

Amendment No. 68

Senate Amendment to Senate Bill No. 177	(BDR 5-689)
<b>Proposed by:</b> Senate Committee on Judiciary	
<b>Amends:</b> Summary: No Title: No 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.

BFG/BAW



Date: 4/8/2013

S.B. No. 177—Prohibits a minor from committing certain acts relating to the possession and use of tobacco products. (BDR 5-689)



SENATE BILL NO. 177—SENATORS SETTELMAYER, HARDY; CEGAVSKE, GOICOECHEA, GUSTAVSON, HAMMOND, HUTCHISON, JONES, KIECKHEFER, SEGERBLOM AND WOODHOUSE

FEBRUARY 20, 2013

JOINT SPONSOR: ASSEMBLYMAN WHEELER

Referred to Committee on Judiciary

SUMMARY—Prohibits a minor from committing certain acts relating to the possession and use of tobacco products. (BDR 5-689)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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 tobacco; prohibiting a minor from committing certain acts relating to the possession and use of tobacco products; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

**Section 10** of this bill prohibits a minor from purchasing or attempting to purchase tobacco products, possessing or attempting to possess tobacco products, using tobacco products or falsely representing his or her age to purchase, possess or obtain tobacco products. **Section 4** of this bill provides that a child may be issued a citation for violating the provisions of **section 10**, while **section 3** of this bill provides that a probation officer may act as a master of the juvenile court if the proceeding involves such a citation. Under sections 3.3, 3.7 and 10 of this bill, a child who violates the provisions of section 10 is a child in need of supervision for the purposes of juvenile court proceedings rather than a delinquent child.

**Section 5** of this bill sets forth the possible punishment ~~for~~ if a child is adjudicated to be in need of supervision because the child has committed a violation of section 10 - ~~which includes~~ Under section 5, the juvenile court may order a child to pay a \$25 fine for a first ~~offense~~ adjudication, a \$50 fine for a second ~~offense~~ adjudication and a \$75 fine for a third ~~offense~~, and a \$75 fine plus the requirement to or any subsequent adjudication. If the juvenile court orders a child to pay such a fine, section 5 requires the juvenile court to order the child to pay a \$10 administrative assessment in addition to the fine. Section 5 further provides that: (1) for any adjudication that a child is in need of supervision because the child committed a violation of section 10, the juvenile court may order a child to attend a tobacco awareness and cessation program ~~for a fourth or subsequent offense. Fines collected under section 5 are required to be deposited in the Account for Health Education for Minors.~~

~~—Section 8 of this bill provides that if a child who is ordered to attend and complete a tobacco awareness and cessation program pursuant to section 5 successfully completes that program, the juvenile court is required to enter an order sealing all records pertaining to any offense related to tobacco that was committed by the child before the date on which the court~~

26 ~~ordered the child to attend and complete the program.] ; and (2) for a third or any~~  
 27 ~~subsequent adjudication or for a willful failure by the child to pay a fine or~~  
 28 ~~administrative assessment, the juvenile court may order a suspension or delay in the~~  
 29 ~~issuance of the child's driver's license for at least 30 days but not more than 90 days.~~  
 30 ~~Under section 5, if the juvenile court orders the suspension or delay in the issuance of a~~  
 31 ~~child's driver's license, the juvenile court may order the Department of Motor Vehicles~~  
 32 ~~to issue to the child a restricted driver's license that authorizes the child to drive to and~~  
 33 ~~from school or work or to acquire medicine or food for himself or herself or for an~~  
 34 ~~immediate family member.~~

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

1 **Section 1.** Chapter 62A of NRS is hereby amended by adding thereto a new  
 2 section to read as follows:

3 ***"Offense related to tobacco" means a violation of section 10 of this act.***

4 **Sec. 2.** NRS 62A.010 is hereby amended to read as follows:

5 62A.010 As used in this title, unless the context otherwise requires, the words  
 6 and terms defined in NRS 62A.020 to 62A.350, inclusive, ***and section 1 of this act***  
 7 have the meanings ascribed to them in those sections.

