

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3384

By: Wright

4  
5  
6 AS INTRODUCED

7 An Act relating to public health and safety; creating  
8 the Oklahoma Workplace Clean Air Act; defining terms;  
9 providing for applicability to certain government  
10 facilities; prohibiting smoking in enclosed public  
11 places; providing exception; prohibiting smoking in  
12 enclosed places of employment; prohibiting smoking in  
13 certain facilities and outdoor public places;  
14 providing exceptions; authorizing certain persons to  
15 declare establishment as nonsmoking; requiring  
16 certain persons to provide notice of smoking status;  
17 prohibiting retaliation; directing the State  
18 Department of Health to promulgate rules; directing  
19 appropriate entity to impose administrative fine;  
20 providing for penalties and violations; authorizing  
21 adoption of local ordinances; requiring the State  
22 Department of Health to provide continuing education;  
23 providing for interpretation; amending 21 O.S. 2011,  
24 Section 1247, as last amended by Section 1, Chapter  
477, O.S.L. 2019 (21 O.S. Supp. 2019, 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. 2019, 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.  
2019, 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; repealing 63 O.S. 2011,  
Sections 1-1521, 1-1522, as amended by Section 5,  
Chapter 259, O.S.L. 2015, 1-1523, as last amended by  
Section 2, Chapter 477, O.S.L. 2017, 1-1525, as last

1 amended by Section 3, Chapter 477, O.S.L. 2019, 1-  
2 1526, 1-1526.1 and 1-1527, as amended by Section 2,  
3 Chapter 187, O.S.L. 2013 (63 O.S. Supp. 2019,  
4 Sections 1-1522, 1-1523, 1-1525 and 1-1527) and  
5 Section 5, Chapter 369, O.S.L. 2017 (63 O.S. Supp.  
6 2019, Section 1-1529), which relate to the Smoking in  
7 Public Places and Indoor Workplaces Act; providing  
8 for codification; and providing an effective date.

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

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

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

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

17 As used in the Oklahoma Workplace Clean Air Act:

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

21 2. "Business" means a sole proprietorship, partnership, joint  
22 venture, corporation or other business entity, either for-profit or  
23 not-for-profit, including retail establishments where goods or  
24 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, licensed by the Oklahoma  
4 Tax Commission for the retail sale of tobacco products and in  
5 existence as of November 1, 2020, that exclusively occupies an  
6 enclosed indoor space and is primarily engaged in the retail sale of  
7 tobacco products for consumption by customers on the premises.  
8 Cigar bars derive at least thirty-five percent (35%) of its  
9 quarterly gross receipts, verified by competent authority, from the  
10 sale and consumption of tobacco products and accessories, and no  
11 person under twenty-one (21) years of age is admitted;

12 4. "Educational facilities" means any property, building,  
13 permanent structure, facility, auditorium, stadium, arena or  
14 recreational facility owned, leased or under the control of a public  
15 school district or private school located in the state. For  
16 purposes of this act, a public school district shall not include a  
17 technology center school district;

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

1       6. "Employee" means a person who performs services for, whether  
2 full time or part time, an employer in consideration for direct or  
3 indirect monetary wages or profit or a person who volunteers his or  
4 her services for any private or public entity or individual whether  
5 for compensation or not;

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

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

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

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

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

19        12. "Place of employment" means an area under the control of a  
20 public or private employer, including, but not limited to, work  
21 areas, private offices, employee lounges, restrooms, conference  
22 rooms, meeting rooms, classrooms, employee cafeterias, hallways,  
23 construction sites, temporary offices and vehicles. A private  
24

1 residence is not a place of employment unless it is used as a child  
2 care, adult day care or health care facility;

3 13. "Playground" means any park or recreational area designed  
4 in part to be used by children that has play or sports equipment  
5 installed or that has been designated or landscaped for play or  
6 sports activities, or any similar facility located on public or  
7 private school grounds or on state grounds or grounds of any  
8 political subdivision of the state;

