

ASSEMBLY BILL NO. 128—ASSEMBLYMAN AIZLEY

PREFILED FEBRUARY 4, 2011

Referred to Committee on Judiciary

SUMMARY—Prohibits smoking on the property of the Nevada System of Higher Education. (BDR 15-911)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to smoking; prohibiting the smoking of tobacco on the property of the Nevada System of Higher Education except in certain designated smoking areas; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law generally prohibits the smoking of tobacco in certain locations,
2 such as within indoor places of employment and within buildings or office space
3 owned or occupied by the Nevada System of Higher Education. (NRS 202.2483)
4 This bill generally prohibits the smoking of tobacco on any property or campus
5 owned or occupied by the Nevada System of Higher Education. This bill also
6 provides that the Nevada System of Higher Education may designate certain areas
7 where smoking may be permitted, if the areas are separate from normal pedestrian
8 access and entrances of buildings.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 202.2483 is hereby amended to read as
2 follows:

3 202.2483 1. Except as otherwise provided in subsection 3,
4 smoking tobacco in any form is prohibited within indoor places of
5 employment including, but not limited to, the following:

- 6 (a) Child care facilities;
7 (b) Movie theatres;



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- 1 (c) Video arcades;
2 (d) Government buildings and public places;
3 (e) Malls and retail establishments;
4 (f) All areas of grocery stores; and
5 (g) All indoor areas within restaurants.
- 6 2. Without exception, smoking tobacco in any form is
7 prohibited within school buildings and on school property.
- 8 3. Smoking tobacco is not prohibited in:
9 (a) Areas within casinos where loitering by minors is already
10 prohibited by state law pursuant to NRS 463.350;
11 (b) Stand-alone bars, taverns and saloons;
12 (c) Strip clubs or brothels;
13 (d) Retail tobacco stores;
14 (e) Private residences, including private residences which may
15 serve as an office workplace, except if used as a child care, an adult
16 day care or a health care facility; and
17 (f) The area of a convention facility in which a meeting or trade
18 show is being held, during the time the meeting or trade show is
19 occurring, if the meeting or trade show:
20 (1) Is not open to the public;
21 (2) Is being produced or organized by a business relating to
22 tobacco or a professional association for convenience stores; and
23 (3) Involves the display of tobacco products.
- 24 4. In areas or establishments where smoking is not prohibited
25 by this section, nothing in state law shall be construed to prohibit
26 the owners of said establishments from voluntarily creating
27 nonsmoking sections or designating the entire establishment as
28 smoke free.
- 29 5. Nothing in state law shall be construed to restrict local
30 control or otherwise prohibit a county, city or town from adopting
31 and enforcing local tobacco control measures that meet or exceed
32 the minimum applicable standards set forth in this section.
- 33 6. "No Smoking" signs or the international "No Smoking"
34 symbol shall be clearly and conspicuously posted in every public
35 place and place of employment where smoking is prohibited by this
36 section. Each public place and place of employment where smoking
37 is prohibited shall post, at every entrance, a conspicuous sign clearly
38 stating that smoking is prohibited. All ashtrays and other smoking
39 paraphernalia shall be removed from any area where smoking is
40 prohibited.
- 41 7. Health authorities, police officers of cities or towns, sheriffs
42 and their deputies shall, within their respective jurisdictions, enforce
43 the provisions of this section and shall issue citations for violations
44 of this section pursuant to NRS 202.2492 and 202.24925.



1 8. No person or employer shall retaliate against an employee,
2 applicant or customer for exercising any rights afforded by, or
3 attempts to prosecute a violation of, this section.

4 9. For the purposes of this section, the following terms have
5 the following definitions:

6 (a) "Casino" means an entity that contains a building or large
7 room devoted to gambling games or wagering on a variety of
8 events. A casino must possess a nonrestricted gaming license as
9 described in NRS 463.0177 and typically uses the word 'casino' as
10 part of its proper name.

11 (b) "Child care facility" has the meaning ascribed to it in
12 NRS 432A.024.