8 **Sec. 3.** NRS 62B.020 is hereby amended to read as follows:

9 62B.020 1. Except as otherwise provided in this section, the juvenile court  
 10 or the chief judge of the judicial district may appoint any person to act as a master  
 11 of the juvenile court if the person is qualified by previous experience, training and  
 12 demonstrated interest in the welfare of children to act as a master of the juvenile  
 13 court.

14 2. A probation officer shall not act as a master of the juvenile court unless the  
 15 proceeding concerns:

16 (a) A minor traffic offense; ~~to~~

17 (b) ***An offense related to tobacco; or***

18 (c) A child who is alleged to be a habitual truant.

19 3. If a person is appointed to act as a master of the juvenile court, the person  
 20 shall attend instruction at the National College of Juvenile and Family Law in  
 21 Reno, Nevada, in a course designed for the training of new judges of the juvenile  
 22 court on the first occasion when such instruction is offered after the person is  
 23 appointed.

24 4. If, for any reason, a master of the juvenile court is unable to act, the  
 25 juvenile court or the chief judge of the judicial district may appoint another  
 26 qualified person to act temporarily as a master of the juvenile court during the  
 27 period that the master who is regularly appointed is unable to act.

28 5. The compensation of a master of the juvenile court:

29 (a) May not be taxed against the parties.

30 (b) Must be paid out of appropriations made for the expenses of the district  
 31 court, if the compensation is fixed by the juvenile court.

32 **Sec. 3.3. NRS 62B.320 is hereby amended to read as follows:**

33 62B.320 1. Except as otherwise provided in this title, the juvenile court has  
 34 exclusive original jurisdiction in proceedings concerning any child living or found  
 35 within the county who is alleged or adjudicated to be in need of supervision  
 36 because the child:

37 (a) Is subject to compulsory school attendance and is a habitual truant from  
 38 school;

1 (b) Habitually disobeys the reasonable and lawful demands of the parent or  
2 guardian of the child and is unmanageable;

3 (c) Deserts, abandons or runs away from the home or usual place of abode of  
4 the child and is in need of care or rehabilitation; ~~or~~

5 (d) Uses an electronic communication device to transmit or distribute a sexual  
6 image of himself or herself to another person or to possess a sexual image in  
7 violation of NRS 200.737. ~~or~~ or

8 (e) Commits an offense related to tobacco.

9 2. A child who is subject to the jurisdiction of the juvenile court pursuant to  
10 this section must not be considered a delinquent child.

11 3. As used in this section:

12 (a) "Electronic communication device" has the meaning ascribed to it in NRS  
13 200.737.

14 (b) "Sexual image" has the meaning ascribed to it in NRS 200.737.

15 Sec. 3.7. NRS 62B.330 is hereby amended to read as follows:

16 62B.330 1. Except as otherwise provided in this title, the juvenile court has  
17 exclusive original jurisdiction over a child living or found within the county who is  
18 alleged or adjudicated to have committed a delinquent act.

19 2. For the purposes of this section, a child commits a delinquent act if the  
20 child:

21 (a) Violates a county or municipal ordinance;

22 (b) Violates any rule or regulation having the force of law; or

23 (c) Commits an act designated a criminal offense pursuant to the laws of the  
24 State of Nevada. ~~or~~ other than an offense related to tobacco.

25 3. For the purposes of this section, each of the following acts shall be deemed  
26 not to be a delinquent act, and the juvenile court does not have jurisdiction over a  
27 person who is charged with committing such an act:

28 (a) Murder or attempted murder and any other related offense arising out of the  
29 same facts as the murder or attempted murder, regardless of the nature of the  
30 related offense.

31 (b) Sexual assault or attempted sexual assault involving the use or threatened  
32 use of force or violence against the victim and any other related offense arising out  
33 of the same facts as the sexual assault or attempted sexual assault, regardless of the  
34 nature of the related offense, if:

35 (1) The person was 16 years of age or older when the sexual assault or  
36 attempted sexual assault was committed; and

37 (2) Before the sexual assault or attempted sexual assault was committed,  
38 the person previously had been adjudicated delinquent for an act that would have  
39 been a felony if committed by an adult.