9 14. "Private club" means an organization, whether incorporated  
10 or not, which is the owner, lessee or occupant of a building or  
11 portion thereof used exclusively for club purposes at all times,  
12 which is operated solely for a recreational, fraternal, social,  
13 patriotic, political, benevolent or athletic purpose, but not for  
14 pecuniary gain, and which only sells alcoholic beverages incidental  
15 to its operation. The affairs and management of the organization  
16 are conducted by a board of directors, executive committee or  
17 similar body chosen by the members at an annual meeting. The  
18 organization has established bylaws and/or a constitution to govern  
19 its activities. The organization has been granted an exemption from  
20 the payment of federal income tax as a club under 26 U.S.C., Section  
21 501;

22 15. "Public event" means an event which is open to and may be  
23 attended by the general public, including, but not limited to, such  
24 events as concerts, fairs, farmers' markets, festivals, parades,

1 performances and other exhibitions, regardless of any fee or age  
2 requirement;

3 16. "Public place" means an area to which the public is invited  
4 or in which the public is permitted, including, but not limited to,  
5 banks, bars, educational facilities, health care facilities, hotels  
6 and motels, laundromats, parking structures, public transportation  
7 vehicles and facilities, reception areas, restaurants, retail food  
8 production and marketing establishments, retail service  
9 establishments, retail stores, shopping malls, sports arenas,  
10 theaters and waiting rooms. A private residence is not a public  
11 place unless it is used as a child care, adult day care or health  
12 care facility;

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

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

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

6 20. "Shopping mall" means an enclosed or unenclosed public  
7 walkway or hall area that serves to connect retail or professional  
8 establishments;

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

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

22 23. "Bar" and "tavern" means an establishment that derives more  
23 than sixty percent (60%) of its gross receipts, subject to  
24 verification by competent authority, from the sale of alcoholic



1 beverages and low-point beer and no person under twenty-one (21)  
2 years of age is admitted, except for members of a musical band  
3 employed or hired as provided in paragraph 2 of Section 6-102 of  
4 Title 37A of the Oklahoma Statutes, and that is not located within,  
5 and does not share any common entryway or common indoor area with,  
6 any other enclosed indoor workplace, including a restaurant; and

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

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

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

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

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

- 12 1. Aquariums, galleries, libraries and museums;
- 13 2. Areas available to the general public in businesses and  
14 nonprofit entities patronized by the public, including, but not  
15 limited to, banks, laundromats, professional offices and retail  
16 service establishments;
- 17 3. Bars;
- 18 4. Bingo facilities;
- 19 5. Child care and adult day care facilities;
- 20 6. Convention facilities;
- 21 7. Educational facilities;
- 22 8. Elevators;
- 23 9. Health care facilities;
- 24 10. Hotels and motels;

- 1        11. Lobbies, hallways and other common areas in apartment  
2 buildings, condominiums, trailer parks, retirement facilities,  
3 nursing homes and other multiple-unit residential facilities;
- 4        12. Parking structures;
- 5        13. Polling places;
- 6        14. Public transportation vehicles, including buses and  
7 taxicabs under the authority of the state, and public transportation  
8 facilities, including bus, train and airport facilities;
- 9        15. Restaurants;
- 10       16. Restrooms, lobbies, reception areas, hallways and other  
11 common-use areas;
- 12       17. Retail stores;
- 13       18. Rooms, chambers, places of meeting or public assembly,  
14 including school buildings, under the control of an agency, board,  
15 commission, committee or council of the state or a political  
16 subdivision of the state;
- 17       19. Service lines;
- 18       20. Shopping malls;
- 19       21. Sports arenas, including enclosed places in outdoor arenas;  
20 and
- 21       22. Theaters and other facilities primarily used for exhibiting  
22 motion pictures, stage dramas, lectures, musical recitals or other  
23 similar performances.
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1 B. The Oklahoma Workplace Clean Air Act shall not prohibit  
2 smoking in medical research or treatment centers, if smoking is  
3 integral to research or treatment.

