
ASSEMBLY BILL NO. 96—COMMITTEE ON JUDICIARY

(ON BEHALF OF CLARK COUNTY)

FEBRUARY 13, 2003

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing smoking of tobacco in public places. (BDR 15-423)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: No.

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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 tobacco; authorizing a local board of health to impose stricter regulations concerning tobacco than those imposed by statute; revising provisions governing smoking of tobacco in public places; prohibiting cigarette vending machines in certain public areas; repealing the provision which allows smoking under certain circumstances in certain stores that are principally devoted to the sale of food for human consumption off the premises; providing a penalty; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 202.249 is hereby amended to read as follows:
2 202.249 1. It is the public policy of the State of Nevada and
3 the purpose of NRS 202.2491 ~~[, 202.24915]~~ and 202.2492 to place
4 restrictions on the smoking of tobacco in public places to protect
5 human health and safety.
6 2. The quality of air is declared to be affected with the public
7 interest and NRS 202.2491 ~~[, 202.24915]~~ and 202.2492 are enacted
8 in the exercise of the police power of this state to protect the health,
9 peace, safety and general welfare of its people.



1 3. Health authorities, police officers of cities or towns, sheriffs
2 and their deputies and other peace officers of this state shall, within
3 their respective jurisdictions, enforce the provisions of NRS
4 202.2491 ~~[, 202.24915]~~ and 202.2492. Police officers of cities or
5 towns, sheriffs and their deputies and other peace officers of this
6 state shall, within their respective jurisdictions, enforce the
7 provisions of NRS 202.2493, 202.24935 and 202.2494.

8 4. ~~[An agency, board, commission or political subdivision of
9 this state, including any agency, board, commission or governing
10 body of a local government, shall not] A local board of health may~~
11 impose more stringent restrictions on the smoking, use, sale,
12 distribution, marketing, display or promotion of tobacco or products
13 made from tobacco than are provided by NRS 202.2491,
14 ~~[202.24915,]~~ 202.2492, 202.2493, 202.24935 and 202.2494.

15 **Sec. 2.** NRS 202.2491 is hereby amended to read as follows:

16 202.2491 1. Except as otherwise provided in ~~[subsections 5~~
17 ~~and 6 and NRS 202.24915,]~~ **subsection 3**, the smoking of tobacco in
18 any form is prohibited if done in any:

- 19 (a) Public elevator.
- 20 (b) Public building ~~[]~~ **or on any part of the grounds of a public**
21 **building that is within 100 feet of a door used to enter or exit the**
22 **building.**
- 23 (c) ~~[Public waiting room, lobby or hallway of any:~~
24 ~~— (1) Medical facility or facility for the dependent as defined~~
25 ~~in chapter 449 of NRS [; or~~
26 ~~— (2) Office of] or portion of a building that is occupied by~~
27 any chiropractor, dentist, physical therapist, physician, podiatric
28 physician, psychologist, optician, optometrist or doctor of Oriental
29 medicine.
- 30 (d) Hotel or motel when so designated by the operator thereof.
- 31 (e) ~~[Public area of a store] Store~~ principally devoted to the sale
32 of food for human consumption off the premises.
- 33 (f) Child care facility.
- 34 (g) Bus used by the general public ~~[, other than a chartered bus,]~~
35 or in any maintenance facility or office associated with a bus system
36 operated by any regional transportation commission.
- 37 (h) School bus.
- 38 (i) **Restaurant.**
- 39 (j) **School building or on school property.**
- 40 (k) **Mall containing retail establishments that are open to the**
41 **public.**
- 42 (l) **Retail establishment that is open to the public.**
- 43 (m) **Movie theater.**
- 44 (n) **Video arcade.**



