

ASSEMBLY BILL NO. 202—ASSEMBLYMEN ANGLE, BEERS, BROWN,
BUCKLEY, GEDDES, GOICOECHEA, GUSTAVSON, HARDY,
MABEY AND WEBER

FEBRUARY 26, 2003

JOINT SPONSOR: SENATOR NEAL

Referred to Committee on Judiciary

SUMMARY—Prohibits smoking in certain stores that are principally devoted to sale of food for human consumption off premises unless area is segregated by walls on all sides. (BDR 15-151)

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 smoking in all public areas of certain stores that are principally devoted to the sale of food for human consumption off the premises unless the smoking area is segregated by walls on all sides; 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 202.2491 is hereby amended to read as
2 follows:
3 202.2491 1. Except as otherwise provided in subsections 5
4 and 6 and NRS 202.24915, the smoking of tobacco in any form is
5 prohibited if done in any:
6 (a) Public elevator.
7 (b) Public building.
8 (c) Public waiting room, lobby or hallway of any:



- 1 (1) Medical facility or facility for the dependent as defined in
2 chapter 449 of NRS; or
3 (2) Office of any chiropractor, dentist, physical therapist,
4 physician, podiatric physician, psychologist, optician, optometrist or
5 doctor of Oriental medicine.
6 (d) Hotel or motel when so designated by the operator thereof.
7 (e) Public area of a store principally devoted to the sale of food
8 for human consumption off the premises.
9 (f) Child care facility.
10 (g) Bus used by the general public, other than a chartered bus, or
11 in any maintenance facility or office associated with a bus system
12 operated by any regional transportation commission.
13 (h) School bus.
14 2. The person in control of an area listed in paragraph (c), (d),
15 ~~[(e),]~~ (f) or (g) of subsection 1:
16 (a) Shall post in the area signs prohibiting smoking in any place
17 not designated for that purpose as provided in paragraph (b).
18 (b) May designate separate rooms or portions of the area which
19 may be used for smoking . ~~[-, except for a room or portion of the area~~
20 ~~of a store described in paragraph (e) of subsection 1 if the room or~~
21 ~~portion of the area:~~
22 ~~—— (1) Is leased to or operated by a person licensed pursuant to~~
23 ~~NRS 463.160; and~~
24 ~~—— (2) Does not otherwise qualify for an exemption set forth in~~
25 ~~NRS 202.24915.]~~
26 3. The person in control of a public building:
27 (a) Shall post in the area signs prohibiting smoking in any place
28 not designated for that purpose as provided in paragraph (b).
29 (b) Shall, except as otherwise provided in this subsection,
30 designate a separate area which may be used for smoking.
31 A school district which prohibits the use of tobacco by pupils need
32 not designate an area which may be used by the pupils to smoke.
33 4. The operator of a restaurant with a seating capacity of 50 or
34 more shall maintain a flexible nonsmoking area within the restaurant
35 and offer each patron the opportunity to be seated in a smoking or
36 nonsmoking area.
37 5. A business which derives more than 50 percent of its gross
38 receipts from the sale of alcoholic beverages or 50 percent of its
39 gross receipts from gaming operations may be designated as a
40 smoking area in its entirety by the operator of the business.
41 6. The smoking of tobacco is not prohibited in:
42 (a) Any room or area designated for smoking pursuant to
43 paragraph (b) of subsection 2 or paragraph (b) of subsection 3.



1 (b) A licensed gaming establishment. A licensed gaming
2 establishment may designate separate rooms or areas within the
3 establishment which may or may not be used for smoking.

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

9 8. As used in this section:

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

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

15 (c) "Public building" means any building or office space owned
16 or occupied by:

17 (1) Any component of the University and Community
18 College System of Nevada and used for any purpose related to the
19 System.

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

23 (3) Any county, city, school district or other political
24 subdivision of the State and used for any public purpose.
25 If only part of a building is owned or occupied by an entity
26 described in this paragraph, the term means only that portion of the
27 building which is so owned or occupied.

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

29 **Sec. 2.** NRS 202.24915 is hereby amended to read as follows:

30 202.24915 1. A store that is principally devoted to the sale of
31 food for human consumption off the premises may allow the
32 smoking of tobacco in a public area of the store that is leased to or
33 operated by a person who is licensed pursuant to NRS 463.160 if:

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

36 (b) The area ~~is~~ **is completely** segregated from the other public areas
37 of the store by ~~{two or more walls or partial walls, or any~~
38 ~~combination thereof, in a configuration that includes at least one~~
39 ~~corner; and~~

40 ~~(2) Contains a method of ventilation which substantially~~
41 ~~removes smoke from the area.~~

42 ~~2. Except as otherwise provided in subsection 3, until~~
43 ~~January 1, 2010, a store that is principally devoted to the sale of~~
44 ~~food for human consumption off the premises may allow the~~
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1 ~~smoking of tobacco in a public area of the store that is leased to or~~
2 ~~operated by a person who is licensed pursuant to NRS 463.160 if the~~
3 ~~store was constructed before October 1, 1999, or received final~~
4 ~~approval for construction before October 1, 1999. On or after~~
5 ~~January 1, 2010, such a store may allow smoking in that public area~~
6 ~~only if the area contains a method of ventilation which substantially~~
7 ~~removes smoke from the area.~~
8 ~~—3.— If at any time before January 1, 2010, a store described in~~
9 ~~subsection 2 remodels 25 percent or more of the square footage of~~
10 ~~the entire public area within the store, the store may continue to~~
11 ~~allow the smoking of tobacco in a public area of the store that is~~
12 ~~leased to or operated by a person who is licensed pursuant to NRS~~
13 ~~463.160 only if the store includes as part of the remodeling a~~
14 ~~method of ventilation which substantially removes smoke from the~~
15 ~~area.~~
16 ~~—4.— For the purposes of this section, “partial wall” or “wall” may~~
17 ~~include, without limitation, one or more gaming devices, as defined~~
18 ~~in NRS 463.0155, if the gaming devices are configured together or~~
19 ~~in conjunction with other structures to create a barrier that is similar~~
20 ~~to a partial wall or wall.] walls on all sides.~~
21 *2. The person in control of a store that is principally devoted*
22 *to the sale of food for human consumption off the premises shall*
23 *post in the area signs prohibiting smoking in any place not*
24 *designated for that purpose as provided in subsection 1.*

