

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 3384

6 By: Wright

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 statutory interpretation; amending 21  
O.S. 2011, 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 distance requirement;  
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; updating statutory reference;

1           repealing 63 O.S. 2011, Sections 1-1521, 1-1522, as  
2           amended by Section 5, Chapter 259, O.S.L. 2015, 1-  
3           1523, as last amended by Section 2, Chapter 477,  
4           O.S.L. 2019, 1-1525, as last amended by Section 3,  
5           Chapter 477, O.S.L. 2019, 1-1526, 1-1526.1, 1-1527,  
6           as amended by Section 2, Chapter 187, O.S.L. 2013 and  
7           Section 5, Chapter 369, O.S.L. 2017 (63 O.S. Supp.  
8           2019, Sections 1-1522, 1-1523, 1-1525, 1-1527 and 1-  
9           1529), which relate to the Smoking in Public Places  
10          and Indoor Workplaces Act; providing for  
11          codification; and providing an effective date.

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

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

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

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

As used in the Oklahoma Workplace Clean Air Act:

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

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, 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  
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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. "Retail tobacco store" means a retail establishment that  
2 derives more than eighty percent (80%) of its gross revenue from the  
3 sale of loose tobacco, cigars, cigarettes, pipes or other smoking  
4 devices for burning tobacco and related smoking accessories and in  
5 which the sale of other products is merely incidental and in which  
6 no food or beverage is sold or served for consumption on the  
7 premises;

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

13        21. "Shopping mall" means an enclosed or unenclosed public  
14 walkway or hall area that serves to connect retail or professional  
15 establishments;

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

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1       23. "Sports arena" means a place where people assemble to  
2 engage in physical exercise, participate in athletic competition or  
3 witness sports or other events, including sports pavilions,  
4 stadiums, gymnasiums, health spas, boxing arenas, swimming pools,  
5 roller and ice rinks and bowling alleys;

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

15       25. "Vapor product" means noncombustible products that may or  
16 may not contain nicotine that employ a mechanical heating element,  
17 battery, electronic circuit or other mechanism, regardless of shape  
18 or size, that can be used to produce a vapor in a solution or other  
19 form. Vapor products shall include any vapor cartridge or other  
20 container, with or without nicotine, or other form that is intended  
21 to be used with an electronic cigarette, electronic cigar,  
22 electronic cigarillo, electronic pipe or similar product or device  
23 and any vapor cartridge or other container of a solution that may or  
24 may not contain nicotine and that is intended to be used with or in

1 an electronic cigarette, electronic cigar, electronic cigarillo or  
2 electronic device. Vapor products do not include any products  
3 regulated by the United States Food and Drug Administration under  
4 Chapter V of the Food, Drug, and Cosmetic Act; and

5 26. "Vapor shop" means any enclosed indoor workplace dedicated  
6 to or predominately for the retail sale of vapor-generating  
7 electronic devices and components, parts and accessories for such  
8 products, in which the sale of other products or services is merely  
9 incidental.

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

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

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

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

24 1. Aquariums, galleries, libraries and museums;

- 1        2. Areas inside businesses and nonprofit entities patronized by
- 2 the public, including, but not limited to, banks, laundromats,
- 3 professional offices and retail service establishments;
- 4        3. Bars;
- 5        4. Bingo facilities;
- 6        5. Child care and adult day care facilities;
- 7        6. Convention facilities;
- 8        7. Educational facilities;
- 9        8. Elevators;
- 10       9. Health care facilities;
- 11       10. Hotels and motels;
- 12       11. Lobbies, hallways and other common areas in apartment
- 13 buildings, condominiums, trailer parks, retirement facilities,
- 14 nursing homes and other multiple-unit residential facilities;
- 15       12. Parking structures;
- 16       13. Polling places;
- 17       14. Public transportation vehicles, including buses and
- 18 taxicabs under the authority of the state, and public transportation
- 19 facilities, including bus, train and airport facilities;
- 20       15. Restaurants;
- 21       16. Restrooms, lobbies, reception areas, hallways and other
- 22 common-use areas;
- 23       17. Retail stores;
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1 18. Rooms, chambers, places of meeting or public assembly,  
2 including school buildings, under the control of an agency, board,  
3 commission, committee or council of the state or a political  
4 subdivision of the state;

5 19. Service lines;

6 20. Shopping malls;

7 21. Sports arenas, including enclosed places in outdoor arenas;  
8 and

9 22. Theaters and other facilities primarily used for exhibiting  
10 motion pictures, stage dramas, lectures, musical recitals or other  
11 similar performances.

