

1 ENGROSSED HOUSE
2 BILL NO. 2897

By: Humphrey of the House

3 and

4 Boggs of the Senate

5
6 [tobacco - providing exemption for institutions and
7 facilities of the Department of Corrections -
8 effective date]
9
10

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

12 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1247, as
13 last amended by Section 1, Chapter 477, O.S.L. 2019 (21 O.S. Supp.
14 2019, Section 1247), is amended to read as follows:

15 Section 1247. A. The possession of lighted tobacco in any form
16 is a public nuisance and dangerous to public health and is hereby
17 prohibited when such possession is in any indoor place used by or
18 open to the public, all parts of a zoo to which the public may be
19 admitted, whether indoors or outdoors, public transportation, or any
20 indoor workplace, except where specifically allowed by law.

21 Commercial airport operators may prohibit the use of lighted tobacco
22 or lighted marijuana or the vaping of marijuana in any area that is
23 open to or used by the public whether located indoors or outdoors,
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1 provided that the outdoor area is within one hundred seventy-five
2 (175) feet from an entrance.

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

18 B. All buildings and other properties, or portions thereof,
19 owned or operated by this state shall be designated as nonsmoking.
20 The tobacco smoking provisions of this subsection shall not apply to
21 ~~veterans~~ the following:

22 1. Veterans centers operated by this state pursuant to the
23 provisions of Section 221 et seq. of Title 72 of the Oklahoma
24 Statutes, which shall be designated nonsmoking effective January 1,

1 2015, at which time veterans centers may establish outdoor
2 designated smoking areas for resident veterans only. Smoking
3 tobacco shall only be allowed in designated outdoor smoking areas;
4 and

5 2. Institutions and facilities under the jurisdiction of the
6 Department of Corrections. On or after November 1, 2020, the
7 Department of Corrections may establish outdoor designated smoking
8 areas for inmates who have been sentenced to the care and custody of
9 the Department of Corrections. Smoking tobacco shall only be
10 allowed in outdoor designated smoking areas.

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

15 D. All educational facilities, or portions thereof, as defined
16 in the Smoking in Public Places and Indoor Workplaces Act and all
17 educational facilities as defined in the 24/7 Tobacco-free Schools
18 Act shall be designated as nonsmoking as provided for in Section 1-
19 1523 of Title 63 of the Oklahoma Statutes. All campuses, buildings
20 and grounds, or portions thereof, owned or operated by an
21 institution within The Oklahoma State System of Higher Education may
22 be designated as tobacco and marijuana free, including smoking or
23 smokeless tobacco or smokable or vaporable marijuana, by the
24 institution upon adoption of a policy stating the restrictions for

1 the institution and an intent to enforce the penalty for violations
2 as set forth in subsection M of this section.

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

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

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

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

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

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

21 4. Workplaces where only the owner or operator of the
22 workplace, or the immediate family of the owner or operator,
23 performs any work in the workplace, and the workplace has only
24 incidental public access. "Incidental public access" means that a

1 place of business has only an occasional person, who is not an
2 employee, present at the business to transact business or make a
3 delivery. It does not include businesses that depend on walk-in
4 customers for any part of their business;

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

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

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

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

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

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

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

15 I. If tobacco smoking is to be permitted in any space exempted
16 in subsection F or G of this section or in a tobacco smoking room
17 pursuant to subsection H of this section, such tobacco smoking space
18 must either occupy the entire enclosed indoor space or, if it shares
19 the enclosed space with any nonsmoking areas, the tobacco smoking
20 space shall be fully enclosed, exhausted directly to the outside
21 with no air from the tobacco smoking space circulated to any
22 nonsmoking area, and under negative air pressure so that no tobacco
23 smoke can drift or circulate into a nonsmoking area when a door to
24 an adjacent nonsmoking area is opened. Air from a tobacco smoking

1 room shall not be exhausted within fifteen (15) feet of any
2 entrance, exit or air intake. Any employer may choose a more
3 restrictive tobacco smoking policy, including being totally tobacco
4 smoke free.

