

ASSEMBLY BILL NO. 362—ASSEMBLYMEN DIAZ, CARRILLO, FRIERSON, DONDERO LOOP, SHERWOOD; AIZLEY, ATKINSON, BENITEZ-THOMPSON, BOBZIEN, BUSTAMANTE ADAMS, DALY, FLORES, HORNE, KIRKPATRICK, NEAL, OHRENSCHALL, PIERCE, SEGERBLOM AND SMITH

MARCH 21, 2011

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing education. (BDR 38-782)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; establishing the Interim Task Force on Out-of-School-Time Programs; requiring the Task Force to prescribe standards for out-of-school-time programs and to make certain recommendations relating to out-of-school-time programs; exempting an out-of-school-time program from licensure and regulation as a child care facility; authorizing an out-of-school-time program to report certain information to the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill defines an "out-of-school-time program" as a program that operates for 10 or more hours per week, is offered on a continuing basis, provides supervision of children who are of school age and provides regularly scheduled, structured and supervised activities where learning opportunities take place during times when a child is not in school. **Section 5** of this bill exempts an out-of-school-time program from the licensing requirements for and regulation as a child care facility by excluding an out-of-school-time program from the definition of a "child care facility." **Sections 6-8** of this bill ensure that the existing definition of "child care facility" is not changed for certain other purposes.

Section 9 of this bill establishes the Interim Task Force on Out-of-School-Time Programs and requires the Task Force to prescribe standards for out-of-school-time



* A B 3 6 2 R 1 *

12 programs and make certain other recommendations concerning out-of-school-time
13 programs. **Section 9** also requires the Task Force to submit a report of its
14 recommendations to the Governor and to the Director of the Legislative Counsel
15 Bureau for transmittal to the 77th Session of the Nevada Legislature.

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

1 **Section 1.** Chapter 432A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1. “Out-of-school-time program” means a program**
4 **that operates for 10 or more hours per week, is offered on a**
5 **continuing basis, provides supervision of children who are of**
6 **school age and provides regularly scheduled, structured and**
7 **supervised activities where learning opportunities take place:**

8 **(a) Before or after school;**

9 **(b) During the summer or other seasonal breaks in the school**
10 **calendar; or**

11 **(c) Between sessions for children who attend a school which**
12 **operates on a year-round calendar.**

13 **2. The term does not include programs for children which**
14 **have a single focus or activity, which may include, without**
15 **limitation, religious education, instruction in music, participation**
16 **in a sport, tutoring or participation in a club.**

17 **Sec. 3.** (Deleted by amendment.)

18 **Sec. 4.** NRS 432A.020 is hereby amended to read as follows:

19 432A.020 As used in this chapter, unless the context otherwise
20 requires, the words and terms defined in NRS 432A.0205 to
21 432A.028, inclusive, **and section 2 of this act** have the meanings
22 ascribed to them in those sections.

23 **Sec. 5.** NRS 432A.024 is hereby amended to read as follows:

24 432A.024 1. “Child care facility” means:

25 (a) An establishment operated and maintained for the purpose of
26 furnishing care on a temporary or permanent basis, during the day or
27 overnight, to five or more children under 18 years of age, if
28 compensation is received for the care of any of those children;

29 (b) An on-site child care facility;

30 (c) A child care institution; or

31 (d) An outdoor youth program.

32 2. “Child care facility” does not include:

33 (a) The home of a natural parent or guardian, foster home as
34 defined in NRS 424.014 or maternity home;

35 (b) A home in which the only children received, cared for and
36 maintained are related within the third degree of consanguinity or



1 affinity by blood, adoption or marriage to the person operating the
2 facility; ~~for~~

3 (c) A home in which a person provides care for the children of a
4 friend or neighbor for not more than 4 weeks if the person who
5 provides the care does not regularly engage in that activity ~~H~~; or

6 *(d) A location at which an out-of-school-time program is*
7 *operated.*

8 **Sec. 6.** NRS 202.2483 is hereby amended to read as follows:

9 202.2483 1. Except as otherwise provided in subsection 3,
10 smoking tobacco in any form is prohibited within indoor places of
11 employment including, but not limited to, the following:

- 12 (a) Child care facilities;
- 13 (b) Movie theatres;
- 14 (c) Video arcades;
- 15 (d) Government buildings and public places;
- 16 (e) Malls and retail establishments;
- 17 (f) All areas of grocery stores; and
- 18 (g) All indoor areas within restaurants.

