

SENATE BILL NO. 201—COMMITTEE ON FINANCE

MARCH 2, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing smoking in certain places. (BDR 15-144)

FISCAL NOTE: Effect on Local Government: No.
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 smoking; revising provisions governing smoking in certain places; defining certain terms relating to smoking; prohibiting the use of electronic smoking devices in certain places; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The Nevada Clean Indoor Air Act, which is currently codified as NRS
2 202.2483, was proposed by an initiative petition and approved by the voters at the
3 2006 General Election. The Act generally prohibits smoking tobacco within indoor
4 places of employment, within school buildings and on school property, but allows
5 smoking tobacco in certain other areas or establishments. (NRS 202.2483) Existing
6 law also imposes various restrictions on the use, sale and distribution of tobacco in
7 certain places. (NRS 202.2485-202.2497) **Section 2** of this bill defines the terms
8 “electronic smoking device” and “smoking” for purposes of prohibiting the use of
9 such devices in any location where smoking tobacco is currently prohibited by law.
10 Existing law provides that a person who lights a pipe, cigar or cigarette, or who
11 enters with a lighted pipe, cigar or cigarette, in any mill or other building where it is
12 posted that no smoking is allowed in such a building is guilty of a misdemeanor.
13 (NRS 475.050) **Section 6** of this bill revises the provisions of this crime to include
14 the definitions of electronic smoking device and smoking as defined in **section 2**.



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;
- 8 (c) Video arcades;
- 9 (d) Government buildings and public places;
- 10 (e) Malls and retail establishments;
- 11 (f) All areas of grocery stores; and
- 12 (g) All indoor areas within restaurants.

13 2. Without exception, smoking ~~[tobacco in any form]~~ is
14 prohibited within school buildings and on school property.

15 3. Smoking ~~[tobacco]~~ is not prohibited in:

16 (a) Areas within casinos where loitering by minors is already
17 prohibited by state law pursuant to NRS 463.350;

18 (b) Completely enclosed areas with stand-alone bars, taverns
19 and saloons in which patrons under 21 years of age are prohibited
20 from entering;

21 (c) Age-restricted stand-alone bars, taverns and saloons;

22 (d) Strip clubs or brothels;

23 (e) Retail tobacco stores;

24 (f) The area of a convention facility in which a meeting or trade
25 show is being held, during the time the meeting or trade show is
26 occurring, if the meeting or trade show:

27 (1) Is not open to the public;

28 (2) Is being produced or organized by a business relating to
29 tobacco or a professional association for convenience stores; and

30 (3) Involves the display of tobacco products; and

31 (g) Private residences, including private residences which may
32 serve as an office workplace, except if used as a child care, an adult
33 day care or a health care facility.

34 4. A supervisor on duty or employee of an age-restricted stand-
35 alone bar, tavern or saloon or a stand-alone bar, tavern or saloon
36 shall not allow a person who is under 21 years of age to loiter in an
37 age-restricted stand-alone bar, tavern or saloon or an area of a stand-
38 alone bar, tavern or saloon where smoking is allowed pursuant to
39 this section. A person who violates the provisions of this subsection
40 is guilty of a misdemeanor.

41 5. If a supervisor on duty or employee of an age-restricted
42 stand-alone bar, tavern or saloon or a stand-alone bar, tavern or



1 saloon violates the provisions of subsection 4, the age-restricted
2 stand-alone bar, tavern or saloon or stand-alone bar, tavern or saloon
3 is liable for a civil penalty of:

4 (a) For the first offense, \$1,000.

5 (b) For a second or subsequent offense, \$2,000.

6 6. In any prosecution or other proceeding for a violation of the
7 provisions of subsection 4 or 5, it is no excuse for a supervisor,
8 employee, age-restricted bar, tavern or saloon, or stand-alone bar,
9 tavern or saloon alleged to have committed the violation to plead
10 that a supervisor or employee believed that the person who was
11 permitted to loiter was 21 years of age or older.

