

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; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The Nevada Clean Indoor Air Act was proposed by an initiative petition and
2 approved by voters at the 2006 General Election. (NRS 202.2483) The Act
3 generally prohibits the smoking of tobacco in certain locations, such as within
4 indoor places of employment, within buildings or office space owned or occupied
5 by the Nevada System of Higher Education and within school buildings and on
6 school property. This bill expands the Act to prohibit the smoking of tobacco on
7 any property or campus owned or occupied by the Nevada System of Higher
8 Education.

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;



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



1 the provisions of this section and shall issue citations for violations
2 of this section pursuant to NRS 202.2492 and 202.24925.

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

6 9. For the purposes of this section, the following terms have
7 the following definitions:

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

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

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

18 (d) "Government building" means any building or office space
19 owned or occupied by:

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

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

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

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

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

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

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

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

43 (j) "Retail tobacco store" means a retail store utilized primarily
44 for the sale of tobacco products and accessories and in which the
45 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 is
25 null and void.

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

