

Amendment No. 201

Senate Amendment to Senate Bill No. 53 (BDR 38-242)

Proposed by: Senate Committee on Health and Human Services**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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.

RBL



Date: 4/18/2011

S.B. No. 53—Excludes locations where programs are operated by a local government to supervise children from certain licensing requirements. (BDR 38-242)



SENATE BILL NO. 53—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE CITY OF HENDERSON)

PREFILED DECEMBER 15, 2010

Referred to Committee on Health and Human Services

SUMMARY—Excludes ~~locations where~~ **certain** programs ~~are operated by a local government to~~ **that** supervise children from certain licensing requirements. (BDR 38-242)

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 child care facilities; excluding ~~the location where a program is operated by a local government to supervise children during certain times~~ **certain seasonal or temporary recreation programs and out-of-school recreation programs** from certain licensing requirements; **requiring certain out-of-school recreation programs to obtain a permit; establishing certain requirements for the operation of an out-of-school recreation program;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a child care facility to be licensed by an agency created by a city or county for the licensing of child care facilities or by the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services. (NRS 432A.131, 432A.141) **Section 12** of this bill revises the definition of "child care facility" to exclude from the term ~~the location where a program is operated by a local government to provide supervision of children before or after school, during the summer or other seasonal breaks in the school calendar or between sessions~~ **certain seasonal or temporary recreation programs and certain out-of-school recreation programs** so that such ~~locations~~ **programs** are not required to be licensed. ~~Sections 13-15~~ **Sections 13-15** of this bill revise provisions that apply the same definition of "child care facility" for other purposes so that the definition does not change in those provisions.

Section 5 of the bill requires a local government to obtain a permit to operate an out-of-school recreation program. To obtain a permit, the local government must complete an application, pay a fee and meet certain requirements. Section 6 of this bill requires a local government that operates an out-of-school recreation program to comply with certain health and safety standards and to comply with other requirements relating to the safety of participants. Section 7 of this bill provides certain requirements for the staff of an out-of-school recreation program. Section 7 also limits the number of participants in a program and establishes certain components that must be included in such a program. Section 8 of this bill requires an out-of-school recreation program to

maintain certain records about participants in the program. Section 9 of this bill requires a local government that operates an out-of-school recreation program to provide copies of certain inspections of the facility where the program is conducted according to a schedule established by the Bureau. If the local government submits such records, section 9 prohibits the Bureau from conducting any additional on-site inspections of the facility. Section 10 of this bill authorizes the Bureau to adopt any regulations necessary to provide for the permits to operate an out-of-school recreation program.

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. "Local government" means any political subdivision of this State, including, without limitation, a city, county, town, school district or other district.

Sec. 3. 1. "Out-of-school recreation program" means a recreation program operated or sponsored by a local government in a facility which is owned, operated or leased by the local government and which provides enrichment activities to children of school age:

(a) Before or after school;

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

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

2. The term does not include a seasonal or temporary recreation program.

Sec. 4. "Seasonal or temporary recreation program" means a recreation program that is offered to children for a limited time or duration and may include, without limitation:

1. A special sports event, which may include, without limitation, a camp, clinic, demonstration or workshop which focuses on a particular sport;

2. A therapeutic program for children with disabilities, which may include, without limitation, social activities, outings and other inclusion activities;

3. An athletic training program, which may include, without limitation, a baseball or other sports league and exercise instruction; and

4. Other special interest programs, which may include, without limitation, an arts and crafts workshop, a theater camp and dance competition.

Sec. 5. 1. To operate an out-of-school recreation program a local government must obtain a permit. The local government may apply for the issuance or renewal of a permit by submitting an application on a form prescribed by the Bureau. The Bureau shall issue a permit to operate an out-of-school recreation program to the local government upon payment of the fee prescribed in subsection 2 and upon satisfaction that the program complies with the requirements set forth in sections 2 to 10, inclusive, of this act, and any regulations adopted pursuant thereto.

2. The Bureau shall charge a fee for a permit to operate an out-of-school recreation program based upon the number of locations operated by the out-of-school recreation program. If the out-of-school recreation program has:

(a) At least 1 but not more than 5 locations, the Bureau shall charge a fee of \$100.

(b) At least 6 but not more than 20 sites, the Bureau shall charge a fee of \$250.

(c) At least 21 but not more than 40 sites, the Bureau shall charge a fee of \$500.

(d) At least 41 but not more than 60 sites, the Bureau shall charge a fee of \$750.

(e) At least 61 but not more than 80 sites, the Bureau shall charge a fee of \$1000.

(f) At least 81 sites, the Bureau shall charge a fee of \$1250.

3. A permit issued pursuant to this section is nontransferable and is valid:

(a) For 3 years from the date of issuance; and

(b) Only as to a location specifically identified on the permit.

