

ASSEMBLY BILL NO. 168—ASSEMBLYMEN ANGLE, PRICE, BROWN,  
BUCKLEY, GIBBONS, GUSTAVSON, HUMKE, LEE, MANENDO,  
NEIGHBORS, SMITH AND VON TOBEL

FEBRUARY 15, 2001

Referred to Committee on Judiciary

SUMMARY—Makes various changes related to smoking and selling tobacco. (BDR 15-91)

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 crimes; prohibiting smoking in all public areas of a store principally devoted to the sale of food for human consumption off the premises of the store; 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 the  
3     purpose of NRS 202.2491 ~~1, 202.249151~~ and 202.2492 to place restrictions  
4     on the smoking of tobacco in public places to protect human health and  
5     safety.  
6     2. The quality of air is declared to be affected with the public interest ,  
7     and NRS 202.2491 ~~1, 202.249151~~ and 202.2492 are enacted in the exercise  
8     of the police power of this state to protect the health, peace, safety and  
9     general welfare of its people.  
10    3. Health authorities, police officers of cities or towns, sheriffs and  
11    their deputies and other peace officers of this state shall, within their  
12    respective jurisdictions, enforce the provisions of NRS 202.2491 ~~1,~~  
13    ~~202.249151~~ and 202.2492. Police officers of cities or towns, sheriffs and  
14    their deputies and other peace officers of this state shall, within their  
15    respective jurisdictions, enforce the provisions of NRS 202.2493 and  
16    202.2494.  
17    4. An agency, board, commission or political subdivision of this state,  
18    including any agency, board, commission or governing body of a local  
19    government, shall not impose more stringent restrictions on the smoking,  
20    use, sale, distribution, marketing, display or promotion of tobacco or



1 products made from tobacco than are provided by NRS 202.2491,  
2 ~~202.24915,~~ 202.2492, 202.2493 and 202.2494.

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

4 202.2491 1. Except as otherwise provided in subsections ~~5 and 6~~  
5 ~~and NRS 202.24915,~~ **7 and 8**, the smoking of tobacco in any form is  
6 prohibited if done in any:

7 (a) Public elevator.  
8 (b) Public building.  
9 (c) Public waiting room, lobby or hallway of any:  
10 (1) Medical facility or facility for the dependent as defined in chapter  
11 449 of NRS; or

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

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

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

18 ~~(f)~~ Child care facility.

19 ~~(e)~~ **(f)** Bus used by the general public, other than a chartered bus, or  
20 in any maintenance facility or office associated with a bus system operated  
21 by any regional transportation commission.

22 ~~(h)~~ **(g)** School bus.

23 2. *The smoking of tobacco in any form is prohibited if done in a*  
24 *public area of a store principally devoted to the sale of food for human*  
25 *consumption off the premises, including, without limitation, those areas*  
26 *leased to or operated by a person licensed pursuant to NRS 463.160. The*  
27 *person in control of a public area of such a store shall post in the area*  
28 *signs prohibiting smoking.*

29 3. The person in control of an area listed in paragraph (c), (d), ~~(e), (f)~~  
30 ~~or (g)~~ **(e) or (f)** of subsection 1:

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

33 (b) May designate separate rooms or portions of the area which may be  
34 used for smoking . ~~except for a room or portion of the area of a store~~  
35 ~~described in paragraph (e) of subsection 1 if the room or portion of the~~  
36 ~~area:~~

37 ~~(1) Is leased to or operated by a person licensed pursuant to NRS~~  
38 ~~463.160; and~~

39 ~~(2) Does not otherwise qualify for an exemption set forth in NRS~~  
40 ~~202.24915.~~

41 ~~3.~~ 4. The person in control of a public building:

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

44 (b) Shall, except as otherwise provided in ~~this subsection,~~ **subsection**  
45 **5**, designate a separate area which may be used for smoking.

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

48 ~~4.~~ 6. The operator of a restaurant with a seating capacity of 50 or  
49 more shall maintain a flexible nonsmoking area within the restaurant and



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1 offer each patron the opportunity to be seated in a smoking or nonsmoking  
2 area.

3 ~~5. A~~

4 **7. Except as otherwise provided in subsection 2, a** business which  
5 derives more than 50 percent of its gross receipts from the sale of alcoholic  
6 beverages or 50 percent of its gross receipts from gaming operations may  
7 be designated as a smoking area in its entirety by the operator of the  
8 business.

9 ~~6. The~~

10 **8. Except as otherwise provided in subsection 2, the** smoking of  
11 tobacco is not prohibited in:

12 (a) Any room or area designated for smoking pursuant to paragraph (b)  
13 of subsection ~~2~~ 3 or paragraph (b) of subsection ~~3~~ 4.

14 (b) A licensed gaming establishment. A licensed gaming establishment  
15 may designate separate rooms or areas within the establishment which may  
16 or may not be used for smoking.

17 ~~7~~ 9. The person in control of a child care facility shall not allow  
18 children in any room or area he designates for smoking pursuant to  
19 paragraph (b) of subsection ~~2~~ 3. Any such room or area must be  
20 sufficiently separate or ventilated so that there are no irritating or toxic  
21 effects of smoke in the other areas of the facility.

22 ~~8~~ 10. As used in this section:

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

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

27 (c) "Public building" means any building or office space owned or  
28 occupied by:

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

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

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

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

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

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

41 202.2492 1. A person who violates NRS 202.2491 ~~for 202.2491-5~~ is  
42 guilty of a misdemeanor.

43 2. In each health district, the district health officer shall, and ~~for~~ for  
44 areas of this state which are not within a health district, the state health  
45 officer shall, designate one or more of his employees to prepare, sign and  
46 serve written citations on persons accused of violating NRS 202.2491 . ~~for~~  
47 ~~202.2491-5~~ Such an employee:



\* A B 1 6 8 \*

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. 4.** 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 ~~for 202.24915~~ is liable for a civil penalty of \$100  
8 for each violation.

9 2. A health authority within whose jurisdiction a violation of NRS  
10 202.2491 ~~for 202.24915~~ 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. 5.** NRS 202.2494 is hereby amended to read as follows:

26 202.2494 1. A cigarette vending machine must not be placed in a  
27 public area described in paragraph (a), (c), (e), ~~(f), (g) or (h)~~ *(f) or (g)* of  
28 subsection 1 of NRS 202.2491 ~~or subsection 2 of NRS 202.2491~~, if  
29 minors are permitted access to that area.

30 2. A coin-operated vending machine containing cigarettes must not be  
31 used to dispense any product not made from tobacco.

32 **Sec. 6.** NRS 202.24915 is hereby repealed.

33 **Sec. 7.** The amendatory provisions of this act do not apply to offenses  
34 committed before October 1, 2001.

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#### TEXT OF REPEALED SECTION

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#### **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



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(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.