40 (c) An offense or attempted offense involving the use or threatened use of a  
41 firearm and any other related offense arising out of the same facts as the offense or  
42 attempted offense involving the use or threatened use of a firearm, regardless of the  
43 nature of the related offense, if:

44 (1) The person was 16 years of age or older when the offense or attempted  
45 offense involving the use or threatened use of a firearm was committed; and

46 (2) Before the offense or attempted offense involving the use or threatened  
47 use of a firearm was committed, the person previously had been adjudicated  
48 delinquent for an act that would have been a felony if committed by an adult.

49 (d) A felony resulting in death or substantial bodily harm to the victim and any  
50 other related offense arising out of the same facts as the felony, regardless of the  
51 nature of the related offense, if:

52 (1) The felony was committed on the property of a public or private school  
53 when pupils or employees of the school were present or may have been present, at

1 an activity sponsored by a public or private school or on a school bus while the bus  
2 was engaged in its official duties; and

3 (2) The person intended to create a great risk of death or substantial bodily  
4 harm to more than one person by means of a weapon, device or course of action  
5 that would normally be hazardous to the lives of more than one person.

6 (e) A category A or B felony and any other related offense arising out of the  
7 same facts as the category A or B felony, regardless of the nature of the related  
8 offense, if the person was at least 16 years of age but less than 18 years of age when  
9 the offense was committed, and:

10 (1) The person is not identified by law enforcement as having committed  
11 the offense and charged before the person is at least 20 years, 3 months of age, but  
12 less than 21 years of age; or

13 (2) The person is not identified by law enforcement as having committed  
14 the offense until the person reaches 21 years of age.

15 (f) Any other offense if, before the offense was committed, the person  
16 previously had been convicted of a criminal offense.

17 **Sec. 4.** Chapter 62C of NRS is hereby amended by adding thereto a new  
18 section to read as follows:

19 *1. If a child is stopped or otherwise detained by a peace officer for an  
20 offense related to tobacco, the peace officer may prepare and issue a citation in  
21 the same manner in which a traffic citation is prepared and issued pursuant to  
22 NRS 62C.070.*

23 *2. If a child who is issued a citation for an offense related to tobacco  
24 executes a written promise to appear in court by signing the citation, the peace  
25 officer:*

26 *(a) Shall deliver a copy of the citation to the child; and*

27 *(b) Shall not take the child into physical custody for the violation.*

28 **Sec. 5.** Chapter 62E of NRS is hereby amended by adding thereto a new  
29 section to read as follows:

30 *1. If a child is ~~found to have~~ adjudicated to be in need of supervision  
31 because the child has committed an offense related to tobacco, the juvenile court  
32 may:*

33 *(a) ~~For the first offense,~~ The first time the child is adjudicated to be in need  
34 of supervision because the child has committed an offense related to tobacco,  
35 order the child to ~~pay~~ :*

36 *~~(1) Pay a fine of \$25 ~~+~~; and~~*

37 *~~(2) Attend and complete a tobacco awareness and cessation program.~~*

38 *(b) ~~For the second offense,~~ The second time the child is adjudicated to be in  
39 need of supervision because the child has committed an offense related to  
40 tobacco, order the child to ~~pay~~ :*

41 *~~(1) Pay a fine of \$50 ~~+~~; and~~*

42 *~~(2) Attend and complete a tobacco awareness and cessation program.~~*

43 *(c) ~~For the third offense,~~ The third or any subsequent time the child is  
44 adjudicated to be in need of supervision because the child has committed an  
45 offense related to tobacco, order ~~the child to pay~~ :*

46 *~~(1) The child to pay a fine of \$75 ~~+~~~~*

47 *~~(d) For the fourth offense or any subsequent offense, order the child:~~*

48 *~~(1) To pay a fine of \$75; and~~*

49 *~~(2) To attend and complete a tobacco awareness and cessation program.~~*

50 *~~The~~ :*

51 *~~(2) The child to attend and complete a tobacco awareness and cessation  
52 program; and~~*

1 (3) That the driver's license of the child be suspended for at least 30 days  
 2 but not more than 90 days or, if the child does not possess a driver's license,  
 3 prohibit the child from receiving a driver's license for at least 30 days but not  
 4 more than 90 days;

5 (I) Immediately following the date of the order, if the child is eligible  
 6 to receive a driver's license.

