

SENATE BILL NO. 383—COMMITTEE ON HEALTH AND EDUCATION

MARCH 23, 2009

Referred to Committee on Health and Education

SUMMARY—Requires certain warnings regarding the use of certain tobacco products. (BDR 40-1104)

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 public health; requiring each retail establishment in which cigarettes are sold or offered for sale to post a sign regarding the dangers of smoking tobacco during pregnancy; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires food establishments in which alcoholic beverages are sold for consumption on the premises to post at least one sign in a location conspicuous to the patrons of the establishment regarding the dangers of drinking alcoholic beverages during pregnancy. (NRS 446.842) Existing law also requires the owner of a retail establishment in which tobacco products are sold or offered for sale to display prominently at the point of sale a notice indicating that the sale of cigarettes and other tobacco products to minors is prohibited by law and that the retailer may ask for proof of age to comply with the prohibition. (NRS 202.2493)

This bill requires each retail establishment in which cigarettes are sold or offered for sale to post at least one sign regarding the dangers of smoking tobacco during pregnancy in a location conspicuous to the patrons of the establishment. Each such retail establishment is required to comply with the provisions of this bill on or before December 31, 2009. A person who fails to post the sign is subject to a civil fine of not more than \$100.

WHEREAS, Women who smoke tobacco during pregnancy cause chemicals such as tar, nicotine and carbon monoxide to pass from the placenta into the fetal blood supply, causing blood vessels to restrict and preventing oxygen and nutrients from reaching the fetus; and



WHEREAS, Studies have shown that women who smoked anytime during the month before becoming pregnant through the end of the first trimester were more likely to give birth to infants with certain congenital heart defects; and

WHEREAS, Studies have shown that infants who are born to women who smoke during their pregnancy have an increased risk of being born premature and are more likely to have a low birth weight; and

WHEREAS, Premature births and low birth weights are the leading causes of death of newborn infants; and

WHEREAS, In 2005, the United States spent \$26 billion in medical care costs associated with premature births; and

WHEREAS, The Comprehensive Smoking Education Act of 1984 requires cigarette packages to contain a warning label to adequately inform the public of the adverse health effects of smoking tobacco, including the adverse health effects of smoking tobacco during pregnancy; now, therefore,

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

Section 1. Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each retail establishment in which cigarettes are sold or offered for sale shall post at least one sign that meets the requirements of this section in a location conspicuous to the patrons of the establishment. The contents of the warning may be included on any other sign which the retail establishment is required to post in a location conspicuous to the patrons of the establishment.

2. Each sign required by subsection 1 must be not less than 8 1/2 by 11 inches in size and must contain a notice in boldface type that is clearly legible and, except as otherwise provided in paragraph (a) of subsection 4, is in substantially the following form:

HEALTH WARNING

Smoking tobacco during pregnancy can cause birth defects, premature birth and low birth weight.

¡ADVERTENCIA!

Fumar tabaco durante el embarazo puede causar daño a su bebé al nacer, que nazca prematuro y que nazca bajo de peso.



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1 **3. The letters in the words "HEALTH WARNING" AND**
2 **"¡ADVERTENCIA!" in the sign must be written in not less than**
3 **40-point type, and the letters in all other words in the sign must be**
4 **written in not less than 30-point type.**

5 **4. The Health Division may:**

6 **(a) Provide by regulation for one or more alternative forms for**
7 **the language of the warning to be included on the signs required**
8 **by subsection 1 to increase the effectiveness of the signs. Each**
9 **alternative form must contain substantially the same message as is**
10 **stated in subsection 2.**

11 **(b) Solicit and accept donations of signs that satisfy the**
12 **requirements of this section from a nonprofit organization or any**
13 **other source. To the extent that such signs are donated, the Health**
14 **Division shall distribute the signs upon request to retail**
15 **establishments that are required to post signs.**

16 **Sec. 2.** NRS 202.2493 is hereby amended to read as follows:

17 202.2493 1. A person shall not sell, distribute or offer to sell
18 cigarettes or smokeless products made from tobacco in any form
19 other than in an unopened package which originated with the
20 manufacturer and bears any health warning required by federal law.
21 A person who violates this subsection shall be punished by a fine of
22 \$100 and a civil penalty of \$100.

23 2. Except as otherwise provided in subsections 3, 4 and 5, it is
24 unlawful for any person to sell, distribute or offer to sell cigarettes,
25 cigarette paper, tobacco of any description or products made from
26 tobacco to any child under the age of 18 years. A person who
27 violates this subsection shall be punished by a fine of not more than
28 \$500 and a civil penalty of not more than \$500.

29 3. A person shall be deemed to be in compliance with the
30 provisions of subsection 2 if, before he sells, distributes or offers to
31 sell to another, cigarettes, cigarette paper, tobacco of any description
32 or products made from tobacco, he:

33 (a) Demands that the person present a valid driver's license or
34 other written or documentary evidence which shows that the person
35 is 18 years of age or older;

36 (b) Is presented a valid driver's license or other written or
37 documentary evidence which shows that the person is 18 years of
38 age or older; and

39 (c) Reasonably relies upon the driver's license or written or
40 documentary evidence presented by the person.

41 4. The employer of a child who is under 18 years of age may,
42 for the purpose of allowing the child to handle or transport tobacco
43 or products made from tobacco in the course of the child's lawful
44 employment, provide tobacco or products made from tobacco to the
45 child.



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5. With respect to any sale made by his employee, the owner of a retail establishment shall be deemed to be in compliance with the provisions of subsection 2 if he:

(a) Had no actual knowledge of the sale; and

(b) Establishes and carries out a continuing program of training for his employees which is reasonably designed to prevent violations of subsection 2.

6. The owner of a retail establishment shall, whenever any product made from tobacco is being sold or offered for sale at the establishment, display prominently at the point of sale ~~the notice indicating that:~~

~~(a) The:~~

(a) A notice indicating that the sale of cigarettes and other tobacco products to minors is prohibited by law; ~~and~~

~~(b) The:~~

(b) A notice indicating that the retailer may ask for proof of age to comply with this prohibition ~~the~~; and

(c) At least one sign that meets the requirements of section 1 of this act.

➔ A person who violates this subsection shall be punished by a fine of not more than \$100.

7. It is unlawful for any retailer to sell cigarettes through the use of any type of display:

(a) Which contains cigarettes and is located in any area to which customers are allowed access; and

(b) From which cigarettes are readily accessible to a customer without the assistance of the retailer,

➔ except a vending machine used in compliance with NRS 202.2494. A person who violates this subsection shall be punished by a fine of not more than \$500.

8. Any money recovered pursuant to this section as a civil penalty must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2494.

Sec. 3. On or before December 31, 2009, each retail establishment in which cigarettes are sold or offered for sale shall comply with the requirements of section 1 of this act.

Sec. 4. 1. This section and sections 1 and 3 of this act become effective on July 1, 2009.

2. Section 2 of this act becomes effective on January 1, 2010.