1 2. The person in control of an area listed in ~~[paragraph (c), (d),~~
2 ~~(e), (f) or (g) of subsection 1:~~
3 ~~—(a) Shall] subsection 1 shall~~ post in the area signs prohibiting
4 smoking . ~~[in any place not designated for that purpose as provided~~
5 ~~in paragraph (b):~~
6 ~~—(b) May designate separate rooms or portions of the area which~~
7 ~~may be used for smoking, except for a room or portion of the area of~~
8 ~~a store described in paragraph (c) of subsection 1 if the room or~~
9 ~~portion of the area:~~
10 ~~—(1) Is leased to or operated by a person licensed pursuant to~~
11 ~~NRS 463.160; and~~
12 ~~—(2) Does not otherwise qualify for an exemption set forth in~~
13 ~~NRS 202.24915.~~
14 ~~—3. The person in control of a public building:~~
15 ~~—(a) Shall post in the area signs prohibiting smoking in any place~~
16 ~~not designated for that purpose as provided in paragraph (b):~~
17 ~~—(b) Shall, except as otherwise provided in this subsection,~~
18 ~~designate a separate area which may be used for smoking.~~
19 ~~A school district which prohibits the use of tobacco by pupils need~~
20 ~~not designate an area which may be used by the pupils to smoke.~~
21 ~~—4. The operator of a restaurant with a seating capacity of 50 or~~
22 ~~more shall maintain a flexible nonsmoking area within the restaurant~~
23 ~~and offer each patron the opportunity to be seated in a smoking or~~
24 ~~nonsmoking area.~~
25 ~~—5. A business which derives more than 50 percent of its gross~~
26 ~~receipts from the sale of alcoholic beverages or 50 percent of its~~
27 ~~gross receipts from gaming operations may be designated as a~~
28 ~~smoking area in its entirety by the operator of the business.~~
29 ~~—6.] 3. The smoking of tobacco is not prohibited in:~~
30 (a) ~~[Any room or area designated for smoking pursuant to~~
31 ~~paragraph (b) of subsection 2 or paragraph (b) of subsection 3.~~
32 ~~—(b) A licensed] The areas of a nonrestricted~~ gaming
33 establishment ~~[. A licensed] where gaming is conducted, other than~~
34 ~~a restaurant. In the areas of a nonrestricted~~ gaming establishment
35 ~~where smoking is authorized, the gaming establishment~~ may
36 designate separate rooms or areas within *those areas of* the
37 establishment which may or may not be used for smoking.
38 ~~[7. The person in control of a child care facility shall not allow~~
39 ~~children in any room or area he designates for smoking pursuant to~~
40 ~~paragraph (b) of subsection 2. Any such room or area must be~~
41 ~~sufficiently separate or ventilated so that there are no irritating or~~
42 ~~toxic effects of smoke in the other areas of the facility.~~
43 ~~—8.] (b) A business, other than a restaurant, which derives~~
44 ~~more than 50 percent of its gross receipts from the sale of~~
45 ~~alcoholic beverages which are consumed on the premises.~~



1 4. As used in this section:

2 (a) "Child care facility" means an establishment licensed
3 pursuant to chapter 432A of NRS to provide care for 13 or more
4 children.

5 (b) ~~["Licensed gaming establishment" has the meaning ascribed
6 to it in NRS 463.0169.~~

7 ~~—(c)~~ "Public building" means any building or office space owned
8 or occupied by:

9 (1) Any component of the University and Community
10 College System of Nevada and used for any purpose related to the
11 system.

12 (2) The State of Nevada and used for any public purpose,
13 other than that used by the Department of Corrections to house or
14 provide other services to offenders.

15 (3) Any county, city, school district or other political
16 subdivision of the State and used for any public purpose ~~[.]~~, *other*
17 *than a school building.*

18 If only part of a building is owned or occupied by an entity
19 described in this paragraph, the term means only that portion of the
20 building which is so owned or occupied.

21 (c) *"School building" means all buildings on the grounds of
22 any public school described in NRS 388.020 and any private
23 school as defined in NRS 394.103.*

24 (d) "School bus" has the meaning ascribed to it in NRS 483.160.

25 (e) *"School property" means the grounds of any public school
26 described in NRS 388.020 and any private school as defined in
27 NRS 394.103.*

28 (f) *"Video arcade" has the meaning ascribed to it in paragraph
29 (d) of subsection 3 of NRS 453.3345.*

30 **Sec. 3.** NRS 202.2492 is hereby amended to read as follows:

31 202.2492 1. A person who violates NRS 202.2491 ~~[or
32 202.24915]~~ is guilty of a misdemeanor.

