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TOBACCO

NEVADA CLEAN INDOOR AIR ACT

NRS 202.2483 Smoking tobacco: Prohibited in certain areas; voluntary creation of nonsmoking areas; local regulation; posting signs; removal of paraphernalia; enforcement; retaliation prohibited. [Effective December 8, 2006. This section was proposed by an initiative petition and approved by the voters at the 2006 General Election and therefore is not subject to legislative amendment or repeal until after December 8, 2009.]

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.

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.

(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.

(Added to NRS by 2006 initiative petition, Ballot Question No. 5, effective December 8, 2006)

REVISER'S NOTE.

The Clean Indoor Air Act Initiative Petition, the source of this section, contains the following provision not included in NRS:

"This Act shall be known, cited and referred to as the 'Nevada Clean Indoor Air Act: Protecting children and families from secondhand smoke in most public places, excluding stand-alone bars and gaming areas of casinos.'"

PROVISIONS ENACTED BEFORE NEVADA CLEAN INDOOR AIR ACT

NRS 202.2485 Definitions. As used in NRS 202.2485 to 202.2497, inclusive:

1. "Distribute" includes furnishing, giving away or providing products made from tobacco or samples thereof at no cost to promote the product, whether or not in combination with a sale.

2. "Health authority" means the district health officer in a district, or his designee, or, if none, the State Health Officer, or his designee.

(Added to NRS by 1993, 2843; A 1995, 2603; 2001, 2788)

NRS 202.249 Smoking tobacco: Declaration of public policy; enforcement; imposition of more stringent restrictions.

1. It is the public policy of the State of Nevada and the purpose of NRS 202.2491, 202.24915 and 202.2492 to place restrictions on the smoking of tobacco in public places to protect human health and safety.

2. The quality of air is declared to be affected with the public interest and NRS 202.2491, 202.24915 and 202.2492 are enacted in the exercise of the police power of this state to protect the health, peace, safety and general welfare of its people.

3. Health authorities, police officers of cities or towns, sheriffs and their deputies and other peace officers of this state shall, within their respective jurisdictions, enforce the provisions of NRS 202.2491, 202.24915 and 202.2492. Police officers of cities or towns, sheriffs and their deputies and other peace officers of this state shall, within their respective jurisdictions, enforce the provisions of NRS 202.2493, 202.24935 and 202.2494.

4. Except as otherwise provided in subsection 5, an agency, board, commission or political subdivision of this state, including, without limitation, any agency, board, commission or governing body of a local government, shall not impose more

