

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 HOUSE BILL NO. 1685

By: Denney, Shelton and Sherrer  
of the House

6 and

Halligan of the Senate

7  
8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to school health and safety; creating  
11 the 24/7 Tobacco-free Schools Act; providing  
12 definitions; prohibiting the use of tobacco products  
13 on or in educational facilities; prohibiting the use  
14 of tobacco products in school vehicles or at school  
15 events or activities; allowing for more restrictive  
16 policies; amending 21 O.S. 2011, Section 1247, as  
17 last amended by Section 1, Chapter 167, O.S.L. 2014  
18 (21 O.S. Supp. 2014, Section 1247), which relates to  
19 prohibition on smoking in certain public places;  
20 adding prohibition for certain educational  
21 facilities; modifying certain penalty; amending 63  
22 O.S. 2011, Sections 1-1522 and 1-1523, as last  
23 amended by Section 2, Chapter 167, O.S.L. 2014 (63  
24 O.S. Supp. 2014, Section 1-1523), which relate to the  
Smoking in Public Places and Indoor Workplaces Act;  
modifying certain definition; changing certain  
prohibitions; adding prohibition for certain  
educational facilities; providing for codification;  
providing an effective date; and declaring an  
emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1210.211 of Title 70, unless  
3 there is created a duplication in numbering, reads as follows:

4 Sections 2 and 3 of this act shall be known and may be cited as  
5 the "24/7 Tobacco-free Schools Act".

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 1210.212 of Title 70, unless  
8 there is created a duplication in numbering, reads as follows:

9 As used in the 24/7 Tobacco-free Schools Act:

10 1. "Chewing tobacco" means any Cavendish, twist, plug, scrap,  
11 and any other kinds and forms of tobacco suitable for chewing;

12 2. "Educational facility" shall mean 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 3. "School vehicle" means any transportation equipment or  
19 auxiliary transportation equipment as defined in Section 9-104 of  
20 Title 70 of the Oklahoma Statutes;

21 4. "Smoking tobacco" shall mean any granulated, plug cut, crimp  
22 cut, ready rubbed, and any other kinds and forms of tobacco suitable  
23 for smoking in a pipe or cigarette; and  
24

1        5. "Tobacco product" shall mean any bidis, cigars, cheroots,  
2 stogies, smoking tobacco and chewing tobacco, however prepared.  
3 Tobacco products shall include any other articles or products made  
4 of tobacco or any substitute thereof.

5        SECTION 3.        NEW LAW        A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1210.213 of Title 70, unless  
7 there is created a duplication in numbering, reads as follows:

8        A. The use of a tobacco product shall be prohibited in or on an  
9 educational facility that offers an early childhood education  
10 program or in which children in grades kindergarten through twelve  
11 are educated. The use of a tobacco product shall also be prohibited  
12 in school vehicles, and at any school-sponsored or school-sanctioned  
13 event or activity.

14        B. Nothing in this section shall be construed to prohibit a  
15 public school district or private school from having more  
16 restrictive policies regarding tobacco products in or on an  
17 educational facility, in school vehicles and at any school-sponsored  
18 or school-sanctioned event or activity.

19        SECTION 4.        AMENDATORY        21 O.S. 2011, Section 1247, as  
20 last amended by Section 1, Chapter 167, O.S.L. 2014 (21 O.S. Supp.  
21 2014, Section 1247), is amended to read as follows:

22        Section 1247. A. The possession of lighted tobacco in any form  
23 is a public nuisance and dangerous to public health and is hereby  
24 prohibited when such possession is in any indoor place used by or

1 open to the public, all parts of a zoo to which the public may be  
2 admitted, whether indoors or outdoors, public transportation, or any  
3 indoor workplace, except where specifically allowed by law.  
4 Commercial airport operators may prohibit the use of lighted tobacco  
5 in any area that is open to or used by the public whether located  
6 indoors or outdoors, provided that the outdoor area is within one  
7 hundred seventy-five (175) feet from an entrance.

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

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

1 The provisions of this subsection shall not apply to veterans  
2 centers operated by this state pursuant to the provisions of Section  
3 221 et seq. of Title 72 of the Oklahoma Statutes, which shall be  
4 designated nonsmoking effective January 1, 2015, at which time  
5 veterans centers may establish outdoor designated smoking areas for  
6 resident veterans only. Smoking shall only be allowed in designated  
7 outdoor smoking areas until January 1, 2018. Each veterans center  
8 described in this subsection shall be entirely nonsmoking no later  
9 than January 1, 2018.