33 2. In each health district, the district health officer shall, and,
34 for areas of this state which are not within a health district, the State
35 Health Officer shall, designate one or more of his employees to
36 prepare, sign and serve written citations on persons accused of
37 violating NRS 202.2491 . ~~[or 202.24915.]~~ Such an employee:

38 (a) May exercise the authority to prepare, sign and serve those
39 citations only within the geographical jurisdiction of the district or
40 State Health Officer by which he is employed; and

41 (b) Shall comply with the provisions of NRS 171.1773.

42 **Sec. 4.** NRS 202.24925 is hereby amended to read as follows:

43 202.24925 1. In addition to any criminal penalty, a person
44 who violates NRS 202.2491 ~~[or 202.24915]~~ is liable for a civil
45 penalty of \$100 for each violation.



- 1 2. A health authority within whose jurisdiction a violation of
2 NRS 202.2491 ~~for 202.24915~~ is committed shall:
3 (a) Collect the civil penalty, and may commence a civil
4 proceeding for that purpose; and
5 (b) Deposit any money he collects pursuant to this section with
6 the State Treasurer for credit to the Account for Health Education
7 for Minors, which is hereby created in the State General Fund.
8 3. The Superintendent of Public Instruction:
9 (a) Shall administer the Account for Health Education for
10 Minors; and
11 (b) May, with the advice of the State Health Officer, expend
12 money in the Account only for programs of education for minors
13 regarding human health.
14 4. The interest and income earned on the money in the Account
15 for Health Education for Minors, after deducting any applicable
16 charges, must be credited to the Account.
17 5. All claims against the Account for Health Education for
18 Minors must be paid as other claims against the State are paid.
19 **Sec. 5.** NRS 202.2494 is hereby amended to read as follows:
20 202.2494 1. A cigarette vending machine must not be placed
21 in a public area described in ~~paragraph (a), (c), (e), (f), (g) or (h) of~~
22 subsection 1 of NRS 202.2491, if minors are permitted access to that
23 area.
24 2. A coin-operated vending machine containing cigarettes must
25 not be used to dispense any product not made from tobacco.
26 **Sec. 6.** NRS 202.24915 is hereby repealed.
27 **Sec. 7.** This act becomes effective on July 1, 2003.

TEXT OF REPEALED SECTION

202.24915 Smoking tobacco: Allowed under certain circumstances in certain stores that are principally devoted to sale of food for human consumption off premises.

1. A store that is principally devoted to the sale of food for human consumption off the premises may allow the smoking of tobacco in a public area of the store that is leased to or operated by a person who is licensed pursuant to NRS 463.160 if:
- (a) The entire interior public area of the store is 10,000 square feet or less; or
 - (b) The area:



(1) Is segregated from the other public areas of the store by two or more walls or partial walls, or any combination thereof, in a configuration that includes at least one corner; and

(2) Contains a method of ventilation which substantially removes smoke from the area.

2. Except as otherwise provided in subsection 3, until January 1, 2010, a store that is principally devoted to the sale of food for human consumption off the premises may allow the smoking of tobacco in a public area of the store that is leased to or operated by a person who is licensed pursuant to NRS 463.160 if the store was constructed before October 1, 1999, or received final approval for construction before October 1, 1999. On or after January 1, 2010, such a store may allow smoking in that public area only if the area contains a method of ventilation which substantially removes smoke from the area.

3. If at any time before January 1, 2010, a store described in subsection 2 remodels 25 percent or more of the square footage of the entire public area within the store, the store may continue to allow the smoking of tobacco in a public area of the store that is leased to or operated by a person who is licensed pursuant to NRS 463.160 only if the store includes as part of the remodeling a method of ventilation which substantially removes smoke from the area.

4. For the purposes of this section, "partial wall" or "wall" may include, without limitation, one or more gaming devices, as defined in NRS 463.0155, if the gaming devices are configured together or in conjunction with other structures to create a barrier that is similar to a partial wall or wall.