12 7. In areas or establishments where smoking is not prohibited
13 by this section, nothing in state law shall be construed to prohibit
14 the owners of said establishments from voluntarily creating
15 nonsmoking sections or designating the entire establishment as
16 smoke free.

17 8. Nothing in state law shall be construed to restrict local
18 control or otherwise prohibit a county, city or town from adopting
19 and enforcing local ~~to tobacco~~ *smoking* control measures that meet
20 or exceed the minimum applicable standards set forth in this section.

21 9. "No Smoking" signs or the international "No Smoking"
22 symbol shall be clearly and conspicuously posted in every public
23 place and place of employment where smoking is prohibited by this
24 section. Each public place and place of employment where smoking
25 is prohibited shall post, at every entrance, a conspicuous sign clearly
26 stating that smoking is prohibited. All ashtrays and other smoking
27 paraphernalia shall be removed from any area where smoking is
28 prohibited.

29 10. Health authorities, police officers of cities or towns,
30 sheriffs and their deputies shall, within their respective jurisdictions,
31 enforce the provisions of this section and shall issue citations for
32 violations of this section pursuant to NRS 202.2492 and 202.24925.

33 11. No person or employer shall retaliate against an employee,
34 applicant or customer for exercising any rights afforded by, or
35 attempts to prosecute a violation of, this section.

36 12. For the purposes of this section, the following terms have
37 the following definitions:

38 (a) "Age-restricted stand-alone bar, tavern or saloon" means an
39 establishment:

40 (1) Devoted primarily to the sale of alcoholic beverages to be
41 consumed on the premises;

42 (2) In which food service or sales may or may not be
43 incidental food service or sales, in the discretion of the operator of
44 the establishment;



1 (3) In which patrons under 21 years of age are prohibited at
2 all times from entering the premises; and

3 (4) That must be located within:

4 (I) A physically independent building that does not share
5 a common entryway or indoor area with a restaurant, public place or
6 any other indoor workplace where smoking is prohibited by this
7 section; or

8 (II) A completely enclosed area of a larger structure,
9 which may include, without limitation, a strip mall or an airport,
10 provided that indoor windows must remain closed at all times and
11 doors must remain closed when not actively in use.

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

17 (c) "Child care facility" has the meaning ascribed to it in
18 NRS 441A.030.

19 (d) "Completely enclosed area" means an area that is enclosed
20 on all sides by any combination of solid walls, windows or doors
21 that extend from the floor to the ceiling.

22 (e) *"Electronic smoking device" has the meaning ascribed to it*
23 *in NRS 202.2485.*

24 (f) "Government building" means any building or office space
25 owned or occupied by:

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

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

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

31 ~~(f)~~ (g) "Health authority" has the meaning ascribed to it in
32 NRS 202.2485.

33 ~~(e)~~ (h) "Incidental food service or sales" means the service of
34 prepackaged food items including, but not limited to, peanuts,
35 popcorn, chips, pretzels or any other incidental food items that are
36 exempt from food licensing requirements pursuant to subsection 2
37 of NRS 446.870.

38 ~~(h)~~ (i) "Place of employment" means any enclosed area under
39 the control of a public or private employer which employees
40 frequent during the course of employment including, but not limited
41 to, work areas, restrooms, hallways, employee lounges, cafeterias,
42 conference and meeting rooms, lobbies and reception areas.

43 ~~(i)~~ (j) "Public places" means any enclosed areas to which the
44 public is invited or in which the public is permitted.



1 ~~(k)~~ (k) "Restaurant" means a business which gives or offers for
2 sale food, with or without alcoholic beverages, to the public, guests
3 or employees, as well as kitchens and catering facilities in which
4 food is prepared on the premises for serving elsewhere.

5 ~~(l)~~ (l) "Retail tobacco store" means a retail store utilized
6 primarily for the sale of tobacco products and accessories and in
7 which the sale of other products is merely incidental.

