

ASSEMBLY BILL NO. 118—ASSEMBLYMEN MCCLAIN, HARDY, CONKLIN, OHRENSCHALL, MCCLEARY, ALLEN, ANDERSON, ATKINSON, BUCKLEY, CLABORN, DENIS, GERHARDT, GIUNCHIGLIANI, GOICOECHEA, GRADY, HETTRICK, HOGAN, HOLCOMB, HORNE, KIRKPATRICK, KOIVISTO, LESLIE, MANENDO, MORTENSON, MUNFORD, OCEGUERA, PARKS, PARNELL, PERKINS, PIERCE, SHERER, SIBLEY AND WEBER (BY REQUEST)

FEBRUARY 23, 2005

JOINT SPONSORS: SENATORS HECK, HORSFORD,
SCHNEIDER AND WIENER

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing smoking of tobacco in certain places. (BDR 15-807)

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: 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 of tobacco in certain video arcades; revising the provisions governing smoking of tobacco in child care facilities; providing civil and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law prohibits a person from smoking any form of tobacco in certain
- 2 public places, including a licensed child care facility that provides care for 13 or
- 3 more children. Existing law authorizes a person in control of such a child care
- 4 facility to designate a separate area for smoking but requires that children not be
- 5 allowed in the designated smoking area. (NRS 202.2491) Any person violating the
- 6 provisions of law that prohibit smoking in a public place is guilty of a
- 7 misdemeanor. In addition to any criminal penalty, the person is liable for a civil
- 8 penalty of \$100 for each violation. (NRS 202.2492, 202.24925)



This bill removes the authority of a person in control of a child care facility to designate a smoking area in the facility. This bill also changes the definition of a child care facility to include an establishment operated and maintained to furnish care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age but exempts a child care facility operated in a personal residence.

In addition, this bill prohibits a person from smoking any form of tobacco in a video arcade that is accessible to persons under 18 years of age and contains 10 or more pinball and video machines.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 202.2491 is hereby amended to read as follows:

202.2491 1. Except as otherwise provided in subsections 5 and 6 and NRS 202.24915, 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 or doctor of Oriental medicine.

(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.

(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.

(i) Video arcade.

2. The person in control of an area listed in paragraph (c), (d), (e) ~~(f), (g)~~ 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 NRS 202.24915.

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.

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

6. The smoking of tobacco is not prohibited in:

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

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

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

~~—8.]~~ As used in this section:

(a) “Child care facility” means an establishment ~~[licensed pursuant to chapter 432A of NRS to provide care for 13 or more children.]~~ *operated and maintained to furnish care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children. The term does not include the home of a natural person who provides child care.*

(b) “Licensed gaming establishment” has the meaning ascribed to it in NRS 463.0169.

(c) “Public building” means any building or office space owned or occupied by:

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



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

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

6 ➡ If only part of a building is owned or occupied by an entity
7 described in this paragraph, the term means only that portion of the
8 building which is so owned or occupied.

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

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