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

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

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1 L. Responsibility for posting signs or decals shall be as
2 follows:

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

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

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

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

12 SECTION 2. AMENDATORY 57 O.S. 2011, Section 21, as last
13 amended by Section 2, Chapter 226, O.S.L. 2015 (57 O.S. Supp. 2019,
14 Section 21), is amended to read as follows:

15 Section 21. A. Any person who, without authority, brings into
16 or has in his or her possession in any jail or state penal
17 institution or other place where prisoners are located, any gun,
18 knife, bomb or other dangerous instrument, any controlled dangerous
19 substance as defined by Section 2-101 et seq. of Title 63 of the
20 Oklahoma Statutes, any ~~intoxicating beverage or low-point beer~~
21 alcoholic beverage as defined by ~~Sections 163.1 and 163.2~~ Section 1-
22 103 of Title ~~37~~ 37A of the Oklahoma Statutes, money or financial
23 documents for a person other than the inmate or a spouse of the
24 inmate, including but not limited to tax returns, shall be guilty of

1 a felony and, upon conviction, shall be punished by imprisonment in
2 the custody of the Department of Corrections for a term of not less
3 than one (1) year nor more than five (5) years, or by a fine of not
4 less than One Hundred Dollars (\$100.00) nor more than One Thousand
5 Dollars (\$1,000.00), or by both such fine and imprisonment.

6 Provided, the provisions of this subsection shall not prohibit any
7 Department of Corrections employee who has a valid handgun license
8 pursuant to the Oklahoma Self-Defense Act ~~to keep~~ from keeping a
9 firearm in a vehicle on any property set aside for the parking of
10 any vehicle, whether occupied or unoccupied, at any state-owned
11 prison facility, provided the employee has provided annual
12 notification to the Department of Corrections of the brand name,
13 model, serial number, and owner identification information of the
14 firearm, and the firearm is secured and stored in a locked metal
15 storage container located in a locked vehicle. The storage
16 container will be secured in the vehicle by a lockable chain or
17 cable or by utilizing hardware provided by the manufacturer.

18 B. ~~If~~ With the exception of authorized tobacco products
19 available for purchase by an inmate from a canteen system operation
20 of a correctional facility as provided in Section 3 of this act, if
21 an inmate is found to be in possession of any item prohibited by
22 this section, upon conviction, such inmate shall be guilty of a
23 felony and shall be punished by imprisonment for a term of not less
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1 than five (5) years nor more than twenty (20) years in the custody
2 of the Department of Corrections.

3 C. If the person found to be in possession of any item
4 prohibited by this section has committed, prior to the commission of
5 an offense in violation of this section, two or more felony
6 offenses, and the possession of contraband in violation of this
7 section is within ten (10) years of the completion of the execution
8 of the sentence for any prior offense, such person, upon conviction,
9 shall be guilty of a felony and shall be punished by imprisonment in
10 the custody of the Department of Corrections for a term of not less
11 than twenty (20) years. Felony offenses relied upon shall not have
12 arisen out of the same transaction or occurrence or series of events
13 closely related in time and location.

14 D. Any person who, without authority, brings into or has in his
15 or her possession in any jail or state penal institution or other
16 place where prisoners are located, cigarettes, cigars, snuff,
17 chewing tobacco or any other form of tobacco product shall, upon
18 conviction, be guilty of a misdemeanor punishable by imprisonment in
19 the county jail for a term not to exceed exceeding one (1) year, or
20 by a fine not exceeding Five Hundred Dollars (\$500.00), or by both
21 such fine and imprisonment.

22 E. Any person who knowingly, willfully and without authority
23 brings into or has in his or her possession in any secure area of a
24 jail or state penal institution or other secure place where

1 prisoners are located any cellular phone or electronic device
2 capable of sending or receiving any electronic communication shall,
3 upon conviction, be guilty of a felony punishable by imprisonment in
4 the custody of the Department of Corrections for a term not
5 exceeding two (2) years, or by a fine not exceeding Two Thousand
6 Five Hundred Dollars (\$2,500.00), or by both such fine and
7 imprisonment.

8 F. Any electronic communication device which has no
9 identifiable owner and which is seized as a result of a violation of
10 this section may be disposed of or sold by the agency that seized
11 the device.

12 G. "Electronic communication" means any transfer of signs,
13 signals, writings, images, sounds, data or intelligence of any
14 nature transmitted in whole or part by a wire, radio,
15 electromagnetic, photo-electronic or photo-optical system, and
16 includes, but is not limited to, the transfer of that communication
17 through the Internet.

18 SECTION 3. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 537.2 of Title 57, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Each correctional facility that has a canteen system
22 operation may offer tobacco products for purchase by inmates of the
23 correctional facility. All sales of tobacco products at a
24 correctional facility shall be purchased from the canteen system

1 operation of the facility. Under no circumstances shall tobacco
2 products be purchased by an inmate from any unauthorized outside
3 vendor or any other source. Any unauthorized purchase of tobacco
4 products by an inmate shall result in disciplinary action and
5 confiscation of all tobacco products in the possession of the
6 inmate.