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

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

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

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

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

9 G. The restrictions provided in this section shall not apply to  
10 the following:

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

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

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

20 4. Workplaces where only the owner or operator of the  
21 workplace, or the immediate family of the owner or operator,  
22 performs any work in the workplace, and the workplace has only  
23 incidental public access. "Incidental public access" means that a  
24 place of business has only an occasional person, who is not an

1 employee, present at the business to transact business or make a  
2 delivery. It does not include businesses that depend on walk-in  
3 customers for any part of their business;

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

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

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

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

12 9. A facility operated by a post or organization of past or  
13 present members of the Armed Forces of the United States which is  
14 exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or  
15 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section  
16 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized  
17 exclusively by its members and their families and for the conduct of  
18 post or organization nonprofit operations except during an event or  
19 activity which is open to the public; and

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

23 H. An employer not otherwise restricted from doing so may elect  
24 to provide smoking rooms where no work is performed except for

1 cleaning and maintenance during the time the room is not in use for  
2 smoking, provided each smoking room is fully enclosed and exhausted  
3 directly to the outside in such a manner that no smoke can drift or  
4 circulate into a nonsmoking area. No exhaust from a smoking room  
5 shall be located within fifteen (15) feet of any entrance, exit or  
6 air intake.

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

20 J. Notwithstanding any other provision of this section, until  
21 March 1, 2006, restaurants may have designated smoking and  
22 nonsmoking areas or may be designated as being a totally nonsmoking  
23 area. Beginning March 1, 2006, restaurants shall be totally  
24 nonsmoking or may provide nonsmoking areas and designated smoking



1 rooms. Food and beverage may be served in such designated smoking  
2 rooms which shall be in a location which is fully enclosed, directly  
3 exhausted to the outside, under negative air pressure so smoke  
4 cannot escape when a door is opened, and no air is recirculated to  
5 nonsmoking areas of the building. No exhaust from such room shall  
6 be located within twenty-five (25) feet of any entrance, exit or air  
7 intake. Such room shall be subject to verification for compliance  
8 with the provisions of this subsection by the State Department of  
9 Health.

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

15 L. Responsibility for posting signs or decals shall be as  
16 follows:

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

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

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

23 M. Any person who knowingly violates the provisions of this  
24 section ~~is guilty of a misdemeanor, and upon conviction thereof,~~

1 shall be punished by a citation and fine of not ~~less than Ten~~  
2 ~~Dollars (\$10.00) nor~~ more than One Hundred Dollars (\$100.00).

3 SECTION 5. AMENDATORY 63 O.S. 2011, Section 1-1522, is  
4 amended to read as follows:

5 Section 1-1522. As used in this act:

6 1. "Educational facility" means a building owned, leased or  
7 under the control of a technology center school district or a public  
8 or private ~~school system~~, college or university;

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

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

1 open or closed windows, stairways, or the like. The provisions of  
2 this section shall apply to such indoor workplace at any given time,  
3 whether or not work is being performed;

4 4. "Meeting" means a meeting as defined in the Oklahoma Open  
5 Meeting Act;

6 5. "Public body" means a public body as defined in the Oklahoma  
7 Open Meeting Act;

8 6. "Public place" means any enclosed indoor area where  
9 individuals other than employees are invited or permitted;

10 7. "Restaurant" means any eating establishment regardless of  
11 seating capacity;

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

14 9. "Stand-alone bar", "stand-alone tavern", and "cigar bar"  
15 mean an establishment that derives more than sixty percent (60%) of  
16 its gross receipts, subject to verification by competent authority,  
17 from the sale of alcoholic beverages and low-point beer and no  
18 person under twenty-one (21) years of age is admitted, except for  
19 members of a musical band employed or hired as provided in paragraph  
20 2 of subsection B of Section 537 of Title 37 of the Oklahoma  
21 Statutes and that is not located within, and does not share any  
22 common entryway or common indoor area with, any other enclosed  
23 indoor workplace, including a restaurant.