4 C. The Oklahoma Workplace Clean Air Act shall not apply to  
5 cigar bars.

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

9 A. Smoking shall be prohibited in all enclosed areas of places  
10 of employment without exception. This includes, without limitation,  
11 work areas, auditoriums, classrooms, conference and meeting rooms,  
12 private offices, elevators, hallways, medical facilities,  
13 cafeterias, employee lounges, stairs, restrooms, vehicles and all  
14 other enclosed facilities, and any other spaces used or visited by  
15 employees.

16 B. This prohibition on smoking shall be communicated to all  
17 existing employees by November 1, 2020, and to all prospective  
18 employees upon their application for employment.

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

22 Smoking shall be prohibited in the following indoor and outdoor  
23 places:

24 1. All private clubs;

- 1        2. All private and semiprivate rooms in nursing homes;
- 2        3. All hotel and motel guest rooms;
- 3        4. Within fifteen (15) feet of outside entrances, operable  
4 windows and ventilation systems of enclosed areas where smoking is  
5 prohibited, so as to prevent tobacco smoke from entering those  
6 areas;
- 7        5. On all outdoor property that is adjacent to buildings owned,  
8 leased or operated by the state and that is under the control of the  
9 state;
- 10       6. In outdoor shopping malls, including parking structures;
- 11       7. In all outdoor arenas, stadiums and amphitheaters. Smoking  
12 shall also be prohibited in, and within fifteen (15) feet of,  
13 bleachers and grandstands for use by spectators at sporting and  
14 other public events;
- 15       8. In outdoor recreational areas, including parking lots;
- 16       9. In, and within fifteen (15) feet of, all outdoor  
17 playgrounds;
- 18       10. In, and within fifteen (15) feet of, all outdoor public  
19 events;
- 20       11. In, and within fifteen (15) feet of, all outdoor public  
21 transportation stations, platforms and shelters under the authority  
22 of the state or any of its subdivisions; and
- 23       12. In outdoor common areas of apartment buildings,  
24 condominiums, trailer parks, retirement facilities, nursing homes

1 and other multiple-unit residential facilities, except in designated  
2 smoking areas, not to exceed twenty-five percent (25%) of the total  
3 outdoor common area, which must be located at least fifteen (15)  
4 feet outside entrances, operable windows and ventilation systems of  
5 enclosed areas where smoking is prohibited. Outdoor common areas do  
6 not include private patios or balconies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 A. In addition to any other penalties authorized by law, the  
23 Commissioner of Health or the Department of Human Services,  
24 whichever is the appropriate entity, shall impose administrative



1 fines against nursing facilities, employees of nursing facilities,  
2 or both nursing facilities and employees of nursing facilities,  
3 restaurants, food establishments and child care facilities for  
4 violations of the Oklahoma Workplace Clean Air Act.

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

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

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

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

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

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

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

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

- 17 1. A fine not to exceed One Hundred Dollars (\$100.00) for a  
18 first violation;
- 19 2. A fine not to exceed Two Hundred Dollars (\$200.00) for a  
20 second violation within one (1) year; and
- 21 3. A fine not to exceed Five Hundred Dollars (\$500.00) for each  
22 additional violation within one (1) year.

23 C. In addition to the fines established by this section,  
24 violation of the Oklahoma Workplace Clean Air Act by a person who

1 owns, manages, operates or otherwise controls a public place or  
2 place of employment may result in the suspension or revocation of  
3 any permit or license issued to the person for the premises on which  
4 the violation occurred.

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

9 E. Each day on which a violation of the Oklahoma Workplace  
10 Clean Air Act occurs shall be considered a separate and distinct  
11 violation.

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

15 Nothing in the Oklahoma Workplace Clean Air Act shall be  
16 construed to prevent a political subdivision of the state from  
17 adopting local ordinances or regulations relating to smoking in  
18 workplaces and public places that are more restrictive than this  
19 act, nor does this act repeal any existing local ordinances or  
20 regulations that provide restrictions on smoking that are  
21 substantially equivalent to, or greater than, those provided by this  
22 act.

