

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 certain programs 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 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:

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**
5 **12** of this bill revises the definition of “child care facility” to exclude from the term
6 certain seasonal or temporary recreation programs and certain out-of-school
7 recreation programs so that such programs are not required to be licensed. **Sections**
8 **13-15** of this bill revise provisions that apply the same definition of “child care
9 facility” for other purposes so that the definition does not change in those
10 provisions.

11 **Section 5** of the bill requires a local government to obtain a permit to operate
12 an out-of-school recreation program. To obtain a permit, the local government must
13 complete an application, pay a fee and meet certain requirements. **Section 6** of this
14 bill requires a local government that operates an out-of-school recreation program
15 to comply with certain health and safety standards and to comply with other
16 requirements relating to the safety of participants. **Section 7** of this bill provides
17 certain requirements for the staff of an out-of-school recreation program. **Section 7**
18 also limits the number of participants in a program and establishes certain



19 components that must be included in such a program. **Section 8** of this bill requires
20 an out-of-school recreation program to maintain certain records about participants
21 in the program. **Section 9** of this bill requires a local government that operates an
22 out-of-school recreation program to provide copies of certain inspections of
23 the facility where the program is conducted according to a schedule established by
24 the Bureau. If the local government submits such records, **section 9** prohibits the
25 Bureau from conducting any additional on-site inspections of the facility. **Section**
26 **10** of this bill authorizes the Bureau to adopt any regulations necessary to provide
27 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:

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

4 **Sec. 2.** *“Local government” means any political subdivision*
5 *of this State, including, without limitation, a city, county, town,*
6 *school district or other district.*

7 **Sec. 3. 1.** *“Out-of-school recreation program” means a*
8 *recreation program operated or sponsored by a local government*
9 *in a facility which is owned, operated or leased by the local*
10 *government and which provides enrichment activities to children*
11 *of school age:*

12 *(a) Before or after school;*

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

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

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

19 **Sec. 4.** *“Seasonal or temporary recreation program” means*
20 *a recreation program that is offered to children for a limited time*
21 *or duration and may include, without limitation:*

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

3 (a) **A background and personal history check; and**

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

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

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

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

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

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

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

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

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

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

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

32 (d) **Regular restroom breaks; and**

33 (e) **Nutrition breaks.**

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

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

40 (b) **The date of birth of the child;**

41 (c) **The current address where the child resides;**

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



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

3 (f) Any other information requested by the Bureau.

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

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

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

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

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

24 **Sec. 11.** NRS 432A.020 is hereby amended to read as follows:
25 432A.020 As used in this chapter, unless the context otherwise
26 requires, the words and terms defined in NRS 432A.0205 to
27 432A.028, inclusive, *and sections 2, 3 and 4 of this act* have the
28 meanings ascribed to them in those sections.

29 **Sec. 12.** NRS 432A.024 is hereby amended to read as follows:
30 432A.024 1. "Child care facility" means:

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

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

36 (c) A child care institution; or

37 (d) An outdoor youth program.

38 2. "Child care facility" does not include:

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

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



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

4 *(d) A seasonal or temporary recreation program; or*

5 *(e) An out-of-school recreation program.*

6 **Sec. 13.** NRS 202.2483 is hereby amended to read as follows:

7 202.2483 1. Except as otherwise provided in subsection 3,
8 smoking tobacco in any form is prohibited within indoor places of
9 employment including, but not limited to, the following:

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

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

19 3. Smoking tobacco is not prohibited in:

20 (a) Areas within casinos where loitering by minors is already
21 prohibited by state law pursuant to NRS 463.350;

22 (b) Stand-alone bars, taverns and saloons;

23 (c) Strip clubs or brothels;

24 (d) Retail tobacco stores; ~~and~~

25 (e) Private residences, including private residences which may
26 serve as an office workplace, except if used as a child care, an adult
27 day care or a health care facility; and

28 (f) The area of a convention facility in which a meeting or trade
29 show is being held, during the time the meeting or trade show is
30 occurring, if the meeting or trade show:

31 (1) Is not open to the public;

32 (2) Is being produced or organized by a business relating to
33 tobacco or a professional association for convenience stores; and

34 (3) Involves the display of tobacco products.

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

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

44 6. "No Smoking" signs or the international "No Smoking"
45 symbol shall be clearly and conspicuously posted in every public



1 place and place of employment where smoking is prohibited by this
2 section. Each public place and place of employment where smoking
3 is prohibited shall post, at every entrance, a conspicuous sign clearly
4 stating that smoking is prohibited. All ashtrays and other smoking
5 paraphernalia shall be removed from any area where smoking is
6 prohibited.

7 7. Health authorities, police officers of cities or towns, sheriffs
8 and their deputies shall, within their respective jurisdictions, enforce
9 the provisions of this section and shall issue citations for violations
10 of this section pursuant to NRS 202.2492 and NRS 202.24925.

11 8. No person or employer shall retaliate against an employee,
12 applicant or customer for exercising any rights afforded by, or
13 attempts to prosecute a violation of, this section.

14 9. For the purposes of this section, the following terms have
15 the following definitions:

16 (a) "Casino" means an entity that contains a building or large
17 room devoted to gambling games or wagering on a variety of
18 events. A casino must possess a nonrestricted gaming license as
19 described in NRS 463.0177 and typically uses the word 'casino' as
20 part of its proper name.

21 (b) "Child care facility" has the meaning ascribed to it in NRS
22 ~~[432A.024.]~~ 441A.030.

23 (c) "Completely enclosed area" means an area that is enclosed
24 on all sides by any combination of solid walls, windows or doors
25 that extend from the floor to the ceiling.

26 (d) "Government building" means any building or office space
27 owned or occupied by:

28 (1) Any component of the Nevada System of Higher
29 Education and used for any purpose related to the System;

30 (2) The State of Nevada and used for any public purpose; or

31 (3) Any county, city, school district or other political
32 subdivision of the State and used for any public purpose.

33 (e) "Health authority" has the meaning ascribed to it in
34 NRS 202.2485.

35 (f) "Incidental food service or sales" means the service of
36 prepackaged food items including, but not limited to, peanuts,
37 popcorn, chips, pretzels or any other incidental food items that are
38 exempt from food licensing requirements pursuant to subsection 2
39 of NRS 446.870.

40 (g) "Place of employment" means any enclosed area under the
41 control of a public or private employer which employees frequent
42 during the course of employment including, but not limited to, work
43 areas, restrooms, hallways, employee lounges, cafeterias, conference
44 and meeting rooms, lobbies and reception areas.



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

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

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

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

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

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

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

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

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

33 10. Any statute or regulation inconsistent with this section is
34 null and void.

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

41 **Sec. 14.** NRS 441A.030 is hereby amended to read as follows:

42 441A.030 *1.* "Child care facility" ~~has the meaning ascribed~~
43 ~~to it in NRS 432A.024.] means:~~

44 *(a) An establishment operated and maintained for the purpose*
45 *of furnishing care on a temporary or permanent basis, during the*



1 *day or overnight, to five or more children under 18 years of age, if*
2 *compensation is received for the care of any of those children;*

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

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

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

7 **2. The term does not include:**

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

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

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

17 **Sec. 15.** NRS 444.065 is hereby amended to read as follows:

18 444.065 1. Except as otherwise provided in subsection 2, as
19 used in NRS 444.065 to 444.120, inclusive, "public swimming
20 pool" means any structure containing an artificial body of water that
21 is intended to be used collectively by persons for swimming or
22 bathing, regardless of whether a fee is charged for its use.

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

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

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

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

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

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

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

41 **Sec. 17.** This act becomes effective upon passage and
42 approval.