13 (c) "Completely enclosed area" means an area that is enclosed
14 on all sides by any combination of solid walls, windows or doors
15 that extend from the floor to the ceiling.

16 (d) "Government building" means any building or office space
17 owned or occupied by:

18 (1) Any component of the Nevada System of Higher
19 Education and used for any purpose related to the System;

20 (2) The State of Nevada and used for any public purpose; or

21 (3) Any county, city, school district or other political
22 subdivision of the State and used for any public purpose.

23 (e) "Health authority" has the meaning ascribed to it in
24 NRS 202.2485.

25 (f) "Incidental food service or sales" means the service of
26 prepackaged food items including, but not limited to, peanuts,
27 popcorn, chips, pretzels or any other incidental food items that are
28 exempt from food licensing requirements pursuant to subsection 2
29 of NRS 446.870.

30 (g) "Place of employment" means any enclosed area under the
31 control of a public or private employer which employees frequent
32 during the course of employment including, but not limited to, work
33 areas, restrooms, hallways, employee lounges, cafeterias, conference
34 and meeting rooms, lobbies and reception areas.

35 (h) "Public places" means any enclosed areas to which the
36 public is invited or in which the public is permitted.

37 (i) "Restaurant" means a business which gives or offers for sale
38 food, with or without alcoholic beverages, to the public, guests or
39 employees, as well as kitchens and catering facilities in which food
40 is prepared on the premises for serving elsewhere.

41 (j) "Retail tobacco store" means a retail store utilized primarily
42 for the sale of tobacco products and accessories and in which the
43 sale of other products is merely incidental.



1 (k) "School building" means all buildings on the grounds of any
2 public school described in NRS 388.020 and any private school as
3 defined in NRS 394.103.

4 (l) "School property" means the grounds of any public school
5 described in NRS 388.020 and any private school as defined in
6 NRS 394.103.

7 (m) "Stand-alone bar, tavern or saloon" means an establishment
8 devoted primarily to the sale of alcoholic beverages to be consumed
9 on the premises, in which food service is incidental to its operation,
10 and provided that smoke from such establishments does not
11 infiltrate into areas where smoking is prohibited under the
12 provisions of this section. In addition, a stand-alone bar, tavern or
13 saloon must be housed in either:

14 (1) A physically independent building that does not share a
15 common entryway or indoor area with a restaurant, public place or
16 any other indoor workplaces where smoking is prohibited by this
17 section; or

18 (2) A completely enclosed area of a larger structure, such as
19 a strip mall or an airport, provided that indoor windows must remain
20 shut at all times and doors must remain closed when not actively in
21 use.

22 (n) "Video arcade" has the meaning ascribed to it in paragraph
23 (d) of subsection 3 of NRS 453.3345.

24 10. Any statute or regulation inconsistent with this section ,
25 *unless such statute or regulation meets or exceeds the minimum*
26 *applicable standards set forth in this section*, is null and void.

27 11. The provisions of this section are severable. If any
28 provision of this section or the application thereof is declared by a
29 court of competent jurisdiction to be invalid or unconstitutional,
30 such declaration shall not affect the validity of the section as a
31 whole or any provision thereof other than the part declared to be
32 invalid or unconstitutional.

33 **Sec. 2.** Chapter 396 of NRS is hereby amended by adding
34 thereto a new section to read as follows:

35 1. *Except as otherwise provided in subsection 2, smoking*
36 *tobacco in any form is prohibited on any property or campus*
37 *owned or occupied by any component of the System and used for*
38 *any purpose related to the System.*

39 2. *The System may designate certain outside areas, that are*
40 *separate from areas of normal pedestrian use or ingress and*
41 *egress from buildings, where smoking tobacco may be permitted.*

42 3. *A person who violates the provisions of this section is*
43 *guilty of a misdemeanor.*



- 1 ***4. The police department of the System shall prepare, sign***
- 2 ***and serve written citations on persons accused of violating this***
- 3 ***section.***

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