12 B. The Oklahoma Workplace Clean Air Act shall not prohibit  
13 smoking in medical research or treatment centers, if smoking is  
14 integral to research or treatment.

15 C. The Oklahoma Workplace Clean Air Act shall not apply to the  
16 following:

17 1. Cigar bars in existence as of November 1, 2020;

18 2. Retail tobacco stores in existence as of November 1, 2020;

19 3. Vapor shops in existence as of November 1, 2020;

20 4. Restaurants in existence as of November 1, 2020, that have  
21 designated tobacco smoking rooms which shall be in a location which  
22 is fully enclosed, directly exhausted to the outside, under negative  
23 air pressure so tobacco smoke cannot escape when a door is opened,  
24 and no air is recirculated to nonsmoking areas of the building. No

1 exhaust from such room shall be located within fifteen (15) feet of  
2 any entrance, exit or air intake. Such room shall be subject to  
3 verification for compliance with the provisions of this paragraph by  
4 the State Department of Health; and

5 5. Workplaces, including private residential businesses where  
6 only the owner or operator of the workplace performs any work in the  
7 workplace, and the workplace has only incidental public access.

8 "Incidental public access" means that a place of business has only  
9 an occasional person, who is not an employee, present at the  
10 business to transact business or make a delivery. It does not  
11 include businesses that depend on walk-in customers for any part of  
12 their business.

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

16 A. Smoking shall be prohibited in all enclosed areas of places  
17 of employment without exception. This includes, without limitation,  
18 work areas, auditoriums, classrooms, conference and meeting rooms,  
19 private offices, elevators, hallways, medical facilities,  
20 cafeterias, employee lounges, stairs, restrooms, vehicles and all  
21 other enclosed facilities, and any other spaces used or visited by  
22 employees.

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1 B. This prohibition on smoking shall be communicated to all  
2 existing employees by January 1, 2021, and to all prospective  
3 employees upon their application for employment.

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

7 Smoking shall be prohibited in the following indoor and outdoor  
8 places:

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

1 9. In, and within fifteen (15) feet of, all outdoor  
2 playgrounds;

3 10. In, and within fifteen (15) feet of, all outdoor public  
4 events;

5 11. In, and within fifteen (15) feet of, all outdoor public  
6 transportation stations, platforms and shelters under the authority  
7 of the state or any of its subdivisions; and

8 12. In outdoor common areas of apartment buildings,  
9 condominiums, trailer parks, retirement facilities, nursing homes  
10 and other multiple-unit residential facilities, except in designated  
11 smoking areas, not to exceed twenty-five percent (25%) of the total  
12 outdoor common area, which must be located at least fifteen (15)  
13 feet outside entrances, operable windows and ventilation systems of  
14 enclosed areas where smoking is prohibited. Outdoor common areas do  
15 not include private patios or balconies.

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

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

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

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

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

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

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

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

23 3. Clearly and conspicuously post on every vehicle that  
24 constitutes a place of employment under this act at least one sign,

1 visible from the exterior of the vehicle, stating that smoking is  
2 prohibited or that the vehicle is a smoke-free environment; and

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

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

9 A. No person or employer shall discharge, refuse to hire, or in  
10 any manner retaliate against an employee, applicant for employment,  
11 customer or resident of a multiple-unit residential facility because  
12 that employee, applicant, customer or resident exercises any rights  
13 afforded by the Oklahoma Workplace Clean Air Act or reports or  
14 attempts to prosecute a violation of this act. In addition to any  
15 administrative fines imposed pursuant to Section 12 of this act, a  
16 conviction for a violation of this subsection shall be a  
17 misdemeanor, punishable by a fine not to exceed One Thousand Dollars  
18 (\$1,000.00) for each violation.

