

LCB File No. R013-10

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

NEVADA CLEAN INDOOR AIR ACT REGULATIONS

Section 1. Chapter 439 of NAC is hereby amended by adding thereto the provisions set forth as sections X to X, inclusive of this regulation.

Sec. 2. *As used in sections X to X, inclusive, of this regulation, unless context otherwise requires, the words and terms defined in sections 3 to 10 of this regulation have the meaning ascribed to them in those sections.*

Sec. 3. *“Ashtray” means any receptacle, container used or being used for collecting the ashes or residue of burning tobacco or for disposing of smoking materials including but not limited to cigarettes and cigars.*

Sec. 4. *“Health authority” has the meaning ascribed to it by NRS 202.2485.*

Sec. 5. *“Indoor place of employment” has the meaning ascribed to it by NRS 202.2483(9)(e).*

Sec. 6. *“Proprietor of an indoor place of employment” means an owner, operator, manager or other person in control of an indoor place of employment where smoking is prohibited by NRS 202.2483.*

Sec. 7. *“Restaurant” has the meaning ascribed to it by NRS 202.2483(a)(i).*

Sec. 8. *“Retail tobacco store” has the meaning ascribed to it by NRS 202.2483(9)(j).*

Sec. 9. *“Smoking paraphernalia” includes but is not limited to matches, lighters, pipes, cigarette papers, or any other device designed or actually used for burning tobacco or collecting its residue.*

Sec. 10. *“Stand-alone bar, tavern or saloon” has the meaning ascribed to it by NRS 202.2483(9)(m).*

Sec. 11. *1. In addition to the requirements of NRS 202.2483, a proprietor of an indoor place of employment shall establish and implement policies and procedures to communicate that smoking tobacco in any form is prohibited within the proprietor’s indoor place of employment to:*

- a. All existing employees,*
- b. Any applicant for employment at the time of the application for employment, and*

c. Any person smoking tobacco in any form within the indoor place of employment controlled by the proprietor.

2. The policies and procedures described in subsection 1 must include:

a. The requirement that the proprietor of an indoor place of employment and employees request that any person found smoking tobacco in any form within the indoor place of employment stop smoking immediately;

b. The prohibition of the proprietor of an indoor place of employment and the employees from providing any ashtrays or other smoking paraphernalia in accordance with NRS 202.2483(6);

c. An instruction that all ashtrays and other smoking paraphernalia must be removed by the proprietor or employees in accordance with NRS 202.2483(6);

d. If the indoor place of employment involve a casino as defined in NRS 202.2483(9)(a), a declaration of all areas within any casino where loitering by minors is not prohibited by state law pursuant to NRS 463.350, and a requirement that the proprietor post signs at each entrance to those identified areas in accordance with NRS 202.2483(6) and these regulations; and

Sec. 12. *Signs shall be posted as required by NRS 202.2483(6).*

1. Each sign shall be posted at a height and location easily seen by a person entering the public place or indoor place of employment where smoking tobacco in any form is prohibited.

2. Each sign must have letters of at least two inches in height or must have the international symbol of at least six inches in diameter.

3. Each sign must have a contrasting background.

Sec. 13. *Customers and employees of places of employment where smoking tobacco in any form is prohibited must have smoke-free access to restrooms except in locations where restrooms are under the control of a different business or access is through an area in a casino where NRS 202.2483 does not prohibit smoking tobacco.*

Sec. 14. *Nothing in these regulations shall be construed to prevent the following:*

1. A patron of a stand-alone bar, tavern or saloon bringing food into the stand-alone bar, tavern or saloon for the patron's own consumption.

2. An employee of a restaurant delivering food ordered by a patron, packaged in a container designed to prevent contamination of the food during delivery, to a patron of a stand-alone bar, tavern or saloon for the patron's consumption inside the stand-alone bar, tavern or saloon.

Sec. 15. *Modification of any existing restaurant into a stand-alone bar, tavern or saloon with a physically segregated restaurant under the same roof or in the same building must be first approved by the health authority through the health authority's plan review process. For this section, physically segregated means smoking and nonsmoking areas must be separated by a complete partition or by solid doors which fit tightly, close automatically and remain closed except during use. To prevent smoke infiltration into the restaurant, the ventilation system for the stand-alone bar, tavern or saloon must be independent from the restaurant ventilation system.*

Sec. 16. *In addition to any other remedy allowed by law, the health authority may suspend or revoke any permit issued by the Health Authority to an establishment that violates the provisions of NRS 202.2483 or any of these regulations.*

Sec. 17. *Procedure for review of actions taken by the health authority; appeals.*

1. A person who has reason to believe that an action taken by the Health Authority pursuant to these regulations is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the Health Authority for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the Health Authority, except that the informal conference must be held no later than 60 days after the date on which the health authority received the written request.

3. Except as otherwise provided in subsection 4, the determination of the Health Authority resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

4. An applicant for or holder of a permit issued by the Health Authority who is aggrieved by an action of the Health Authority relating to the denial of an application for or the renewal of such a permit or the suspension or revocation of such a permit may appeal that action in accordance with NAC 439.300 to 439.395, inclusive, after exhausting the informal procedures set forth in this section, except that the Health Authority may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.