24

1 SECTION 6. AMENDATORY 63 O.S. 2011, Section 1-1523, as  
2 last amended by Section 2, Chapter 167, O.S.L. 2014 (63 O.S. Supp.  
3 2014, Section 1-1523), is amended to read as follows:

4 Section 1-1523. A. Except as specifically provided in the  
5 Smoking in Public Places and Indoor Workplaces Act, no person shall  
6 smoke in a public place, in any part of a zoo to which the public  
7 may be admitted, whether indoors or outdoors, in an indoor  
8 workplace, in any vehicle providing public transportation, at a  
9 meeting of a public body, in a nursing facility licensed pursuant to  
10 the Nursing Home Care Act, or in a child care facility licensed  
11 pursuant to the Oklahoma Child Care Facilities Licensing Act. A  
12 nursing facility licensed pursuant to the Nursing Home Care Act may  
13 designate smoking rooms for residents and their guests. Such rooms  
14 shall be fully enclosed, directly exhausted to the outside, and  
15 shall be under negative air pressure so that no smoke can escape  
16 when a door is opened and no air is recirculated to nonsmoking areas  
17 of the building. Commercial airport operators may prohibit the use  
18 of lighted tobacco in any area that is open to or used by the public  
19 whether located indoors or outdoors, provided that the outdoor area  
20 is within one hundred seventy-five (175) feet from an entrance.

21 B. 1. Except as otherwise provided in paragraph 2 of this  
22 subsection, ~~an educational facility~~ a technology center school  
23 district which offers an early childhood education program or in  
24 which children in grades kindergarten through twelve are educated

1 shall prohibit smoking, the use of snuff, chewing tobacco or any  
2 other form of tobacco product in the educational facility buildings  
3 and on the grounds of the facility by all persons including, but  
4 not limited to, full-time, part-time, and contract employees,  
5 during the hours of 7:00 a.m. to 4:00 p.m., during the school  
6 session, or when class or any program established for students is  
7 in session.

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

13 3. ~~An educational facility~~ A technology center school district  
14 or college or university may designate smoking areas outside the  
15 educational facility buildings for the use of adults during certain  
16 activities or functions, including, but not limited to, athletic  
17 contests.

18 4. Smoking shall be prohibited in an educational facility as  
19 defined in the 24/7 Tobacco-free Schools Act and as provided for in  
20 Section 3 of this act.

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

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

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

9 F. Veterans centers operated by this state pursuant to the  
10 provisions of Section 221 et seq. of Title 72 of the Oklahoma  
11 Statutes shall be designated nonsmoking effective January 1, 2015,  
12 at which time veterans centers may establish outdoor designated  
13 smoking areas for resident veterans only. Smoking shall only be  
14 allowed in designated outdoor smoking areas until January 1, 2018.  
15 Each veterans center described in this subsection shall be entirely  
16 nonsmoking no later than January 1, 2018.

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

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

11 H. The Smoking in Public Places and Indoor Workplaces Act shall  
12 not prohibit smoking in:

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

14 2. 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 3. Up to twenty-five percent (25%) of the guest rooms at a  
18 hotel or other lodging establishment;

19 4. 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 5. 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;

3 6. Workplaces occupied exclusively by one or more smokers, if  
4 the workplace has only incidental public access. "Incidental public  
5 access" means that a place of business has only an occasional  
6 person, who is not an employee, present at the business to transact  
7 business or make a delivery. It does not include businesses that  
8 depend on walk-in customers for any part of their business;

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

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

13 9. A facility operated by a post or organization of past or  
14 present members of the Armed Forces of the United States which is  
15 exempt from taxation pursuant to Sections 501 (c) (8), 501 (c) (10) or  
16 501 (c) (19) of the Internal Revenue Code, 26 U.S.C., Section 501  
17 (c) (8), 501 (c) (10) or 501 (c) (19), when such facility is utilized  
18 exclusively by its members and their families and for the conduct of  
19 post or organization nonprofit operations except during an event or  
20 activity which is open to the public;

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

24



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

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

17 SECTION 7. This act shall become effective July 1, 2015.

18 SECTION 8. It being immediately necessary for the preservation  
19 of the public peace, health and safety, an emergency is hereby  
20 declared to exist, by reason whereof this act shall take effect and  
21 be in full force from and after its passage and approval.

22  
23 55-1-1604 EB 3/19/2015 10:02:04 AM  
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