildings,  
4 condominiums, trailer parks, retirement facilities, nursing homes  
5 and other multiple-unit residential facilities, except in designated  
6 smoking areas, not to exceed twenty-five percent (25%) of the total  
7 outdoor common area, which must be located at least twenty-five (25)  
8 feet outside entrances, operable windows and ventilation systems of  
9 enclosed areas where smoking is prohibited.

10 SECTION 7. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1-1539 of Title 63, unless there  
12 is created a duplication in numbering, reads as follows:

13 Notwithstanding any other provision of the Oklahoma Workplace  
14 Clean Air Act to the contrary, smoking shall not be prohibited in  
15 private residences, unless used as a child care, adult day care or  
16 health care facility.

17 SECTION 8. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-1540 of Title 63, unless there  
19 is created a duplication in numbering, reads as follows:

20 Notwithstanding any other provision of the Oklahoma Workplace  
21 Clean Air Act, an owner, operator, manager or other person in  
22 control of an establishment, facility or outdoor area may declare  
23 that entire establishment, facility or outdoor area as a nonsmoking  
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1 place. Smoking shall be prohibited in any place in which a sign  
2 conforming to the requirements of Section 9 of this act is posted.

3 SECTION 9. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1-1541 of Title 63, unless there  
5 is created a duplication in numbering, reads as follows:

6 The owner, operator, manager or other person in control of a  
7 place of employment, public place, private club or residential  
8 facility where smoking is prohibited by the Oklahoma Workplace Clean  
9 Air Act shall:

10 1. Clearly and conspicuously post "No Smoking" signs or signs  
11 stating that the place is a smoke-free environment;

12 2. Clearly and conspicuously post signs at every entrance  
13 stating that smoking is prohibited or that the place is a smoke-free  
14 environment or, in the case of outdoor places, clearly and  
15 conspicuously post such signs in appropriate locations;

16 3. Clearly and conspicuously post on every vehicle that  
17 constitutes a place of employment under this act at least one sign,  
18 visible from the exterior of the vehicle, stating that smoking is  
19 prohibited or that the vehicle is a smoke-free environment; and

20 4. Remove all ashtrays from any area where smoking is  
21 prohibited by the Oklahoma Workplace Clean Air Act, except for  
22 ashtrays displayed for sale and not for use on the premises.

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1 SECTION 10. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-1542 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. No person or employer shall discharge, refuse to hire, or in  
5 any manner retaliate against an employee, applicant for employment,  
6 customer or resident of a multiple-unit residential facility because  
7 that employee, applicant, customer or resident exercises any rights  
8 afforded by the Oklahoma Workplace Clean Air Act or reports or  
9 attempts to prosecute a violation of this act. In addition to any  
10 administrative fines imposed pursuant to Section 12 of this act, a  
11 conviction for a violation of this subsection shall be a  
12 misdemeanor, punishable by a fine not to exceed One Thousand Dollars  
13 (\$1,000.00) for each violation.

14 B. An employee who works in a setting where an employer allows  
15 smoking does not waive or otherwise surrender any legal rights the  
16 employee may have against the employer or any other party.

17 SECTION 11. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-1543 of Title 63, unless there  
19 is created a duplication in numbering, reads as follows:

20 The State Department of Health shall promulgate rules necessary  
21 to implement the provisions of the Oklahoma Workplace Clean Air Act.

22 SECTION 12. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1-1544 of Title 63, unless there  
24 is created a duplication in numbering, reads as follows:



1       A. In addition to any other penalties authorized by law, the  
2 Commissioner of Health or the Department of Human Services,  
3 whichever is the appropriate entity, shall impose administrative  
4 fines against nursing facilities, employees of nursing facilities,  
5 or both nursing facilities and employees of nursing facilities,  
6 restaurants, food establishments and child care facilities for  
7 violations of the Oklahoma Workplace Clean Air Act.

8       B. Any citizen who desires to register a complaint under the  
9 Oklahoma Workplace Clean Air Act may do so with the State Department  
10 of Health.

11       C. Local health departments, fire departments and their  
12 designees shall, while an establishment is undergoing otherwise  
13 mandated inspections, inspect for compliance with the Oklahoma  
14 Workplace Clean Air Act.

15       D. An owner, manager, operator or employee of an area regulated  
16 by the Oklahoma Workplace Clean Air Act shall direct a person who is  
17 smoking in violation of this act to extinguish or turn off the  
18 product being smoked. If the person does not stop smoking, the  
19 owner, manager, operator or employee shall refuse service and shall  
20 immediately ask the person to leave the premises. If the person in  
21 violation refuses to leave the premises, the owner, manager,  
22 operator or employee shall contact a law enforcement agency.