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

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

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

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

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

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

16 C. Local health departments, fire departments and their  
17 designees shall, while an establishment is undergoing otherwise  
18 mandated inspections, inspect for compliance with the Oklahoma  
19 Workplace Clean Air Act.

20 D. An owner, manager, operator or employee of an area regulated  
21 by the Oklahoma Workplace Clean Air Act may direct a person who is  
22 smoking in violation of this act to extinguish or turn off the  
23 product being smoked. If the person does not stop smoking, the  
24 owner, manager, operator or employee shall refuse service and may

1 immediately ask the person to leave the premises. If the person in  
2 violation refuses to leave the premises, the owner, manager,  
3 operator or employee may contact a law enforcement agency.

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

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

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

13 A. Any person who smokes in an area where smoking is prohibited  
14 by the provisions of the Oklahoma Workplace Clean Air Act shall be  
15 punished by a citation and fine of not more than One Hundred Dollars  
16 (\$100.00).

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

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

1           2. A fine not to exceed Two Hundred Dollars (\$200.00) for a  
2 second violation within one (1) year; and

3           3. A fine not to exceed Five Hundred Dollars (\$500.00) for each  
4 additional violation within one (1) year.

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

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

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

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

21           Nothing in the Oklahoma Workplace Clean Air Act shall be  
22 construed to prevent a political subdivision of the state from  
23 adopting local ordinances or regulations relating to smoking in  
24 workplaces and public places that are more restrictive than this

1 act, nor does this act repeal any existing local ordinances or  
2 regulations that provide restrictions on smoking that are  
3 substantially equivalent to, or greater than, those provided by this  
4 act.

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

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

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

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

21 SECTION 17. 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:

24

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~~ Oklahoma  
18 Workplace Clean Air Act and all educational facilities as defined in  
19 the 24/7 Tobacco-free Schools Act shall be designated as nonsmoking  
20 as provided for in Section ~~1-1523 of Title 63 of the Oklahoma~~  
21 ~~Statutes~~ 4 of this act. All campuses, buildings and grounds, or  
22 portions thereof, owned or operated by an institution within The  
23 Oklahoma State System of Higher Education may be designated as  
24 tobacco and marijuana free, including smoking or smokeless tobacco

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

5 E. No tobacco or marijuana smoking or marijuana vaping shall be  
6 allowed within ~~twenty-five (25)~~ fifteen (15) feet of the entrance or  
7 exit of any building specified in subsection B, C or D of this  
8 section.

9 F. The restrictions on tobacco smoking provided in this section  
10 shall not apply to ~~stand-alone bars, stand-alone taverns and cigar~~  
11 ~~bars as defined in Section 1-1522 of Title 63 of the Oklahoma~~  
12 ~~Statutes, retail tobacco stores, and vapor shops that are in~~  
13 existence as of November 1, 2020.

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

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

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

21 3. Retail tobacco stores in existence as of November 1, 2020,  
22 predominantly engaged in the sale of tobacco products and  
23 accessories and in which the sale of other products is merely  
24

1 incidental and in which no food or beverage is sold or served for  
2 consumption on the premises;

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

11 ~~5.~~ 3. Workplaces occupied exclusively by one or more tobacco  
12 smokers, if the workplace has only incidental public access;

13 ~~6.~~ 4. Private offices occupied exclusively by one or more  
14 smokers;

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

19 ~~8.~~ 5. Medical research or treatment centers, if tobacco smoking  
20 is integral to the research or treatment. Furthermore, the  
21 restrictions on smoking or vaping of marijuana provided in this  
22 section shall not apply to medical research or treatment centers, if  
23 marijuana smoking or vaping is integral to the research or  
24 treatment;

