

Amendment No. 305

Senate Amendment to Senate Bill No. 372

(BDR 15-1099)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date	
Adopted	☐	Lost	☐ _____		Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____		Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____		Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold dashed underlining*** is newly added transitory language.

BAW/BJE



Date: 4/13/2009

S.B. No. 372—Revises the Nevada Clean Indoor Air Act. (BDR 15-1099)



SENATE BILL NO. 372—COMMITTEE ON JUDICIARY

MARCH 23, 2009

Referred to Committee on Judiciary

SUMMARY—Revises the Nevada Clean Indoor Air Act. (BDR 15-1099)

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 smoking; revising the Nevada Clean Indoor Air Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Clean Indoor Air Act, which is currently codified as NRS 202.2483, was proposed by an initiative petition and approved by the voters at the 2006 General Election and therefore is not subject to legislative amendment or repeal until after December 8, 2009. The Act: (1) generally prohibits the smoking of tobacco in certain locations, such as within indoor places of employment, within school buildings and on school property; (2) provides that local authorities may adopt and enforce local tobacco control measures that meet or exceed the minimum applicable standards set forth in the Act; and (3) authorizes state and local health authorities and local law enforcement to enforce the provisions of the Act and issue citations for violations of the Act.

This bill revises the provisions of the Act by: (1) authorizing the smoking of tobacco in certain ~~public smoking areas of an indoor place of employment, under certain circumstances, and in certain~~ convention facilities during certain meetings and trade shows; (2) establishing an “adult stand-alone bar, tavern or saloon” as a new type of establishment in which smoking is allowed; (3) eliminating the provision that authorizes local authorities to adopt and enforce local tobacco control measures that meet or exceed the minimum applicable standards set forth in the Act; ~~and~~ (4) ***requiring the State Board of Health to adopt regulations relating to the enforcement of the Act; and*** (5) providing that the State Health Officer or his designee may enforce the provisions of the Act and issue citations for violations of the Act, ~~but the State Health Officer is required to designate local health authorities and local law enforcement officers may not do so, to enforce the provisions of the Act in certain areas of this State under certain circumstances.~~

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

Section 1. NRS 202.2483 is hereby amended to read as follows:
202.2483 1. Except as otherwise provided in subsection 3, smoking tobacco in any form is prohibited within indoor places of employment including, but not limited to, the following:
(a) Child care facilities;

(b) Movie theatres;
(c) Video arcades;
(d) Government buildings and public places;
(e) Malls and retail establishments;
(f) All areas of grocery stores; and
(g) All indoor areas within restaurants.

2. Without exception, smoking tobacco in any form is prohibited within school buildings and on school property.

3. Smoking tobacco is not prohibited in:

(a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to NRS 463.350;

(b) Stand-alone bars, taverns and saloons ~~{} and adult stand-alone bars, taverns and saloons;~~

(c) Strip clubs or brothels;

(d) Retail tobacco stores; ~~{} and~~

(e) Private residences, including private residences which may serve as an office workplace, except if used as a child care, an adult day care or a health care facility ~~{}; and~~

(f) ~~{The public smoking area of an indoor place of employment if:~~
~~— (1) The smoking area is in a completely enclosed area;~~
~~— (2) The smoking area contains a separate method of ventilation from the other public areas of the indoor place of employment, which substantially prevents smoke from infiltrating the other public areas of the indoor place of employment; and~~
~~— (3) Persons who are under 21 years of age are prohibited at all times from being present in the smoking area; and~~
~~— (g) The area of a convention facility in which a meeting or trade show is being held, during the time the meeting or trade show is occurring, if the meeting or trade show:~~
~~(1) Is not open to the public;~~
~~(2) Is being produced or organized by a business relating to tobacco or a professional association for convenience stores; and~~
~~(3) Involves the display of tobacco products.~~

4. In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.

5. ~~{Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city or town from adopting and enforcing local tobacco control measures that meet or exceed the minimum applicable standards set forth in this section.~~