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1 E. Nothing in this section shall prevent an employee or private  
2 citizen from bringing legal action to enforce the Oklahoma Workplace  
3 Clean Air Act.

4 F. Nothing in this section shall prevent the State Department  
5 of Health from implementing a complaint system for the reporting of  
6 violations of the Oklahoma Workplace Clean Air Act.

7 SECTION 13. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1-1545 of Title 63, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. Any person who smokes in an area where smoking is prohibited  
11 by the provisions of the Oklahoma Workplace Clean Air Act shall be  
12 punished by a citation and fine of not more than One Hundred Dollars  
13 (\$100.00).

14 B. Except as otherwise provided in Section 10 of this act, a  
15 person who owns, manages, operates or otherwise controls a public  
16 place or place of employment and who fails to comply with the  
17 provisions of the Oklahoma Workplace Clean Air Act shall be punished  
18 by a citation and fine or an administrative fine in the following  
19 amounts:

20 1. A fine not to exceed One Hundred Dollars (\$100.00) for a  
21 first violation;

22 2. A fine not to exceed Two Hundred Dollars (\$200.00) for a  
23 second violation within one (1) year; and  
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1           3. A fine not to exceed Five Hundred Dollars (\$500.00) for each  
2 additional violation within one (1) year.

3           C. In addition to the fines established by this section,  
4 violation of the Oklahoma Workplace Clean Air Act by a person who  
5 owns, manages, operates or otherwise controls a public place or  
6 place of employment may result in the suspension or revocation of  
7 any permit or license issued to the person for the premises on which  
8 the violation occurred.

9           D. Violation of the Oklahoma Workplace Clean Air Act is hereby  
10 declared to be a public nuisance, which may be abated by restraining  
11 order, preliminary and permanent injunction or other means provided  
12 for by law.

13           E. Each day on which a violation of the Oklahoma Workplace  
14 Clean Air Act occurs shall be considered a separate and distinct  
15 violation.

16           SECTION 14.       NEW LAW       A new section of law to be codified  
17 in the Oklahoma Statutes as Section 1-1546 of Title 63, unless there  
18 is created a duplication in numbering, reads as follows:

19           Nothing in the Oklahoma Workplace Clean Air Act shall be  
20 construed to prevent a political subdivision of the state from  
21 adopting local ordinances or regulations relating to smoking in  
22 workplaces and public places that are more restrictive than this  
23 act, nor does this act repeal any existing local ordinances or  
24 regulations that provide restrictions on smoking that are

1 substantially equivalent to, or greater than, those provided by this  
2 act.

3 SECTION 15. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1-1547 of Title 63, unless there  
5 is created a duplication in numbering, reads as follows:

6 The Department of Health shall engage in a continuing education  
7 program to explain and clarify the purposes and requirements of this  
8 act to citizens affected by it and to guide owners, operators and  
9 managers in their compliance with it. The program may include  
10 publication of a brochure for affected businesses and individuals  
11 explaining the provisions of the Oklahoma Workplace Clean Air Act.

12 SECTION 16. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-1548 of Title 63, unless there  
14 is created a duplication in numbering, reads as follows:

15 The Oklahoma Workplace Clean Air Act shall not be interpreted or  
16 construed to permit smoking where it is otherwise restricted by  
17 other applicable state or local laws.

18 SECTION 17. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-1549 of Title 63, unless there  
20 is created a duplication in numbering, reads as follows:

21 The Oklahoma Workplace Clean Air Act shall be liberally  
22 construed so as to further its purposes.

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1 SECTION 18. AMENDATORY 21 O.S. 2011, Section 1247, as  
2 last amended by Section 1, Chapter 110, O.S.L. 2017 (21 O.S. Supp.  
3 2018, Section 1247), is amended to read as follows:

4 Section 1247. A. The possession of lighted tobacco in any form  
5 is a public nuisance and dangerous to public health and is hereby  
6 prohibited when such possession is in any indoor place used by or  
7 open to the public, all parts of a zoo to which the public may be  
8 admitted, whether indoors or outdoors, public transportation, or any  
9 indoor workplace, except where specifically allowed by law.  
10 Commercial airport operators may prohibit the use of lighted tobacco  
11 in any area that is open to or used by the public whether located  
12 indoors or outdoors, provided that the outdoor area is within one  
13 hundred seventy-five (175) feet from an entrance.

