# An Act

ENROLLED HOUSE
BILL NO. 1685

By: Denney, Shelton and Sherrer
of the House

and

Halligan of the Senate

An Act relating to school health and safety; creating the 24/7 Tobacco-free Schools Act; providing definitions; prohibiting the use of tobacco products on or in educational facilities; prohibiting the use of tobacco products in school vehicles or at school events or activities; allowing for more restrictive policies; amending 21 O.S. 2011, Section 1247, as last amended by Section 1, Chapter 167, O.S.L. 2014 (21 O.S. Supp. 2014, Section 1247), which relates to prohibition on smoking in certain public places; adding prohibition for certain educational facilities; modifying certain penalty; amending 63 O.S. 2011, Sections 1-1522 and 1-1523, as last amended by Section 2, Chapter 167, O.S.L. 2014 (63 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; and providing for codification.

SUBJECT: School health and safety

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 1210.211 of Title 70, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

2. "Educational facility" shall mean any property, building, permanent structure, facility, auditorium, stadium, arena or recreational facility owned, leased or under the control of a public school district or private school located in the state. For purposes of this act, a public school district shall not include a technology center school district;

3. "School vehicle" means any transportation equipment or auxiliary transportation equipment as defined in Section 9-104 of Title 70 of the Oklahoma Statutes;

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

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

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

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

B. Nothing in this section shall be construed to prohibit a public school district or private school from having more

restrictive policies regarding tobacco products in or on an educational facility, in school vehicles and at any school-sponsored or school-sanctioned event or activity.

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

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

As used in this section, "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.

B. All buildings and other properties, or portions thereof, owned or operated by this state shall be designated as nonsmoking. The provisions of this subsection shall not apply to veterans centers operated by this state pursuant to the provisions of Section 221 et seq. of Title 72 of the Oklahoma Statutes, which shall be designated nonsmoking effective January 1, 2015, at which time veterans centers may establish outdoor designated smoking areas for resident veterans only. Smoking shall only be allowed in designated outdoor smoking areas until January 1, 2018. Each veterans center

described in this subsection shall be entirely nonsmoking no later than January 1, 2018.

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

D. All ~~buildings, or portions thereof, owned by an~~ educational ~~facility~~ facilities or portions thereof as ~~is~~ defined in the Smoking in Public Places and Indoor Workplaces Act and all educational facilities as defined in the 24/7 Tobacco-free Schools Act shall be designated as nonsmoking as provided for in Section 1-1523 of Title 63 of the Oklahoma Statutes. All campuses, buildings and grounds, or portions thereof, owned or operated by an institution within The Oklahoma State System of Higher Education may be designated as tobacco free, including smoking or smokeless tobacco, by the institution upon adoption of a policy stating the tobacco restrictions for the institution and an intent to enforce the penalty for violations as set forth in subsection M of this section.

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

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

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

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

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

3. 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;

4. 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. "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;

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

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

7. 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;

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

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 Section 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; and

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.

H. 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 a 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.

I. If smoking is to be permitted in any space exempted in subsection F or 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. Any employer may choose a more restrictive smoking policy, including being totally smoke free.

J. Notwithstanding any other provision of this section, 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.

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

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

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

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

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

M. Any person who knowingly violates the provisions of this section ~~is guilty of a misdemeanor, and upon conviction thereof,~~ shall be punished by a citation and fine of not ~~less than Ten Dollars ($10.00) nor~~ more than One Hundred Dollars ($100.00).

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

Section 1-1522. As used in this act:

1. "Educational facility" means a building owned, leased or under the control of a technology center school district or 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.

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

Section 1-1523. A. Except as specifically provided in the Smoking in Public Places and Indoor Workplaces Act, no person shall smoke in a public place, in any part of a zoo to which the public may be admitted, whether indoors or outdoors, 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. Commercial airport operators may prohibit the use of lighted tobacco in any area that is open to or used by the public whether located indoors or outdoors, provided that the outdoor area is within one hundred seventy-five (175) feet from an entrance.

B. 1. Except as otherwise provided in paragraph 2 of this subsection, ~~an educational facility~~ a technology center school district 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 educational facility 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~~ A technology ~~centers~~ center school district 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~~ A technology center school district or college or university may designate smoking areas outside the educational facility buildings for the use of adults during certain activities or functions, including, but not limited to, athletic contests.

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

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

G. 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~~ H of this section or in a smoking room pursuant to subsection ~~H~~ I 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.

H. 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.

I. 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.

Passed the House of Representatives the 28th day of April, 2015.

Presiding Officer of the House
of Representatives

Passed the Senate the 1st day of April, 2015.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 4th
day of May, 2015, at 3:20 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 6th
day of May, 2015, at 2:36 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 6th
day of May, 2015, at 5:23 o'clock P. M.
By: Chris Benge