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

21 3. Smoking tobacco is not prohibited in:

- 22 (a) Areas within casinos where loitering by minors is already
23 prohibited by state law pursuant to NRS 463.350;
- 24 (b) Stand-alone bars, taverns and saloons;
- 25 (c) Strip clubs or brothels;
- 26 (d) Retail tobacco stores;
- 27 (e) Private residences, including private residences which may
28 serve as an office workplace, except if used as a child care, an adult
29 day care or a health care facility; and
- 30 (f) The area of a convention facility in which a meeting or trade
31 show is being held, during the time the meeting or trade show is
32 occurring, if the meeting or trade show:

- 33 (1) Is not open to the public;
- 34 (2) Is being produced or organized by a business relating to
35 tobacco or a professional association for convenience stores; and
- 36 (3) Involves the display of tobacco products.

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

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



* A B 3 6 2 R 1 *

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, enforce the provisions of this section and shall issue citations for violations of this section pursuant to NRS 202.2492 and 202.24925.

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

(a) "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) "Child care facility" has the meaning ascribed to it in NRS ~~432A.024.~~ 441A.030.

(c) "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) "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) "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.

(g) "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



1 areas, restrooms, hallways, employee lounges, cafeterias, conference
2 and meeting rooms, lobbies and reception areas.

3 (h) "Public places" means any enclosed areas to which the
4 public is invited or in which the public is permitted.

5 (i) "Restaurant" means a business which gives or offers for sale
6 food, with or without alcoholic beverages, to the public, guests or
7 employees, as well as kitchens and catering facilities in which food
8 is prepared on the premises for serving elsewhere.

9 (j) "Retail tobacco store" means a retail store utilized primarily
10 for the sale of tobacco products and accessories and in which the
11 sale of other products is merely incidental.

12 (k) "School building" means all buildings on the grounds of any
13 public school described in NRS 388.020 and any private school as
14 defined in NRS 394.103.

15 (l) "School property" means the grounds of any public school
16 described in NRS 388.020 and any private school as defined in
17 NRS 394.103.

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

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

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

33 (n) "Video arcade" has the meaning ascribed to it in paragraph
34 (d) of subsection 3 of NRS 453.3345.

35 10. Any statute or regulation inconsistent with this section is
36 null and void.

37 11. The provisions of this section are severable. If any
38 provision of this section or the application thereof is declared by a
39 court of competent jurisdiction to be invalid or unconstitutional,
40 such declaration shall not affect the validity of the section as a
41 whole or any provision thereof other than the part declared to be
42 invalid or unconstitutional.

43 **Sec. 7.** NRS 441A.030 is hereby amended to read as follows:

44 441A.030 1. "Child care facility" ~~has the meaning ascribed~~
45 ~~to it in NRS 432A.024.] means:~~



* A B 3 6 2 R 1 *

1 (a) *An establishment operated and maintained for the purpose*
2 *of furnishing care on a temporary or permanent basis, during the*
3 *day or overnight, to five or more children under 18 years of age, if*
4 *compensation is received for the care of any of those children;*

5 (b) *An on-site child care facility as defined in NRS 432A.0275;*

6 (c) *A child care institution as defined in NRS 432A.0245; or*

7 (d) *An outdoor youth program as defined in NRS 432A.028.*

8 2. *“Child care facility” does not include:*

9 (a) *The home of a natural parent or guardian, foster home as*
10 *defined in NRS 424.014 or maternity home;*

11 (b) *A home in which the only children received, cared for and*
12 *maintained are related within the third degree of consanguinity or*
13 *affinity by blood, adoption or marriage to the person operating the*
14 *facility; or*

15 (c) *A home in which a person provides care for the children of*
16 *a friend or neighbor for not more than 4 weeks if the person who*
17 *provides the care does not regularly engage in that activity.*

18 **Sec. 8.** NRS 444.065 is hereby amended to read as follows:

19 444.065 1. Except as otherwise provided in subsection 2, as
20 used in NRS 444.065 to 444.120, inclusive, “public swimming
21 pool” means any structure containing an artificial body of water that
22 is intended to be used collectively by persons for swimming or
23 bathing, regardless of whether a fee is charged for its use.

24 2. The term does not include any such structure at:

25 (a) A private residence if the structure is controlled by the owner
26 or other authorized occupant of the residence and the use of the
27 structure is limited to members of the family of the owner or
28 authorized occupant of the residence or invited guests of the owner
29 or authorized occupant of the residence.

30 (b) A family foster home as defined in NRS 424.013.

31 (c) A child care facility, as defined in NRS ~~432A.024,~~
32 **441A.030**, furnishing care to 12 children or less.

33 (d) Any other residence or facility as determined by the State
34 Board of Health.