14 As used in this section, "indoor workplace" means any indoor  
15 place of employment or employment-type service for or at the request  
16 of another individual or individuals, or any public or private  
17 entity, whether part-time or full-time and whether for compensation  
18 or not. Such services shall include, without limitation, any  
19 service performed by an owner, employee, independent contractor,  
20 agent, partner, proprietor, manager, officer, director, apprentice,  
21 trainee, associate, servant or volunteer. An indoor workplace  
22 includes work areas, employee lounges, restrooms, conference rooms,  
23 classrooms, employee cafeterias, hallways, any other spaces used or  
24 visited by employees, and all space between a floor and ceiling that

1 is predominantly or totally enclosed by walls or windows, regardless  
2 of doors, doorways, open or closed windows, stairways, or the like.  
3 The provisions of this section shall apply to such indoor workplace  
4 at any given time, whether or not work is being performed.

5 B. All buildings and other properties, or portions thereof,  
6 owned or operated by this state shall be designated as nonsmoking.  
7 The provisions of this subsection shall not apply to veterans  
8 centers operated by this state pursuant to the provisions of Section  
9 221 et seq. of Title 72 of the Oklahoma Statutes, which shall be  
10 designated nonsmoking effective January 1, 2015, at which time  
11 veterans centers may establish outdoor designated smoking areas for  
12 resident veterans only. Smoking shall only be allowed in designated  
13 outdoor smoking areas.

14 C. All buildings and other properties, or portions thereof,  
15 owned or operated by a county or municipal government, at the  
16 discretion of the county or municipal governing body, may be  
17 designated as entirely nonsmoking.

18 D. All educational facilities or portions thereof as defined in  
19 the Smoking in Public Places and Indoor Workplaces Act and all  
20 educational facilities as defined in the 24/7 Tobacco-free Schools  
21 Act shall be designated as nonsmoking as provided for in Section ~~4~~  
22 ~~1523 of Title 63 of the Oklahoma Statutes~~ 4 of the Oklahoma  
23 Workplace Clean Air Act. All campuses, buildings and grounds, or  
24 portions thereof, owned or operated by an institution within The

1 Oklahoma State System of Higher Education may be designated as  
2 tobacco free, including smoking or smokeless tobacco, by the  
3 institution upon adoption of a policy stating the tobacco  
4 restrictions for the institution and an intent to enforce the  
5 penalty for violations as set forth in subsection ~~M~~ J of this  
6 section.

7 E. No smoking shall be allowed within twenty-five (25) feet of  
8 the entrance or exit of any building specified in subsection B, C or  
9 D of this section.

10 ~~F. The restrictions provided in this section shall not apply to~~  
11 ~~stand-alone bars, stand-alone taverns and cigar bars as defined in~~  
12 ~~Section 1-1522 of Title 63 of the Oklahoma Statutes.~~

13 ~~G. The restrictions provided in this section shall not apply to~~  
14 ~~the following:~~

15 ~~1. The room or rooms where licensed charitable bingo games are~~  
16 ~~being operated, but only during the hours of operation of such~~  
17 ~~games;~~

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

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

24

1       4. ~~Workplaces where only the owner or operator of the~~  
2 ~~workplace, or the immediate family of the owner or operator,~~  
3 ~~performs any work in the workplace, and the workplace has only~~  
4 ~~incidental public access. "Incidental public access" means that a~~  
5 ~~place of business has only an occasional person, who is not an~~  
6 ~~employee, present at the business to transact business or make a~~  
7 ~~delivery. It does not include businesses that depend on walk-in~~  
8 ~~customers for any part of their business;~~

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

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

12       7. ~~Workplaces within private residences, except that smoking~~  
13 ~~shall not be allowed inside any private residence that is used as a~~  
14 ~~licensed child care facility during hours of operation;~~

15       8. ~~Medical~~ medical ~~research or treatment centers, if smoking is~~  
16 ~~integral to the research or treatment;~~

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



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

4       H. G. An employer not otherwise restricted from doing so may  
5 elect to provide smoking rooms where no work is performed except for  
6 cleaning and maintenance during the time the room is not in use for  
7 smoking, provided each smoking room is fully enclosed and exhausted  
8 directly to the outside in such a manner that no smoke can drift or  
9 circulate into a nonsmoking area. No exhaust from a smoking room  
10 shall be located within fifteen (15) feet of any entrance, exit or  
11 air intake.