7 (II) After the date the child becomes eligible to apply for a driver's  
 8 license, if the child is not eligible to receive a license on the date of the order.

9 2. If the juvenile court orders a child to attend and complete a tobacco  
 10 awareness and cessation program, the juvenile court may order the child or the  
 11 parent or guardian of the child, or both, to pay the reasonable cost for the child to  
 12 attend the program.

13 ~~2.3.~~ 3. If the juvenile court ~~imposes~~ orders a child to pay a fine pursuant  
 14 to this section, the juvenile court shall order the child to pay an administrative  
 15 assessment pursuant to NRS 62E.270.

16 ~~3. If, because of financial hardship, the child is unable to pay a fine~~  
 17 ~~imposed pursuant to this section, the juvenile court may order the child to~~  
 18 ~~perform community service.]~~

19 4. ~~[The money collected from any fine imposed pursuant to this section~~  
 20 ~~must be deposited with the State Treasurer for credit to the Account for Health~~  
 21 ~~Education for Minors created pursuant to NRS 202.24925.] If the juvenile court~~  
 22 ~~orders a child to pay a fine and administrative assessment pursuant to this section~~  
 23 ~~and the child willfully fails to pay the fine or administrative assessment, the~~  
 24 ~~juvenile court may order that the driver's license of the child be suspended for at~~  
 25 ~~least 30 days but not more than 90 days or, if the child does not possess a driver's~~  
 26 ~~license, prohibit the child from receiving a driver's license for at least 30 days but~~  
 27 ~~not more than 90 days;~~

28 (a) Immediately following the date of the order, if the child is eligible to  
 29 receive a driver's license.

30 (b) After the date the child becomes eligible to apply for a driver's license, if  
 31 the child is not eligible to receive a license on the date of the order.

32 ↳ If the child is already the subject of a court order suspending or delaying the  
 33 issuance of the driver's license of the child, the juvenile court shall order the  
 34 additional suspension or delay, as appropriate, to apply consecutively with the  
 35 previous order.

36 5. If the juvenile court suspends the driver's license of a child pursuant to  
 37 this section, the juvenile court may order the Department of Motor Vehicles to  
 38 issue a restricted driver's license pursuant to NRS 483.490 permitting the child to  
 39 drive a motor vehicle;

40 (a) To and from work or in the course of his or her work, or both;

41 (b) To and from school; or

42 (c) To acquire supplies of medicine or food or receive regularly scheduled  
 43 medical care for himself, herself or a member of his or her immediate family.

44 **Sec. 6.** NRS 62E.270 is hereby amended to read as follows:

45 62E.270 1. If the juvenile court imposes a fine against:

46 (a) A delinquent child pursuant to NRS 62E.730;

47 (b) A child who has committed a minor traffic offense, except an offense  
 48 related to metered parking, pursuant to NRS 62E.700; or

49 (c) A child in need of supervision, or the parent or guardian of the child,  
 50 because the child is a habitual truant pursuant to NRS 62E.430,

51 ↳ the juvenile court shall order the child or the parent or guardian of the child to  
 52 pay an administrative assessment of \$10 in addition to the fine.

2. *If, pursuant to section 5 of this act, the juvenile court imposes a fine against a child who has committed an offense related to tobacco, the juvenile court shall order the child to pay an administrative assessment of \$10 in addition to the fine.*

3. The juvenile court shall state separately on its docket the amount of money that the juvenile court collects for the administrative assessment.

~~4.~~ 4. If the child is found not to have committed the alleged act or the charges are dropped, the juvenile court shall return to the child or the parent or guardian of the child any money deposited with the juvenile court for the administrative assessment.

~~5.~~ 5. On or before the fifth day of each month for the preceding month, the clerk of the court shall pay to the county treasurer the money the juvenile court collects for administrative assessments.

~~6.~~ 6. On or before the 15th day of each month, the county treasurer shall deposit the money in the county general fund for credit to a special account for the use of the county's juvenile court or for services to delinquent children.

**Sec. 6.5. NRS 62E.400 is hereby amended to read as follows:**

62E.400 1. The provisions of this section and NRS 62E.410, 62E.420 and 62E.430 and section 5 of this act apply to the disposition of a case involving a child who is found to be within the purview of this title because the child is or is alleged to be in need of supervision.

