



Oklahoma  
State  
Senate

# Legislative Brief

July 2003

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## SMOKING IN PUBLIC PLACES AND INDOOR WORKPLACES

### Overview and Background

Restrictions on smoking in public places have been adopted by a large number of states and cities in recent years. In Oklahoma the issue has been considered by the Legislature for several years without significant legislative action. In June, 2002, the State Board of Health adopted emergency rules which prohibited smoking in a wide variety of public places. The Oklahoma Restaurant Association immediately challenged these rules in court and secured a temporary injunction to prevent the Department of Health from enforcing these rules. The 2003 legislative session began against a backdrop of ongoing litigation over Department of Health rules which prohibited smoking in most public places and public statements by the Commissioner of Health and others requesting the Legislature to enact significant legislative restrictions on smoking in public places.

### 2003 Introduced Legislation

Four measures were introduced in the 2003 legislative session which addressed the issue of smoking in public places. Senate Bill 566 was authored by Senator Ben Robinson. This measure provided for statutory amendments which would prohibit smoking in most public places and indoor workplaces. Some exemptions were provided. House Bill No. 1413 was authored by Representative Ray Vaughn. It also provided for statutory amendments which would prohibit smoking in most public places and indoor workplaces with some exemptions. House Joint Resolution 1011 was authored by Representative Vaughn and provided for a constitutional amendment to be sent to a vote of the people. This amendment would have prohibited smoking in all enclosed indoor workplaces with some specified exceptions. Senate Joint Resolution 21 was authored by Senators Hobson and Morgan and by Representative Adair. As introduced, this measure would have prohibited smoking in most public places and indoor workplaces with only very limited exceptions. It provided for statutory amendments to be sent to a vote of the people.

### Summary of Actions

While House Bill No. 1413 was not reported out of committee in the House, all three of the other measures which dealt with smoking in public places passed both Houses of the Legislature and were sent to conference committee. Senate Joint Resolution No. 21

was finally passed in the same form by both Houses of the Legislature in the final week of the Legislative session and was signed by the Governor on June 6, 2003.

In its final form SJR 21 amended existing sections of law to prohibit smoking in most public places and indoor workplaces. Even though this measure was passed as a joint resolution, it does not go to a vote of the people. The measure provides exceptions for:

1. Stand alone bars, stand alone taverns, and cigar bars (at least 60% of the revenue of a bar has to be from sales of alcoholic beverages and low point beer and no person under 21 may be admitted in order to qualify for this exception);
2. Places where bingo is played;
3. Retail tobacco stores;
4. Workplaces employing only immediate family members with only incidental public access;
5. Workplaces and private offices occupied exclusively by one or more smokers;
6. Workplaces within private residences (except for child care facilities);
7. Medical research or treatment centers, if smoking is integral to the research or treatment;
8. Facilities operated by veterans' groups such as the VFW, except during an event which is open to the public; and
9. Outdoor seating areas of restaurants.

While the effective date of SJR 21 is September 1, 2003, one of the most significant provisions of this measure will not take effect until March 1, 2006. Restaurants will not be required to become nonsmoking until March 1, 2006. At that time a restaurant will either have to be totally nonsmoking or will have to provide an enclosed, separately ventilated room for patrons who wish to smoke.

The measure provides that rules promulgated by the Health Department to implement the act shall not impose liability on the owner or operator of a facility for a violation of a provision of the act by another person who is not an employee of such owner or operator.

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