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

1       ~~J. Notwithstanding any other provision of this section, until~~  
2 ~~March 1, 2006, restaurants may have designated smoking and~~  
3 ~~nonsmoking areas or may be designated as being a totally nonsmoking~~  
4 ~~area. Beginning March 1, 2006, restaurants shall be totally~~  
5 ~~nonsmoking or may provide nonsmoking areas and designated smoking~~  
6 ~~rooms. Food and beverage may be served in such designated smoking~~  
7 ~~rooms which shall be in a location which is fully enclosed, directly~~  
8 ~~exhausted to the outside, under negative air pressure so smoke~~  
9 ~~cannot escape when a door is opened, and no air is recirculated to~~  
10 ~~nonsmoking areas of the building. No exhaust from such room shall~~  
11 ~~be located within twenty-five (25) feet of any entrance, exit or air~~  
12 ~~intake. Such room shall be subject to verification for compliance~~  
13 ~~with the provisions of this subsection by the State Department of~~  
14 ~~Health.~~

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

20       ~~L.~~ I. Responsibility for posting signs or decals shall be as  
21 follows:

22       1. In privately owned facilities, the owner or lessee, if a  
23 lessee is in possession of the facilities, shall be responsible;  
24

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

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

5       ~~M. J.~~ Any person who knowingly violates the provisions of this  
6 section shall be punished by a citation and fine of not more than  
7 One Hundred Dollars (\$100.00).

8       SECTION 19.        AMENDATORY        37 O.S. 2011, Section 600.10, as  
9 amended by Section 10, Chapter 162, O.S.L. 2014, and as renumbered  
10 by Section 178, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2018,  
11 Section 1-229.20), is amended to read as follows:

12       Section 1-229.20 No agency or other political subdivision of  
13 the state, including, but not limited to, municipalities, counties  
14 or any agency thereof, may adopt any order, ordinance, rule or  
15 regulation concerning the sale, purchase, distribution, advertising,  
16 sampling, promotion, display, possession, licensing or taxation of  
17 tobacco products or vapor products, except as provided in Section  
18 1511 of Title 68 of the Oklahoma Statutes, ~~Section 1-1521 et seq. of~~  
19 ~~Title 63 of the Oklahoma Statutes~~ Sections 1 through 17 of this act  
20 and Section 1247 of Title 21 of the Oklahoma Statutes. Provided,  
21 however, nothing in this section shall preclude or preempt any  
22 agency or political subdivision from exercising its lawful authority  
23 to regulate zoning or land use or to enforce a fire code regulation  
24 regulating smoking or tobacco products to the extent that such

1 regulation is substantially similar to nationally recognized  
2 standard fire codes.

3 SECTION 20. AMENDATORY Section 6, Chapter 369, O.S.L.  
4 2017 (63 O.S. Supp. 2018, Section 1-1530), is amended to read as  
5 follows:

6 Section 1-1530. The Oklahoma State Department of Health and the  
7 Department of Mental Health and Substance Abuse Services shall work  
8 together to develop new and innovative strategies to prevent ~~to~~  
9 ~~use by minors~~ from smoking as defined in Section 2 of the Oklahoma  
10 Workplace Clean Air Act.

11 SECTION 21. AMENDATORY 3A O.S. 2011, Section 208.12, is  
12 amended to read as follows:

13 Section 208.12 The gaming areas of the premises of an  
14 organization licensee and, except for the off-track wagering  
15 facilities specified in Section 205.6a of ~~Title 3A of the Oklahoma~~  
16 ~~Statutes~~ this title, the areas where simulcast wagering is conducted  
17 by an organization licensee shall not be subject to the provisions  
18 of Section 1247 of Title 21 of the Oklahoma Statutes or to the  
19 provisions of the ~~Smoking in Public Places and Indoor Workplaces Act~~  
20 Oklahoma Workplace Clean Air Act if the following conditions are  
21 met:

22 1. Each gaming or simulcast area in which smoking is permitted  
23 shall be fully enclosed, directly exhausted to the outside, under  
24 negative air pressure so smoke cannot escape to nonsmoking areas

1 when a door is opened, and no air from a smoking area is  
2 recirculated to nonsmoking areas of the building; and

3 2. No exhaust from such gaming or simulcast area shall be  
4 located within twenty-five (25) feet of any entrance, exit, or air  
5 intake.

6 SECTION 22. REPEALER 63 O.S. 2011, Sections 1-1521, 1-  
7 1522, as amended by Section 5, Chapter 259, O.S.L. 2015, 1-1523, as  
8 last amended by Section 2, Chapter 110, O.S.L. 2017, 1-1525, as  
9 amended by Section 3, Chapter 369, O.S.L. 2017, 1-1526, 1-1526.1 and  
10 1-1527, as amended by Section 2, Chapter 187, O.S.L. 2013 (63 O.S.  
11 Supp. 2018, Sections 1-1522, 1-1523, 1-1525 and 1-1527) and Section  
12 5, Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2018, Section 1-1529) are  
13 hereby repealed.

14 SECTION 23. This act shall become effective November 1, 2019.

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