1       ~~9.~~ 6. A facility operated by a post or organization of past or  
2 present members of the Armed Forces of the United States which is  
3 exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or  
4 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section  
5 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized  
6 exclusively by its members and their families and for the conduct of  
7 post or organization nonprofit operations except during an event or  
8 activity which is open to the public; and

9       ~~10.~~ 7. Any outdoor seating area of a restaurant; provided,  
10 smoking tobacco or smoking or vaping marijuana shall not be allowed  
11 within fifteen (15) feet of any exterior public doorway or any air  
12 intake of a restaurant.

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

21       I. If tobacco smoking is to be permitted in any space exempted  
22 in subsection F or G of this section or in a tobacco smoking room  
23 pursuant to subsection H of this section, such tobacco smoking space  
24 must either occupy the entire enclosed indoor space or, if it shares

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

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

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

6 L. Responsibility for posting signs or decals shall be as  
7 follows:

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

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

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

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

17 SECTION 18. AMENDATORY 37 O.S. 2011, Section 600.10, as  
18 amended by Section 10, Chapter 162, O.S.L. 2014, and as renumbered  
19 by Section 178, Chapter 366, O.S.L. 2016 (63 O.S. Supp. 2019,  
20 Section 1-229.20), is amended to read as follows:

21 Section 1-229.20 No agency or other political subdivision of  
22 the state, including, but not limited to, municipalities, counties  
23 or any agency thereof, may adopt any order, ordinance, rule or  
24 regulation concerning the sale, purchase, distribution, advertising,

1 sampling, promotion, display, possession, licensing or taxation of  
2 tobacco products or vapor products, except as provided in Section  
3 1511 of Title 68 of the Oklahoma Statutes, ~~Section 1-1521 et seq. of~~  
4 ~~Title 63 of the Oklahoma Statutes~~ Sections 1 through 16 of this act  
5 and Section 1247 of Title 21 of the Oklahoma Statutes. Provided,  
6 however, nothing in this section shall preclude or preempt any  
7 agency or political subdivision from exercising its lawful authority  
8 to regulate zoning or land use or to enforce a fire code regulation  
9 regulating smoking or tobacco products to the extent that such  
10 regulation is substantially similar to nationally recognized  
11 standard fire codes.

12 SECTION 19. AMENDATORY Section 6, Chapter 369, O.S.L.  
13 2017 (63 O.S. Supp. 2019, Section 1-1530), is amended to read as  
14 follows:

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

19 SECTION 20. AMENDATORY 3A O.S. 2011, Section 208.12, is  
20 amended to read as follows:

21 Section 208.12 The gaming areas of the premises of an  
22 organization licensee and, except for the off-track wagering  
23 facilities specified in Section 205.6a of ~~Title 3A of the Oklahoma~~  
24 ~~Statutes~~ this title, the areas where simulcast wagering is conducted

1 by an organization licensee shall not be subject to the provisions  
2 of Section 1247 of Title 21 of the Oklahoma Statutes or to the  
3 provisions of the ~~Smoking in Public Places and Indoor Workplaces Act~~  
4 Oklahoma Workplace Clean Air Act if the following conditions are  
5 met:

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

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

14 SECTION 21. REPEALER 63 O.S. 2011, Sections 1-1521, 1-  
15 1522, as amended by Section 5, Chapter 259, O.S.L. 2015, 1-1523, as  
16 last amended by Section 2, Chapter 477, O.S.L. 2019, 1-1525, as last  
17 amended by Section 3, Chapter 477, O.S.L. 2019, 1-1526, 1-1526.1, 1-  
18 1527, as amended by Section 2, Chapter 187, O.S.L. 2013 and Section  
19 5, Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2019, Sections 1-1522, 1-  
20 1523, 1-1525, 1-1527 and 1-1529), are hereby repealed.

21 SECTION 22. This act shall become effective November 1, 2020.

22  
23 57-2-11416 SH 02/26/20  
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