

§63-1-1521. Short title.

This act shall be known and may be cited as the “Smoking in Public Places and Indoor Workplaces Act”.

Added by Laws 1987, c. 151, § 1, eff. Nov. 1, 1987. Amended by Laws 2003, S.J.R. No. 21, § 2, eff. Sept. 1, 2003.

§63-1-1522. Definitions.

As used in this act:

1. “Educational facility” means a building owned, leased or under the control of a public or private school system, college or university;

2. “Health facility” means an entity which provides health services, including, but not limited to, hospitals, nursing homes, long-term care facilities, kidney disease treatment centers, health maintenance organizations and ambulatory treatment centers;

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

4. “Meeting” means a meeting as defined in the Oklahoma Open Meeting Act;

5. “Public body” means a public body as defined in the Oklahoma Open Meeting Act;

6. “Public place” means any enclosed indoor area where individuals other than employees are invited or permitted;

7. “Restaurant” means any eating establishment regardless of seating capacity;

8. “Smoking” means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device; and

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

Added by Laws 1987, c. 151, § 2, eff. Nov. 1, 1987. Amended by Laws 2003, S.J.R. No. 21, § 3, eff. Sept. 1, 2003.

§63-1-1523. Smoking in certain places prohibited - Exemptions.

A. Except as specifically provided in the Smoking in Public Places and Indoor Workplaces Act, no person shall smoke in a public place, in an indoor workplace, in any vehicle providing public transportation, at a meeting of a public body, in a nursing facility licensed pursuant to the Nursing Home Care Act, or in a child care facility licensed pursuant to the Oklahoma Child Care Facilities Licensing Act. A nursing facility licensed pursuant to the Nursing Home Care Act may designate smoking rooms for residents and their guests. Such rooms shall be fully enclosed, directly exhausted to the outside, and shall be under negative air pressure so that no smoke can escape when a door is opened and no air is recirculated to nonsmoking areas of the building.

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

2. Career and technology centers may designate smoking areas outside of buildings, away from general traffic areas and completely out of sight of children under eighteen (18) years of age, for use by adults attending training courses, sessions, meetings or seminars.

3. An educational facility may designate smoking areas outside the buildings for the use of adults during certain activities or functions, including, but not limited to, athletic contests.

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

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

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

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

G. The Smoking in Public Places and Indoor Workplaces Act shall not prohibit smoking in:

1. Stand-alone bars, stand-alone taverns or cigar bars;
2. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;
3. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment;
4. Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;
5. Workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace has only incidental public access;
6. Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access. "Incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in

customers for any part of their business;

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

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

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

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

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

H. Notwithstanding any other provision of the Smoking in Public Places and Indoor Workplaces Act, until March 1, 2006, restaurants may have designated smoking and nonsmoking areas or may be designated as being a totally nonsmoking area. Beginning March 1, 2006, restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms which shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is recirculated to nonsmoking areas of the building. No exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the State Department of Health.

Added by Laws 1987, c. 151, § 3, eff. Nov. 1, 1987. Amended by Laws 1989, c. 232, § 1, eff. Nov. 1, 1989; Laws 1994, c. 137, § 14, eff. July 1, 1994; Laws 1995, c. 274, § 51, eff. Nov. 1, 1995; Laws 2000, c. 229, § 1, eff. Nov. 1, 2000; Laws 2001, c. 188, § 1, emerg. eff. May 7, 2001; Laws 2002, c. 96, § 2, eff. July 1, 2002; Laws 2003, S.J.R. No. 21, § 4, eff. Sept. 1, 2003.

§63-1-1524. Repealed by Laws 2003, S.J.R. No. 21, § 7, eff. Sept. 1, 2003.

§63-1-1525. Measures to prevent smoking in nonsmoking areas.

The state or local governmental agency or the person who owns or operates a public place shall, at a minimum, do the following in order to prevent smoking in public places:

1. Post signs at entrances to places where smoking is prohibited which state that smoking is prohibited or that the indoor environment is free of tobacco smoke; and

2. Ask smokers to refrain from smoking upon observation of anyone violating the provisions of this act.

Added by Laws 1987, c. 151, § 5, eff. Nov. 1, 1987. Amended by Laws 2003, S.J.R. No. 21, § 5, eff. Sept. 1, 2003.

§63-1-1526. Rules and regulations.

The State Board of Health shall promulgate rules necessary to implement the provisions of the Smoking in Public Places and Indoor Workplaces Act. Such rules shall not impose liability on the owner or operator of any facility for the violation of a provision of the Smoking in Public Places and Indoor Workplaces Act by another person who is not an employee of such owner or operator.

Added by Laws 1987, c. 151, § 6, eff. Nov. 1, 1987. Amended by Laws 1991, c. 168, § 10, eff. July 1, 1991; Laws 2003, S.J.R. No. 21, § 6, eff. Sept. 1, 2003.