

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 programs are operated by a local government to supervise children from certain licensing requirements. (BDR 38-242)

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

~

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 a location where a program is operated by a local government to supervise children during certain times from certain licensing requirements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires a child care facility to be licensed by an agency created
2 by a city or county for the licensing of child care facilities or by the Bureau of
3 Services for Child Care of the Division of Child and Family Services of the
4 Department of Health and Human Services. (NRS 432A.131, 432A.141) **Section 1**
5 of this bill revises the definition of “child care facility” to exclude from the term a
6 location where a program is operated by a local government to provide supervision
7 of children before or after school, during the summer or other seasonal breaks in the
8 school calendar or between sessions so that such locations are not required to be
9 licensed. **Sections 2-4** of this bill revise provisions that apply the same definition of
10 “child care facility” for other purposes so that the definition does not change in
11 those provisions.



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

Section 1. 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~~; or

(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; or

(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.*

Sec. 2. 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; ~~land~~

(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. 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



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

4 **Sec. 4.** NRS 444.065 is hereby amended to read as follows:

5 444.065 1. Except as otherwise provided in subsection 2, as
6 used in NRS 444.065 to 444.120, inclusive, "public swimming
7 pool" means any structure containing an artificial body of water that
8 is intended to be used collectively by persons for swimming or
9 bathing, regardless of whether a fee is charged for its use.

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

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

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

17 (c) A child care facility, as defined in NRS ~~432A.024,~~
18 *441A.030*, furnishing care to 12 children or less.

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

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

23 **Sec. 5.** This act becomes effective upon passage and approval.