Sec. 6. A local government that operates an out-of-school recreation program shall ensure that each location:

1. Complies with applicable laws and regulations concerning safety standards;

2. Complies with applicable laws and regulations concerning health standards;

3. Has a complete first-aid kit accessible on-site that complies with the requirements of the Occupational Safety and Health Administration of the United States Department of Labor;

4. Has an emergency exit plan posted on-site in a conspicuous place; and

5. Has not less than two staff members on-site and available during the hours of operation who are certified and receive annual training in the use and administration of first aid, including, without limitation, cardiopulmonary resuscitation.

Sec. 7. A local government that operates an out-of-school recreation program shall:

1. Complete, for each member of the staff of the out-of-school recreation program:

(a) A background and personal history check; and

(b) A child abuse and neglect screening through the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against the staff member.

2. Ensure that each member of the staff of the out-of-school recreation program:

(a) Meets the minimum requirements that have been established for the position; and

(b) Receives an orientation and training concerning the abuse and neglect of children.

3. Ensure that the number of participants in the out-of-school recreation program:

(a) Does not exceed a ratio of one person supervising every 20 participants; and

(b) Will not cause the facility where the program is operated to exceed the maximum occupancy as determined by the State Fire Marshal or the local governmental entity that has the authority to determine the maximum occupancy of the facility.

4. Ensure that the out-of-school recreation program includes, without limitation:

(a) An inclusion component for participants who qualify under the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.;

(b) Structured activities, including, without limitation, arts and crafts, games and sports;

(c) Nonstructured activities, which may include, without limitation, free time for playing;

(d) Regular restroom breaks; and

(e) Nutrition breaks.

Sec. 8. 1. The out-of-school recreation program shall maintain records containing pertinent information regarding each participant in the program. Such information must include, without limitation:

(a) The full legal name of the child and the preferred name of the child;

(b) The date of birth of the child;

(c) The current address where the child resides;

(d) The name, address and telephone number of each parent or legal guardian of the child and any special instructions for contacting the parent or legal guardian during the hours when the child participates in the program;

(e) Information concerning the health of the child, including, without limitation, any special needs of the child; and

(f) Any other information requested by the Bureau.

2. The distribution of any information maintained pursuant to this section is subject to the limitations set forth in NRS 239.0105.

Sec. 9. 1. A local government that operates an out-of-school recreation program shall provide a copy of each report of an inspection conducted by a governmental entity that is authorized to conduct an inspection of the facility where the program is operated, including, without limitation, the report of an inspection by a local building department, a fire department, the State Fire Marshal or a district board of health.

2. The Bureau shall establish a schedule for the submission of such reports which requires submission of a report of an on-site inspection once every 2 years and shall provide a checklist to the local government which identifies the reports that must be submitted to the Bureau.

3. The Bureau shall not require any additional inspections of the facility of an out-of-school recreation program which complies with the provisions of this section.

Sec. 10. The Bureau shall adopt any regulations necessary to carry out the provisions of sections 2 to 9, inclusive, of this act.

Sec. 11. NRS 432A.020 is hereby amended to read as follows:

432A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432A.0205 to 432A.028, inclusive, and sections 2, 3 and 4 of this act have the meanings ascribed to them in those sections.

~~Section 11~~ Sec. 12. NRS 432A.024 is hereby amended to read as follows:

432A.024 1. "Child care facility" means:

(a) An establishment operated and maintained for the purpose of furnishing 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;

(b) An on-site child care facility;

(c) A child care institution; or

(d) An outdoor youth program.

2. "Child care facility" does not include:

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

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

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

~~(d) A location where a program is operated by a local government to provide supervision of children;~~

~~(1) Before or after school;~~

~~(2) During the summer or other seasonal breaks in the school calendar;~~

~~(3) Between sessions for children who attend a school which operates on a year-round calendar;~~

~~3. As used in this section, "local government" means any political subdivision of this State, including, without limitation, a county, city, town, school district or other district;~~

~~(d) A seasonal or temporary recreation program; or~~

~~(e) An out-of-school recreation program.~~

~~[Sec. 2.]~~ Sec. 13. 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;
- (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 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 NRS 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 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 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 section as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

~~[Sec. 3.]~~ **Sec. 14.** NRS 441A.030 is hereby amended to read as follows:

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

(a) *An establishment operated and maintained for the purpose of furnishing 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;*

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

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

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

2. *The term does not include:*

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

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

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

~~[Sec. 4.]~~ **Sec. 15.** NRS 444.065 is hereby amended to read as follows:

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

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

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

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

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

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

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

6 **Sec. 16. On or before July 1, 2012, the Bureau of Services for Child Care**
7 **of the Division of Child and Family Services of the Department of Health and**
8 **Human Services shall adopt regulations for the operation of out-of-school**
9 **recreation programs pursuant to sections 5 to 9, inclusive, of this act.**

10 ~~[Sec. 5.]~~ **Sec. 17.** This act becomes effective upon passage and approval.