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

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

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

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

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

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

21 SECTION 18. AMENDATORY 21 O.S. 2011, Section 1247, as  
22 last amended by Section 1, Chapter 477, O.S.L. 2019 (21 O.S. Supp.  
23 2019, Section 1247), is amended to read as follows:

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

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

1 The provisions of this section shall apply to such indoor workplace  
2 at any given time, whether or not work is being performed.

3 B. All buildings and other properties, or portions thereof,  
4 owned or operated by this state shall be designated as nonsmoking.

5 The tobacco smoking provisions of this subsection shall not apply to  
6 veterans centers operated by this state pursuant to the provisions  
7 of Section 221 et seq. of Title 72 of the Oklahoma Statutes, which  
8 shall be designated nonsmoking effective January 1, 2015, at which  
9 time veterans centers may establish outdoor designated smoking areas  
10 for resident veterans only. Smoking tobacco shall only be allowed  
11 in designated outdoor smoking areas.

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

16 D. All educational facilities or portions thereof as defined in  
17 the Smoking in Public Places and Indoor Workplaces Act and all  
18 educational facilities as defined in the 24/7 Tobacco-free Schools  
19 Act shall be designated as nonsmoking as provided for in Section ~~4~~  
20 ~~1523 of Title 63 of the Oklahoma Statutes~~ 4 of this act. All  
21 campuses, buildings and grounds, or portions thereof, owned or  
22 operated by an institution within The Oklahoma State System of  
23 Higher Education may be designated as tobacco and marijuana free,  
24 including smoking or smokeless tobacco or smokable or vaporable

1 marijuana, by the institution upon adoption of a policy stating the  
2 restrictions for the institution and an intent to enforce the  
3 penalty for violations as set forth in subsection ~~M~~ J of this  
4 section.

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

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

12 ~~G.~~ The restrictions on tobacco smoking provided in this section  
13 shall not apply to the following:

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

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

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

23 4. ~~Workplaces where only the owner or operator of the  
24 workplace, or the immediate family of the owner or operator,~~

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

7 ~~5.~~ 2. Workplaces occupied exclusively by one or more tobacco  
8 smokers, if the workplace has only incidental public access;

9 ~~6.~~ 3. Private offices occupied exclusively by one or more  
10 smokers;

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

15 ~~8.~~ 4. Medical research or treatment centers, if tobacco smoking  
16 is integral to the research or treatment. Furthermore, the  
17 restrictions on smoking or vaping of marijuana provided in this  
18 section shall not apply to medical research or treatment centers, if  
19 marijuana smoking or vaping is integral to the research or  
20 treatment;

21 ~~9.~~ 5. A facility operated by a post or organization of past or  
22 present members of the Armed Forces of the United States which is  
23 exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or  
24 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section



1 501(c) (8), 501(c) (10) or 501(c) (19), when such facility is utilized  
2 exclusively by its members and their families and for the conduct of  
3 post or organization nonprofit operations except during an event or  
4 activity which is open to the public; and

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

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

18 ~~I. If tobacco smoking is to be permitted in any space exempted~~  
19 ~~in subsection F or G of this section or in a tobacco smoking room~~  
20 ~~pursuant to subsection H of this section, such tobacco smoking space~~  
21 ~~must either occupy the entire enclosed indoor space or, if it shares~~  
22 ~~the enclosed space with any nonsmoking areas, the tobacco smoking~~  
23 ~~space shall be fully enclosed, exhausted directly to the outside~~  
24 ~~with no air from the tobacco smoking space circulated to any~~

1 ~~nonsmoking area, and under negative air pressure so that no tobacco~~  
2 ~~smoke can drift or circulate into a nonsmoking area when a door to~~  
3 ~~an adjacent nonsmoking area is opened. Air from a tobacco smoking~~  
4 ~~room shall not be exhausted within fifteen (15) feet of any~~  
5 ~~entrance, exit or air intake. Any employer may choose a more~~  
6 ~~restrictive tobacco smoking policy, including being totally tobacco~~  
7 ~~smoke free.~~

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

22 ~~K. H. The person who owns or operates a place where tobacco~~  
23 ~~smoking or use is prohibited by law shall be responsible for posting~~  
24 ~~a sign or decal, at least four (4) inches by two (2) inches in size,~~

1 at each entrance to the building indicating that the place is smoke-  
2 free or tobacco-free.

