

SENATE BILL NO. 421—COMMITTEE ON JUDICIARY

(ON BEHALF OF RETAIL ASSOCIATION OF NEVADA)

MARCH 15, 1999

Referred to Committee on Judiciary

SUMMARY—Establishes certain requirements related to smoking in certain public areas of grocery stores. (BDR 15-1267)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

AN ACT relating to public health; establishing certain requirements related to smoking in certain public areas of grocery stores; 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:

Section 1. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

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

1 *public area of the store that is leased to or operated by a person who is*
2 *licensed pursuant to NRS 463.160 if the store was constructed before*
3 *October 1, 1999, or received final approval for construction before*
4 *October 1, 1999. On or after January 1, 2010, such a store may allow*
5 *smoking in that public area only if the area contains a method of*
6 *ventilation which substantially removes smoke from the area.*

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

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

19 **Sec. 2.** NRS 202.249 is hereby amended to read as follows:

20 202.249 1. It is the public policy of the State of Nevada and the
21 purpose of NRS 202.2491 and 202.2492 *and section 1 of this act* to place
22 restrictions on the smoking of tobacco in public places to protect human
23 health and safety.

24 2. The quality of air is declared to be affected with the public interest
25 and NRS 202.2491 and 202.2492 *and section 1 of this act* are enacted in
26 the exercise of the police power of this state to protect the health, peace,
27 safety and general welfare of its people.

28 3. Health authorities, police officers of cities or towns, sheriffs and
29 their deputies and other peace officers of this state shall, within their
30 respective jurisdictions, enforce the provisions of NRS 202.2491 and
31 202.2492 ~~§~~ *and section 1 of this act*. Police officers of cities or towns,
32 sheriffs and their deputies and other peace officers of this state shall, within
33 their respective jurisdictions, enforce the provisions of NRS 202.2493 and
34 202.2494.

35 4. An agency, board, commission or political subdivision of this state,
36 including any agency, board, commission or governing body of a local
37 government, shall not impose more stringent restrictions on the smoking,
38 use, sale, distribution, marketing, display or promotion of tobacco or
39 products made from tobacco than are provided by NRS 202.2491,
40 202.2492, 202.2493 and 202.2494 ~~§~~ *and section 1 of this act*.

Sec. 3. NRS 202.2491 is hereby amended to read as follows:

202.2491 1. Except as otherwise provided in subsections 5 and 6,
and section 1 of this act, the smoking of tobacco in any form is prohibited
if done in any:

(a) Public elevator.

(b) Public building.

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

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

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

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

(e) Public area of a store principally devoted to the sale of food for
human consumption off the premises . ~~[-except in those areas leased to or
operated by a person licensed pursuant to NRS 463.160.]~~

(f) Child care facility.

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

(h) School bus.

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

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

(b) May designate separate rooms or portions of the area which may be
used for smoking ~~[-]~~ *, except for a room or portion of the area of a store
described in paragraph (e) of subsection 1 if the room or portion of the
area:*

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

*(2) Does not otherwise qualify for an exemption set forth in section
1 of this act.*

3. The person in control of a public building:

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

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

A school district which prohibits the use of tobacco by pupils need not
designate an area which may be used by the pupils to smoke.

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

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

5 6. The smoking of tobacco is not prohibited in:

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

8 (b) A licensed gaming establishment. A licensed gaming establishment
9 may designate separate rooms or areas within the establishment which may
10 or may not be used for smoking.

11 7. The person in control of a child care facility shall not allow children
12 in any room or area he designates for smoking pursuant to paragraph (b) of
13 subsection 2. Any such room or area must be sufficiently separate or
14 ventilated so that there are no irritating or toxic effects of smoke in the
15 other areas of the facility.

16 8. As used in this section:

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

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

21 (c) "Public building" means any building or office space owned or
22 occupied by:

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

25 (2) The State of Nevada and used for any public purpose, other than
26 that used by the department of prisons to house or provide other services to
27 offenders.

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

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

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

34 **Sec. 4.** NRS 202.2492 is hereby amended to read as follows:

35 202.2492 1. A person who violates NRS 202.2491 **or section 1 of**
36 **this act** is guilty of a misdemeanor.

37 2. In each health district, the district health officer shall, and, for areas
38 of this state which are not within a health district, the state health officer
39 shall, designate one or more of his employees to prepare, sign and serve
40 written citations on persons accused of violating NRS 202.2491 ~~or~~ **or**

41 **section 1 of this act.** Such an employee:

1 (a) May exercise the authority to prepare, sign and serve those citations
2 only within the geographical jurisdiction of the district or state health
3 officer by which he is employed; and

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

5 **Sec. 5.** NRS 202.24925 is hereby amended to read as follows:

6 202.24925 1. In addition to any criminal penalty, a person who
7 violates NRS 202.2491 *or section 1 of this act* is liable for a civil penalty
8 of \$100 for each violation.

9 2. A health authority within whose jurisdiction a violation of NRS
10 202.2491 *or section 1 of this act* is committed shall:

11 (a) Collect the civil penalty, and may commence a civil proceeding for
12 that purpose; and

13 (b) Deposit any money he collects pursuant to this section with the state
14 treasurer for credit to the account for health education for minors, which is
15 hereby created in the state general fund.

16 3. The superintendent of public instruction:

17 (a) Shall administer the account for health education for minors; and

18 (b) May, with the advice of the state health officer, expend money in the
19 account only for programs of education for minors regarding human health.

20 4. The interest and income earned on the money in the account for
21 health education for minors, after deducting any applicable charges, must
22 be credited to the account.

23 5. All claims against the account for health education for minors must
24 be paid as other claims against the state are paid.

25 **Sec. 6.** The amendatory provisions of this act do not apply to offenses
26 that were committed before October 1, 1999.