~~— 6.} “No Smoking” signs or the international “No Smoking” symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited.~~

~~{7.} Health authorities, police officers of cities or towns, sheriffs and their deputies shall, within their respective jurisdictions.}~~

6. The State Health Officer or his designee shall, in accordance with the regulations adopted by the State Board of Health pursuant to subsection 9, enforce the provisions of this section and ~~{shall}~~ issue citations for violations of this

section pursuant to NRS ~~[202.2492 and NRS]~~ 202.24925 ~~[1]~~, except that the provisions of subsection 7 apply to the amount of any civil penalty imposed for a violation of subsection 7. For areas of this State that are within a health district, the State Health Officer shall, upon request of the district health officer, designate the district health officer as his designee to enforce the provisions of this section and issue citations for violations of this section, unless the State Health Officer determines that good cause exists not to designate the district health officer as his designee.

7. An adult stand-alone bar, tavern or saloon that allows any person who is under 21 years of age to remain inside the adult stand-alone bar, tavern or saloon is liable for a civil penalty of:

(a) For the first offense, \$1,000.

(b) For the second or any subsequent offense, \$2,000.

~~8. [7]~~ No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this section.

~~9. [9]~~ The State Board of Health shall adopt regulations governing the enforcement of the provisions of this section and the issuance of citations for violations of this section.

10. For the purposes of this section, the following terms have the following definitions:

(a) “Adult stand-alone bar, tavern or saloon” means an establishment that ~~is~~, in addition to giving, serving or offering for sale food:

(1) Is licensed pursuant to any applicable local ordinance to sell alcoholic beverages to be consumed on the premises;

(2) Holds a nonrestricted license as defined in NRS 463.0177 or a restricted license as defined in NRS 463.0189; and

(3) Prohibits at all times persons who are under 21 years of age from entering the premises.

(b) “Casino” means an entity that contains a building or large room devoted to gambling games or wagering on a variety of events. A casino must possess a nonrestricted gaming license as described in NRS 463.0177 and typically uses the word ‘casino’ as part of its proper name.

~~[(b)]~~ (c) “Child care facility” has the meaning ascribed to it in NRS 432A.024.

~~[(c)]~~ (d) “Completely enclosed area” means an area that is enclosed on all sides by any combination of solid walls, windows or doors that extend from the floor to the ceiling.

~~[(d)]~~ (e) “District health officer” means the district health officer in a health district. The term includes any employee designated by the district health officer to enforce the provisions of this section and issue citations for violations of this section.

(f) “Government building” means any building or office space owned or occupied by:

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

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

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

~~[(e)]~~ “(Health authority)” has the meaning ascribed to it in NRS 202.2485.]

~~[(f)]~~ (g) “Incidental food service or sales” means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of NRS 446.870.

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

~~(d)~~ (i) "Public places" means any enclosed areas to which the public is invited or in which the public is permitted.

~~(e)~~ (j) "Restaurant" means a business ,other than an adult stand-alone bar, tavern or saloon, which gives or offers for sale food, with or without alcoholic beverages, to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

~~(f)~~ (k) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

~~(g)~~ (l) "School building" means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

~~(h)~~ (m) "School property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

~~(i)~~ (n) "Stand-alone bar, tavern or saloon" means an establishment devoted primarily to the sale of alcoholic beverages to be consumed on the premises, in which food service is incidental to its operation, and provided that smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section. In addition, a stand-alone bar, tavern or saloon must be housed in either:

(1) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this section; or

(2) A completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use.

~~(j)~~ (o) "Video arcade" has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345.

~~(k)~~ ~~(10)~~ ~~(9)~~ 11. Any statute or regulation inconsistent with this section is null and void.

~~(l)~~ ~~(11)~~ ~~(10)~~ 12. The provisions of this section are severable. If any provision of this section or the application thereof is declared by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of the section as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

Sec. 2. This act becomes effective on December 9, 2009.