7 B. All profits generated from the sale of tobacco products at a
8 correctional facility canteen shall be subject to the guidelines
9 established by the Canteen System Board of Directors pursuant to
10 Section 537 of Title 57 of the Oklahoma Statutes and transferred
11 periodically from the canteen system account to the Department of
12 Corrections Inmate and Employee Welfare and Canteen System Support
13 Revolving Fund created in Section 537.1 of Title 57 of the Oklahoma
14 Statutes.

15 C. As used in this section, "tobacco products" means any
16 product that contains tobacco and is intended for human consumption.

17 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-1523, as
18 last amended by Section 2, Chapter 477, O.S.L. 2019 (63 O.S. Supp.
19 2019, Section 1-1523), is amended to read as follows:

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

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

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

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

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

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

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

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

1 within the meaning of the Smoking in Public Places and Indoor
2 Workplaces Act.

3 E. Smoking tobacco or marijuana or vaping marijuana is
4 prohibited in all vehicles owned by the State of Oklahoma and all of
5 its agencies and instrumentalities.

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

12 2. Smoking tobacco shall be permitted at institutions and
13 facilities under the jurisdiction of the Department of Corrections.
14 On or after November 1, 2020, the Department of Corrections may
15 establish outdoor designated smoking areas for inmates who have been
16 sentenced to the care and custody of the Department of Corrections.
17 Smoking tobacco shall only be allowed in outdoor designated smoking
18 areas.

19 G. An employer not otherwise restricted from doing so may elect
20 to provide tobacco smoking rooms where no work is performed except
21 for cleaning and maintenance during the time the room is not in use
22 for tobacco smoking, provided each tobacco smoking room is fully
23 enclosed and exhausted directly to the outside, in such manner that
24 no tobacco smoke can drift or circulate into a nonsmoking area. No

1 exhaust from a tobacco smoking room shall be located within fifteen
2 (15) feet of any entrance, exit or air intake. If tobacco smoking
3 is to be permitted in any space exempted in subsection H of this
4 section or in a tobacco smoking room pursuant to subsection I of
5 this section, such tobacco smoking space must either occupy the
6 entire enclosed indoor space or, if it shares the enclosed space
7 with any nonsmoking areas, the tobacco smoking space shall be fully
8 enclosed, exhausted directly to the outside with no air from the
9 tobacco smoking space circulated to any nonsmoking area, and under
10 negative air pressure so that no tobacco smoke can drift or
11 circulate into a nonsmoking area when a door to an adjacent
12 nonsmoking area is opened. Air from a tobacco smoking room shall
13 not be exhausted within fifteen (15) feet of any entrance, exit or
14 air intake.

15 H. The Smoking in Public Places and Indoor Workplaces Act shall
16 not prohibit tobacco smoking in:

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

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

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

23 4. Retail tobacco stores predominantly engaged in the sale of
24 tobacco products and accessories and in which the sale of other

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

3 5. 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;

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

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

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

15 8. 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 9. A facility operated by a post or organization of past or
20 present members of the Armed Forces of the United States which is
21 exempt from taxation pursuant to Sections 501(c)(8), 501(c)(10) or
22 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section
23 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized
24 exclusively by its members and their families and for the conduct of

1 post or organization nonprofit operations except during an event or
2 activity which is open to the public;

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

7 11. Medical research or treatment centers, if tobacco smoking
8 is integral to the research or treatment. Furthermore, the
9 restrictions on smoking or vaping of marijuana provided in this
10 section shall not apply to medical research or treatment centers, if
11 marijuana smoking or vaping is integral to the research or
12 treatment.

13 I. Notwithstanding any other provision of the Smoking in Public
14 Places and Indoor Workplaces Act, until March 1, 2006, restaurants
15 may have designated tobacco smoking and nonsmoking areas or may be
16 designated as being a totally nonsmoking area. Beginning March 1,
17 2006, restaurants shall be totally nonsmoking or may provide
18 nonsmoking areas and designated tobacco smoking rooms. Food and
19 beverage may be served in such designated tobacco smoking rooms
20 which shall be in a location which is fully enclosed, directly
21 exhausted to the outside, under negative air pressure so tobacco
22 smoke cannot escape when a door is opened, and no air is
23 recirculated to nonsmoking areas of the building. No exhaust from
24 such room shall be located within twenty-five (25) feet of any

1 entrance, exit or air intake. Such room shall be subject to
2 verification for compliance with the provisions of this subsection
3 by the State Department of Health.

4 SECTION 5. This act shall become effective November 1, 2020.

5 Passed the House of Representatives the 2nd day of March, 2020.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2020.

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Presiding Officer of the Senate

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