

SENATE BILL NO. 339—SENATOR CEGAVSKE

MARCH 17, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to use of tobacco products. (BDR 15-1126)

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; prohibiting a minor from falsely representing his age to purchase tobacco products; authorizing a merchant to detain such a minor to inform a peace officer; providing the juvenile division of the district court with jurisdiction over a child who falsely represents his age to purchase tobacco products; 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.** Chapter 62 of NRS is hereby amended by adding  
2     thereto the provisions set forth as sections 2 and 3 of this act.  
3     **Sec. 2.** *A child under the age of 18 years shall not falsely*  
4     *represent that he is 18 years of age or older to purchase or obtain*  
5     *cigarettes, cigarette paper, tobacco of any description or products*  
6     *made from tobacco.*  
7     **Sec. 3. 1.** *A merchant who has reason to believe that a*  
8     *child has falsely represented his age in violation of section 2 of*  
9     *this act on the premises of the merchant may take the child into*  
10    *custody and detain him, on the premises, in a reasonable manner*  
11    *and for a reasonable length of time, to inform a peace officer of*  
12    *the circumstances of such detention. Except as otherwise provided*  
13    *in subsection 2, such a taking into custody and detention by a*  
14    *merchant does not render the merchant criminally or civilly liable*



1 *for false arrest, false imprisonment, slander or unlawful detention*  
2 *unless the taking into custody and detention are unreasonable*  
3 *under all the circumstances.*

4 2. *A merchant is entitled to the immunity from liability*  
5 *provided for in this section only if there is displayed in a*  
6 *conspicuous place on his premises a notice in boldface type which*  
7 *is clearly legible and in substantially the following form:*

8  
9 *A merchant or his agent who has reason to believe that a*  
10 *child under the age of 18 years has falsely represented that*  
11 *he is 18 years of age or older to purchase or obtain*  
12 *cigarettes, cigarette paper, tobacco of any description or*  
13 *products made from tobacco may detain the child on the*  
14 *premises of the merchant to notify a peace officer. Section 3*  
15 *of this act.*

16  
17 3. *The notice set forth in subsection 2 must be prepared and*  
18 *copies thereof supplied upon request by the Superintendent of the*  
19 *State Printing Division of the Department of Administration.*

20 **Sec. 4.** NRS 62.040 is hereby amended to read as follows:

21 62.040 1. Except if the child involved is subject to the  
22 exclusive jurisdiction of an Indian tribe, and except as otherwise  
23 provided in this chapter, the court has exclusive original jurisdiction  
24 in proceedings:

25 (a) Concerning any child living or found within the county who  
26 is in need of supervision because he:

27 (1) Is a child who is subject to compulsory school attendance  
28 and is a habitual truant from school;

29 (2) *Engages in an act described in section 2 of this act;*

30 (3) Habitually disobeys the reasonable and lawful demands  
31 of his parents, guardian or other custodian, and is unmanageable; or

32 ~~(3)~~ (4) Deserts, abandons or runs away from his home or  
33 usual place of abode,

34 and is in need of care or rehabilitation. ~~[The]~~ *A child who is in need*  
35 *of supervision pursuant to this paragraph* must not be considered a  
36 delinquent.

37 (b) Concerning any child living or found within the county who  
38 has committed a delinquent act. A child commits a delinquent act if  
39 he violates a county or municipal ordinance or any rule or regulation  
40 having the force of law, or he commits an act designated a crime  
41 under the law of the State of Nevada.

42 (c) Concerning any child in need of commitment to an  
43 institution for the mentally retarded.

44 2. For the purposes of subsection 1, each of the following acts  
45 shall be deemed not to be a delinquent act, and the court does not



1 have jurisdiction of a person who is charged with committing such  
2 an act:

3 (a) Murder or attempted murder and any other related offense  
4 arising out of the same facts as the murder or attempted murder,  
5 regardless of the nature of the related offense.