8 ~~(m)~~ (m) "School building" means all buildings on the grounds
9 of any public school described in NRS 388.020 and any private
10 school as defined in NRS 394.103.

11 ~~(n)~~ (n) "School property" means the grounds of any public
12 school described in NRS 388.020 and any private school as defined
13 in NRS 394.103.

14 ~~(o)~~ (o) "*Smoking has the meaning ascribed to it in*
15 *NRS 202.2485.*

16 (p) "Stand-alone bar, tavern or saloon" means an establishment:

17 (1) Devoted primarily to the sale of alcoholic beverages to be
18 consumed on the premises;

19 (2) In which food service or sales may or may not be
20 incidental food service or sales, in the discretion of the operator of
21 the establishment;

22 (3) In which smoke from such establishments does not
23 infiltrate into areas where smoking is prohibited under the
24 provisions of this section; and

25 (4) That must be housed in either:

26 (I) A physically independent building that does not share
27 a common entryway or indoor area with a restaurant, public place or
28 any other indoor workplaces where smoking is prohibited by this
29 section; or

30 (II) A completely enclosed area of a larger structure, such
31 as a strip mall or an airport, provided that indoor windows must
32 remain shut at all times and doors must remain closed when not
33 actively in use.

34 ~~(q)~~ (q) "Video arcade" has the meaning ascribed to it in
35 paragraph (d) of subsection 3 of NRS 453.3345.

36 13. Any statute or regulation inconsistent with this section is
37 null and void.

38 14. The provisions of this section are severable. If any
39 provision of this section or the application thereof is declared by a
40 court of competent jurisdiction to be invalid or unconstitutional,
41 such declaration shall not affect the validity of the section as a
42 whole or any provision thereof other than the part declared to be
43 invalid or unconstitutional.

44 **Sec. 2.** NRS 202.2485 is hereby amended to read as follows:

45 202.2485 As used in NRS 202.2485 to 202.2497, inclusive:



1 1. "Distribute" includes furnishing, giving away or providing
2 products made or derived from tobacco or samples thereof at no cost
3 to promote the product, whether or not in combination with a sale.

4 2. *"Electronic smoking device":*

5 (a) *Means any product containing or delivering nicotine, a*
6 *product made or derived from tobacco or any other substance*
7 *intended for human consumption that can be used by a person to*
8 *simulate smoking in the delivery of nicotine or any other*
9 *substance through inhalation of vapor or aerosol from the*
10 *product.*

11 (b) *Includes any component part of a product described in*
12 *paragraph (a), regardless of whether the component part is sold*
13 *separately.*

14 (c) *Does not include any product regulated by the United*
15 *States Food and Drug Administration pursuant to Chapter V of*
16 *the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et*
17 *seq.*

18 3. "Health authority" means the district health officer in a
19 district, or his or her designee, or, if none, the Chief Medical
20 Officer, or his or her designee.

21 ~~3.~~ 4. "Product made or derived from tobacco" does not
22 include any product regulated by the United States Food and Drug
23 Administration pursuant to Chapter V of the Federal Food, Drug,
24 and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

25 5. *"Smoking" means inhaling, exhaling, burning or carrying*
26 *any lighted or heated cigar, cigarette or pipe or any other lighted*
27 *or heated tobacco, product made or derived from tobacco or plant*
28 *product intended for inhalation, in any manner or form. The term*
29 *includes the use of any electronic smoking device which creates a*
30 *vapor, in any manner or form, or the use of any oral smoking*
31 *device for the purpose of circumventing a prohibition against*
32 *smoking.*

33 **Sec. 3.** NRS 202.249 is hereby amended to read as follows:

34 202.249 1. It is the public policy of the State of Nevada and
35 the purpose of NRS 202.2491, 202.24915 and 202.2492 to place
36 restrictions on ~~the~~ smoking ~~of tobacco~~ in public places to protect
37 human health and safety.

