

Amendment No. 372

Assembly Amendment to Assembly Bill No. 128

(BDR 15-911)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: Yes 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 underlining* is newly added transitory language.

NCA/BAW



Date: 4/20/2011

A.B. No. 128—Prohibits smoking on the property of the Nevada System of Higher Education. (BDR 15-911)



ASSEMBLY BILL NO. 128—ASSEMBLYMAN AIZLEY

PREFILED FEBRUARY 4, 2011

Referred to Committee on Judiciary

SUMMARY—Prohibits smoking on the property of the Nevada System of Higher Education. (BDR 15-911)

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: Yes.

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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; prohibiting the smoking of tobacco on the property of the Nevada System of Higher Education, ~~and~~ **except in certain designated smoking areas**; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[The Nevada Clean Indoor Air Act was proposed by an initiative petition and approved by voters at the 2006 General Election. (NRS 202.2483) The Act]~~ **Existing law** generally prohibits the smoking of tobacco in certain locations, such as within indoor places of employment, ~~and~~ **and** within buildings or office space owned or occupied by the Nevada System of Higher Education, ~~and within school buildings and on school property. This bill expands the Act to prohibit~~ (NRS 202.2483) **This bill generally prohibits** the smoking of tobacco on any property or campus owned or occupied by the Nevada System of Higher Education. **This bill also provides that the Nevada System of Higher Education may designate certain areas where smoking may be permitted, if the areas are separate from normal pedestrian access and entrances of buildings.**

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~~ ~~(a) Within~~ school buildings and on school property.
- ~~(b) On any property or campus owned or occupied by any component of the Nevada System of Higher Education and used for any purpose related to the System.~~
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;
- (c) Strip clubs or brothels;
- (d) Retail tobacco stores;
- (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 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, 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.

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

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

(i) "Restaurant" means a business 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.

(j) "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.

(k) "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.

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

(m) "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.

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

10. Any statute or regulation inconsistent with this section, unless such statute or regulation meets or exceeds the minimum applicable standards set forth in this section, is null and void.

11. 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

1 section as a whole or any provision thereof other than the part declared to be invalid
2 or unconstitutional.

3 **Sec. 2. Chapter 396 of NRS is hereby amended by adding thereto a new**
4 **section to read as follows:**

5 **1. Except as otherwise provided in subsection 2, smoking tobacco in any**
6 **form is prohibited on any property or campus owned or occupied by any**
7 **component of the System and used for any purpose related to the System.**

8 **2. The System may designate certain outside areas, that are separate from**
9 **areas of normal pedestrian use or ingress and egress from buildings, where**
10 **smoking tobacco may be permitted.**

11 **3. A person who violates the provisions of this section is guilty of a**
12 **misdemeanor.**

13 **4. The police department of the System shall prepare, sign and serve written**
14 **citations on persons accused of violating this section.**