3 ~~H.~~ I. Responsibility for posting signs or decals shall be as  
4 follows:

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

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

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

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

14 SECTION 19. AMENDATORY 37 O.S. 2011, Section 600.10, as  
15 amended by Section 10, Chapter 162, O.S.L. 2014, and as renumbered  
16 by Section 178, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019,  
17 Section 1-229.20), is amended to read as follows:

18 Section 1-229.20 No agency or other political subdivision of  
19 the state, including, but not limited to, municipalities, counties  
20 or any agency thereof, may adopt any order, ordinance, rule or  
21 regulation concerning the sale, purchase, distribution, advertising,  
22 sampling, promotion, display, possession, licensing or taxation of  
23 tobacco products or vapor products, except as provided in Section  
24 1511 of Title 68 of the Oklahoma Statutes, ~~Section 1-1521 et seq. of~~

1 ~~Title 63 of the Oklahoma Statutes~~ Sections 1 through 17 of this act  
2 and Section 1247 of Title 21 of the Oklahoma Statutes. Provided,  
3 however, nothing in this section shall preclude or preempt any  
4 agency or political subdivision from exercising its lawful authority  
5 to regulate zoning or land use or to enforce a fire code regulation  
6 regulating smoking or tobacco products to the extent that such  
7 regulation is substantially similar to nationally recognized  
8 standard fire codes.

9 SECTION 20. AMENDATORY Section 6, Chapter 369, O.S.L.  
10 2017 (63 O.S. Supp. 2019, Section 1-1530), is amended to read as  
11 follows:

12 Section 1-1530. The Oklahoma State Department of Health and the  
13 Department of Mental Health and Substance Abuse Services shall work  
14 together to develop new and innovative strategies to prevent ~~tobacco~~  
15 ~~use by minors~~ from smoking as defined in Section 2 of this act.

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

18 Section 208.12 The gaming areas of the premises of an  
19 organization licensee and, except for the off-track wagering  
20 facilities specified in Section 205.6a of ~~Title 3A of the Oklahoma~~  
21 ~~Statutes~~ this title, the areas where simulcast wagering is conducted  
22 by an organization licensee shall not be subject to the provisions  
23 of Section 1247 of Title 21 of the Oklahoma Statutes or to the  
24 provisions of the ~~Smoking in Public Places and Indoor Workplaces Act~~

1 Oklahoma Workplace Clean Air Act if the following conditions are  
2 met:

3 1. Each gaming or simulcast area in which smoking is permitted  
4 shall be fully enclosed, directly exhausted to the outside, under  
5 negative air pressure so smoke cannot escape to nonsmoking areas  
6 when a door is opened, and no air from a smoking area is  
7 recirculated to nonsmoking areas of the building; and

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

11 SECTION 22. REPEALER 63 O.S. 2011, Sections 1-1521, 1-  
12 1522, as amended by Section 5, Chapter 259, O.S.L. 2015, 1-1523, as  
13 last amended by Section 2, Chapter 477, O.S.L. 2019, 1-1525, as last  
14 amended by Section 3, Chapter 477, O.S.L. 2019, 1-1526, 1-1526.1 and  
15 1-1527, as amended by Section 2, Chapter 187, O.S.L. 2013 (63 O.S.  
16 Supp. 2019, Sections 1-1522, 1-1523, 1-1525 and 1-1527) and Section  
17 5, Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2019, Section 1-1529),  
18 are hereby repealed.

19 SECTION 23. This act shall become effective November 1, 2020.  
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