38 2. The quality of air is declared to be affected with the public
39 interest and NRS 202.2491, 202.24915 and 202.2492 are enacted in
40 the exercise of the police power of this state to protect the health,
41 peace, safety and general welfare of its people.

42 3. Health authorities, police officers of cities or towns, sheriffs
43 and their deputies and other peace officers of this state shall, within
44 their respective jurisdictions, enforce the provisions of NRS
45 202.2491, 202.24915 and 202.2492. Police officers of cities or



1 towns, sheriffs and their deputies and other peace officers of this
2 state shall, within their respective jurisdictions, enforce the
3 provisions of NRS 202.2493, 202.24935 and 202.2494.

4 4. Except as otherwise provided in subsection 5, an agency,
5 board, commission or political subdivision of this state, including,
6 without limitation, any agency, board, commission or governing
7 body of a local government, shall not impose more stringent
8 restrictions on ~~the~~ smoking ~~of~~ *or the* use, sale, distribution,
9 marketing, display or promotion of tobacco or products made or
10 derived from tobacco than are provided by NRS 202.2491,
11 202.24915, 202.2492, 202.2493, 202.24935 and 202.2494.

12 5. A school district may, with respect to the property,
13 buildings, facilities and vehicles of the school district, impose more
14 stringent restrictions on ~~the~~ smoking ~~of~~ *or the* use, sale,
15 distribution, marketing, display or promotion of tobacco or products
16 made or derived from tobacco than are provided by NRS 202.2491,
17 202.24915, 202.2492, 202.2493, 202.24935 and 202.2494.

18 **Sec. 4.** NRS 202.2491 is hereby amended to read as follows:

19 202.2491 1. Except as otherwise provided in subsections 5
20 and 6 and NRS 202.24915, ~~the~~ smoking ~~of tobacco in any form~~
21 is prohibited if done in any:

22 (a) Public elevator.

23 (b) Public building.

24 (c) Public waiting room, lobby or hallway of any:

25 (1) Medical facility or facility for the dependent as defined in
26 chapter 449 of NRS; or

27 (2) Office of any chiropractor, dentist, physical therapist,
28 physician, podiatric physician, psychologist, optician, optometrist or
29 doctor of Oriental medicine.

30 (d) Hotel or motel when so designated by the operator thereof.

31 (e) Public area of a store principally devoted to the sale of food
32 for human consumption off the premises.

33 (f) Child care facility.

34 (g) Bus used by the general public, other than a chartered bus, or
35 in any maintenance facility or office associated with a bus system
36 operated by any regional transportation commission.

37 (h) School bus.

38 (i) Video arcade.

39 2. The person in control of an area listed in paragraph (c), (d),
40 (e) or (g) of subsection 1:

41 (a) Shall post in the area signs prohibiting smoking in any place
42 not designated for that purpose as provided in paragraph (b).

43 (b) May designate separate rooms or portions of the area which
44 may be used for smoking, except for a room or portion of the area of



1 a store described in paragraph (e) of subsection 1 if the room or
2 portion of the area:

3 (1) Is leased to or operated by a person licensed pursuant to
4 NRS 463.160; and

5 (2) Does not otherwise qualify for an exemption set forth in
6 NRS 202.24915.

7 3. The person in control of a public building:

8 (a) Shall post in the area signs prohibiting smoking in any place
9 not designated for that purpose as provided in paragraph (b).

10 (b) Shall, except as otherwise provided in this subsection,
11 designate a separate area which may be used for smoking.

12 ➤ A school district which prohibits ~~[the use of tobacco]~~ **smoking** by
13 pupils need not designate an area which may be used by the pupils
14 to smoke.

15 4. The operator of a restaurant with a seating capacity of 50 or
16 more shall maintain a flexible nonsmoking area within the restaurant
17 and offer each patron the opportunity to be seated in a smoking or
18 nonsmoking area.