2. If such a child is found to be within the purview of this title:

(a) The juvenile court may issue any orders or take any actions set forth in NRS 62E.410, 62E.420 and 62E.430 and section 5 of this act that the juvenile court deems proper for the disposition of the case; and

(b) If required by a specific statute, the juvenile court shall issue the appropriate orders or take the appropriate actions set forth in the statute.

**Sec. 7. ~~NRS 62E.500 is hereby amended to read as follows:~~**

~~62E.500 1. The provisions of NRS 62E.500 to 62E.730, inclusive [;], and section 5 of this act~~

~~(a) Apply to the disposition of a case involving a child who is adjudicated delinquent.~~

~~(b) Except as otherwise provided in NRS 62E.700 and 62E.705, do not apply to the disposition of a case involving a child who is found to have committed a minor traffic offense.~~

~~(c) Except as otherwise provided in section 5 of this act, do not apply to the disposition of a case involving a child who is found to have committed an offense related to tobacco.~~

~~2. If a child is adjudicated delinquent:~~

~~(a) The juvenile court may issue any orders or take any actions set forth in NRS 62E.500 to 62E.730, inclusive, that the juvenile court deems proper for the disposition of the case; and~~

~~(b) If required by a specific statute, the juvenile court shall issue the appropriate orders or take the appropriate actions set forth in the statute.] (Deleted by amendment.)~~

**Sec. 8. ~~Chapter 62H of NRS is hereby amended by adding thereto a new section to read as follows:~~**

~~If a child who is ordered to attend and complete a tobacco awareness and cessation program pursuant to section 5 of this act successfully completes that program, the juvenile court shall enter an order sealing all records pertaining to any offense related to tobacco that was committed by the child before the date on which the court ordered the child to attend and complete the program.] (Deleted by amendment.)~~

1        **Sec. 9.** ~~NRS 62H.100 is hereby amended to read as follows:~~  
2        ~~62H.100 1. As used in NRS 62H.100 to 62H.170, inclusive, and section 9~~  
3 ~~of this act, unless the context otherwise requires, "records" means any records~~  
4 ~~relating to a child who is within the purview of this title and who:~~  
5 ~~(a) Is taken into custody by a peace officer or a probation officer or is~~  
6 ~~otherwise taken before a probation officer; or~~  
7 ~~(b) Appears before the juvenile court or any other court pursuant to the~~  
8 ~~provisions of this title.~~  
9        ~~2. The term includes records of arrest. **(Deleted by amendment.)**~~

10        **Sec. 10.** Chapter 202 of NRS is hereby amended by adding thereto a new  
11 section to read as follows:

12        1. *Except as otherwise provided in this section, a child who is under the age*  
13 *of 18 years shall not:*

14        (a) *Purchase or attempt to purchase tobacco products;*

15        (b) *Possess or attempt to possess tobacco products;*

16        (c) *Use tobacco products; or*

17        (d) *Falsely represent that he or she is 18 years of age or older to purchase,*  
18 *possess or obtain tobacco products.*

19        2. *A child who is under the age of 18 years and who violates the provisions*  
20 *of this section ~~commits~~ :*

21        (a) *Commits an offense related to tobacco and is subject to the provisions of*  
22 *section 5 of this act.*

23        (b) *Is a child in need of supervision, as that term is used in title 5 of NRS,*  
24 *and is not a delinquent child.*

25        3. *The provisions of this section do not apply to a child who is under the age*  
26 *of 18 years and who is:*

27        (a) *Assisting in an inspection pursuant to NRS 202.2496;*

28        (b) *Handling or transporting tobacco products in the course of his or her*  
29 *lawful employment; or*

30        (c) *Handling or transporting tobacco products in the presence of his or her*  
31 *parent, spouse or legal guardian who is 18 years of age or older.*

32        4. *As used in this section, "tobacco products" means cigarettes, cigarette*  
33 *paper, tobacco of any description or products made from tobacco.*

34        **Sec. 11.** NRS 202.2485 is hereby amended to read as follows:

35        202.2485 As used in NRS 202.2485 to 202.2497, inclusive ~~†~~, *and section*  
36 *10 of this act:*

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

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