6 (b) Sexual assault or attempted sexual assault involving the use  
7 or threatened use of force or violence against the victim and any  
8 other related offense arising out of the same facts as the sexual  
9 assault or attempted sexual assault, regardless of the nature of the  
10 related offense, if:

11 (1) The person was 16 years of age or older when the sexual  
12 assault or attempted sexual assault was committed; and

13 (2) Before the sexual assault or attempted sexual assault was  
14 committed, the person previously had been adjudicated delinquent  
15 for an act that would have been a felony if committed by an adult.

16 (c) An offense or attempted offense involving the use or  
17 threatened use of a firearm and any other related offense arising out  
18 of the same facts as the offense or attempted offense involving the  
19 use or threatened use of a firearm, regardless of the nature of the  
20 related offense, if:

21 (1) The person was 16 years of age or older when the offense  
22 or attempted offense involving the use or threatened use of a firearm  
23 was committed; and

24 (2) Before the offense or attempted offense involving the use  
25 or threatened use of a firearm was committed, the person previously  
26 had been adjudicated delinquent for an act that would have been a  
27 felony if committed by an adult.

28 (d) A felony resulting in death or substantial bodily harm to the  
29 victim and any other related offense arising out of the same facts as  
30 the felony, regardless of the nature of the related offense, if:

31 (1) The felony was committed on the property of a public or  
32 private school when pupils or employees of the school were present  
33 or may have been present, at an activity sponsored by a public or  
34 private school or on a school bus while the bus was engaged in its  
35 official duties; and

36 (2) The person intended to create a great risk of death or  
37 substantial bodily harm to more than one person by means of a  
38 weapon, device or course of action that would normally be  
39 hazardous to the lives of more than one person.

40 (e) Any other offense if, before the offense was committed, the  
41 person previously had been convicted of a criminal offense.

42 3. If a child is charged with a minor traffic offense, the court  
43 may transfer the case and record to a justice's or municipal court if  
44 the judge determines that it is in the best interest of the child. If a  
45 case is so transferred:



1 (a) The restrictions set forth in subsection 7 of NRS 62.170 are  
2 applicable in those proceedings; and

3 (b) The child must be accompanied at all proceedings by a  
4 parent or legal guardian.

5 With the consent of the judge of the juvenile division, the case may  
6 be transferred back to the juvenile court.

7 4. As used in this section, "school bus" has the meaning  
8 ascribed to it in NRS 483.160.

9 **Sec. 5.** NRS 62.212 is hereby amended to read as follows:

10 62.212 1. Except as otherwise provided in subsection ~~3~~ 4,  
11 if the court finds that a child is within the purview of paragraph (a)  
12 of subsection 1 of NRS 62.040 and has not previously been the  
13 subject of a complaint under NRS 62.128 before committing the acts  
14 for which the petition was filed, the court shall:

15 (a) Admonish the child to obey the law and to refrain from  
16 repeating the acts for which the petition was filed, and maintain a  
17 record of the admonition; and

18 (b) Refer the child, without adjudication, to services available in  
19 the community for counseling, behavioral modification and social  
20 adjustment.

21 2. Except as otherwise provided in subsection ~~3~~ 4, a child  
22 *described in subsection 1* must not be adjudicated to be a child in  
23 need of supervision unless a subsequent petition based upon  
24 additional facts is filed with the court after admonition and referral  
25 pursuant to ~~this subsection.~~

26 ~~2~~ *that subsection.*

27 3. A child who is:

28 (a) Less than 12 years of age must not be committed to or  
29 otherwise placed in the Nevada Youth Training Center or the  
30 Caliente Youth Center.

31 (b) Not adjudicated to be delinquent must not be committed to  
32 or otherwise placed in the Nevada Youth Training Center, the  
33 Caliente Youth Center or any other facility that provides  
34 correctional care.

35 ~~3~~ 4. The provisions of subsection 1 do not apply to a child  
36 alleged to be in need of supervision because he is a habitual truant.

37 5. *In addition to the actions set forth in subsection 1, a court*  
38 *may order a child who engages in an act described in section 2 of*  
39 *this act to perform community service. Community service so*  
40 *ordered must be performed:*

41 (a) *For and under the supervising authority of a county, city,*  
42 *town or other political subdivision or agency of this state or a*  
43 *charitable organization that renders service to the community or*  
44 *its residents; and*



- 1 (b) *At the child's school of attendance, if practicable.*

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