19 5. A business which derives more than 50 percent of its gross
20 receipts from the sale of alcoholic beverages or 50 percent of its
21 gross receipts from gaming operations may be designated as a
22 smoking area in its entirety by the operator of the business.

23 6. ~~[The smoking of tobacco]~~ **Smoking** is not prohibited in:

24 (a) Any room or area designated for smoking pursuant to
25 paragraph (b) of subsection 2 or paragraph (b) of subsection 3.

26 (b) A licensed gaming establishment. A licensed gaming
27 establishment may designate separate rooms or areas within the
28 establishment which may or may not be used for smoking.

29 7. As used in this section:

30 (a) "Child care facility" means an establishment operated and
31 maintained to furnish care on a temporary or permanent basis,
32 during the day or overnight, to five or more children under 18 years
33 of age, if compensation is received for the care of any of those
34 children. The term does not include the home of a natural person
35 who provides child care.

36 (b) "Licensed gaming establishment" has the meaning ascribed
37 to it in NRS 463.0169.

38 (c) "Public building" means any building or office space owned
39 or occupied by:

40 (1) Any component of the Nevada System of Higher
41 Education and used for any purpose related to the System.

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



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

3 ➔ If only part of a building is owned or occupied by an entity
4 described in this paragraph, the term means only that portion of the
5 building which is so owned or occupied.

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

7 (e) "Video arcade" means a facility legally accessible to persons
8 under 18 years of age which is intended primarily for the use of
9 pinball and video machines for amusement and which contains a
10 minimum of 10 such machines.

11 **Sec. 5.** NRS 202.24915 is hereby amended to read as follows:

12 202.24915 1. A store that is principally devoted to the sale of
13 food for human consumption off the premises may allow ~~the~~
14 smoking ~~of tobacco~~ in a public area of the store that is leased to or
15 operated by a person who is licensed pursuant to NRS 463.160 if:

16 (a) The entire interior public area of the store is 10,000 square
17 feet or less; or

18 (b) The area:

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

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

24 2. Except as otherwise provided in subsection 3, until
25 January 1, 2007, a store that is principally devoted to the sale of
26 food for human consumption off the premises may allow ~~the~~
27 smoking ~~of tobacco~~ in a public area of the store that is leased to or
28 operated by a person who is licensed pursuant to NRS 463.160 if the
29 store was constructed before October 1, 1999, or received final
30 approval for construction before October 1, 1999. On or after
31 January 1, 2007, such a store may allow smoking in that public area
32 only if the area contains a method of ventilation which substantially
33 removes smoke from the area.

34 3. If at any time before January 1, 2007, a store described in
35 subsection 2 remodels 25 percent or more of the square footage of
36 the entire public area within the store, the store may continue to
37 allow ~~the~~ smoking ~~of tobacco~~ in a public area of the store that is
38 leased to or operated by a person who is licensed pursuant to NRS
39 463.160 only if the store includes as part of the remodeling a
40 method of ventilation which substantially removes smoke from the
41 area.

42 4. For the purposes of this section, "partial wall" or "wall" may
43 include, without limitation, one or more gaming devices, as defined
44 in NRS 463.0155, if the gaming devices are configured together or



1 in conjunction with other structures to create a barrier that is similar
2 to a partial wall or wall.

3 **Sec. 6.** NRS 475.050 is hereby amended to read as follows:

4 475.050 **1.** Every person who ~~[lights a pipe, cigar or cigarette~~
5 ~~in, or who enters with a lighted pipe, cigar or cigarette,]~~ **engages in**
6 **smoking in** any mill or other building on which is posted in a
7 conspicuous place over and near each principal entrance a notice in
8 plain, legible characters stating that no smoking is allowed in such
9 building is guilty of a misdemeanor.

10 **2.** *As used in this section, "smoking" has the meaning*
11 *ascribed to it in NRS 202.2485.*

