



Oklahoma Bar Journal Section Notes

Labor and Employment Law Section

Employers Required to Provide Smoke-Free Workplace

By Robyn Funk and Kimberly Love

You may have noticed many Oklahoma business establishments have posted “Breathe Easy” signs on their doors and windows. These signs are the result of a new Oklahoma law prohibiting smoking in most indoor public places, indoor workplaces and public transportation. The smoke-free law became effective for most businesses on Sept. 1, 2003. Restaurants, however, have until March 1, 2006 to comply.¹

Oklahoma’s smoke-free law is particularly important to employers. Unless specifically exempted in the statute, the law applies to all indoor workplaces both during and after work hours.² Specifically, the law applies to any indoor place of employment including 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.³ Clearly this definition is extremely broad and will apply to nearly all indoor places of employment.

An employer may still allow employees to smoke in a work facility if the employer maintains a “smoking room.”⁴ Employers are not required to provide smoking rooms under the law. However, if a smoking room is provided, it must satisfy certain requirements. First, the smoking room must be exclusively used for smoking purposes.⁵ Second, the smoking room must either occupy the entire enclosed indoor space (in other words, an entirely separate building for smoking purposes) or the smoking room must be fully enclosed and exhausted directly to the outside of the building and kept under negative air pressure so that smoke cannot drift or circulate into the rest of the building.⁶ Third, the exhaust from the smoking room cannot be located within 15 feet to 25 feet of any entrance or exit to the building or any air intake.⁷

All facilities that fall within the parameters of the smoke-free law must meet certain notice requirements.⁸ The owner, lessee, manager or supervisor of an indoor workplace is responsible for posting a sign or decal, at least 4 inches by 2 inches in size, at each entrance to the building indicating that the workplace is smoke or tobacco-free.⁹ These “Breathe Easy” decals are available at no charge from most county health departments, or by calling the Oklahoma State Department of Health toll free at (866) ONLY-AIR. Anyone who knowingly violates the smoke-free law is subject to certain fines.¹⁰

1. 21 O.S. § 1247 (J)

2. 21 O.S. § 1247(A)

3. *Id*

4. 21 O.S. § 1247(H) & (I)

5. *Id*

6. *Id*

7. *Id*

8. 21 O.S. § 1247(K)

9. *Id*

10. 21 O.S. § 1247(L)

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