35 (e) Any location if the structure is a privately owned pool used
36 by members of a private club or invited guests of the members.

37 **Sec. 9.** 1. There is hereby created the Interim Task Force on
38 Out-of-School-Time Programs. The Task Force is composed of the
39 following 12 members:

40 (a) A representative of the Bureau of Services for Child Care of
41 the Division of Child and Family Services of the Department of
42 Health and Human Services, appointed by the Administrator of the
43 Division;



(b) A representative of local governmental agencies that provide public services for children, appointed by the Nevada Association of Counties or its successor organization;

(c) A representative of the Nevada System of Higher Education, appointed by the Board of Regents of the University of Nevada;

(d) A representative of the public schools in this State, appointed by the State Board of Education;

(e) A representative of a national nonprofit organization that provides services to children, appointed by the Legislative Commission;

(f) A representative of a nonprofit organization that is located in Nevada and provides services to children, appointed by the Legislative Commission;

(g) A representative of a nonprofit organization that is located in Nevada and provides support to an out-of-school-time program, appointed by the Legislative Commission;

(h) A representative of a private, for profit organization that is located in Nevada and provides services to children, appointed by the Legislative Commission;

(i) A representative of an agency that provides resources and referrals to out-of-school-time programs, appointed by the Legislative Commission;

(j) A representative of a faith-based organization that provides services to children, appointed by the Legislative Commission; and

(k) Two members who are parents of children in this State, appointed by the Legislative Commission.

2. The Administrator of the Division of Child and Family Services of the Department of Health and Human Services, the Nevada Association of Counties, the Board of Regents of the University of Nevada, the State Board of Education and the Legislative Commission shall appoint the members of the Task Force as soon as practicable after July 1, 2011. A vacancy on the Task Force must be filled in the same manner as the original appointment.

3. The Task Force shall meet on or before October 1, 2011, and at its first meeting the members of the Task Force shall elect a Chair from among the members. A majority of the members of the Task Force constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Task Force.

4. The Task Force shall meet at least once every 3 months and at the call of the Chair or a majority of the members of the Task Force.

5. Each member of the Task Force serves without compensation. Each member of the Task Force who is an officer or



* A B 3 6 2 R 1 *

1 employee of the State or a local government must be relieved from
2 his or her duties without loss of his or her regular compensation to
3 prepare for and attend meetings of the Task Force and perform any
4 work necessary to carry out the duties of the Task Force in the most
5 timely manner practicable. A state agency or local government shall
6 not require an officer or employee who is a member of the Task
7 Force to make up the time the member is absent from work to carry
8 out his or her duties as a member and shall not require the member
9 to take annual vacation or compensatory time for the absence.

10 6. The Bureau of Services for Child Care of the Division of
11 Child and Family Services of the Department of Health and Human
12 Services shall provide administrative support to the Task Force and
13 may accept assistance from a nonprofit organization in providing
14 such support.

15 7. The Task Force shall:

16 (a) Prescribe standards for out-of-school-time programs;

17 (b) Make recommendations concerning out-of-school-time
18 programs and the implementation of the standards prescribed by the
19 Task Force, including, without limitation, recommendations for a
20 pilot program for the standards; and

21 (c) Make recommendations concerning whether out-of-school-
22 time programs should be licensed and regulated by the Bureau of
23 Services for Child Care.

24 8. The Task Force shall, on or before June 30, 2012, submit a
25 report to the Governor and to the Director of the Legislative Counsel
26 Bureau for transmittal to the 77th Session of the Nevada Legislature.
27 The report must include, without limitation:

28 (a) A full and detailed description of the standards for out-of-
29 school-time programs prescribed by the Task Force;

30 (b) Recommendations concerning the establishment of a pilot
31 program for the standards prescribed by the Task Force;

32 (c) Recommendations concerning whether out-of-school-time
33 programs should be licensed and regulated by the Bureau of
34 Services for Child Care; and

35 (d) Any other recommendations for legislation relating to out-
36 of-school-time programs.

37 9. An out-of-school-time program may register with the
38 Bureau of Services for Child Care or other entity designated by the
39 Bureau. By registering with the Bureau, the out-of-school-time
40 program agrees to comply with the standards established by the
41 Task Force and to participate in any pilot project established
42 pursuant to subsection 8.

43 10. As used in this section, "out-of-school-time program" has
44 the meaning ascribed to it in section 2 of this act.

45 **Sec. 10.** 1. This act becomes effective on July 1, 2011.



* A B 3 6 2 R 1 *

- 1 2. Section 9 of this act expires by limitation on June 30, 2013.

③⑩

