

# QUESTION NO. 4

## Amendment to Title 15 of the Nevada Revised Statutes

### CONDENSATION (Ballot Question)

Shall Chapter 202 of the Nevada Revised Statutes be amended in order to prohibit smoking tobacco in certain public places, except all areas of casinos, gaming areas within establishments holding gaming licenses, bars and certain other locations?

Yes.....

No.....

### EXPLANATION (Ballot Question)

The proposed amendment, if passed, would prohibit smoking tobacco at the following locations: certain indoor restaurants; certain child care facilities; elementary, secondary and high school property; hospitals and medical offices; theaters and concert halls; video arcades; government buildings; all areas within grocery stores, drug stores and convenience stores except the gaming areas; and museums, galleries, and other places of public display.

Smoking tobacco would continue to be allowed at the following locations: casinos or facilities with an unrestricted gaming license; bars, taverns, saloons; restaurants where persons under the age of 21 are not allowed; strip clubs and brothels; retail tobacco stores; private residences, including, hotel and motel rooms, and private residences that are used as office workplaces; and gaming areas within grocery stores, drug stores, convenience stores and any other businesses that hold a Nevada gaming license.

The proposed amendment would also provide that only the Nevada Legislature may regulate the smoking of tobacco.

The proposed amendment would also require “no smoking” signs to be conspicuously posted at locations where smoking tobacco is prohibited.

### ARGUMENT ADVOCATING PASSAGE

We believe a “YES” vote for Question 4 will amend and strengthen current laws to protect the children of Nevada from second-hand smoke.

By prohibiting smoking on school grounds, movie theaters and government buildings – and by requiring restaurants to ban smoking in areas where children are permitted – Question 4 will enact common-sense changes to improve our community, protect our liberties and keep children away from second-hand smoke.

Question 4 is simple – it will protect Nevada residents and the millions of visitors who help drive our economy - from second-hand smoke, without stripping us of the personal choices that a free society should enjoy – or crippling the industries and businesses that provide the jobs and revenue to make our communities thrive.

A “YES” vote for Question 4 amends and strengthens current laws to require appropriate, set-aside areas for adults who choose to smoke – while protecting children and non-smokers from second-hand smoke.

A “YES” vote on Question 4 allows the owners of Nevada hotels, resorts and casinos to continue offering both “smoking” and “non-smoking” rooms.

A “YES” Vote on Question 4 allows owners of restaurants to make the choice between setting aside family sections where smoking would be banned or making the entire restaurant smoke-free.

A “YES” Vote on Question 4 allows the people of Nevada to make their own choice of whether to enjoy themselves at a smoking facility or a smoke-free facility.

A “YES” Vote on Question 4 is a vote for the future of our communities and our state and most importantly a vote for the future of our children.

Vote “YES” on Question 4 to protect our children from second-hand smoke.

*The above argument was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252*

### **REBUTTAL TO ARGUMENT ADVOCATING PASSAGE**

Children are not better protected. Smoking is still allowed in gaming areas of convenience stores and grocery stores. It appears that it is not banned in all school buildings. It is allowed in certain licensed child care facilities.

The recent Surgeon General’s report states: "Breathing secondhand smoke for even a short time can have immediate adverse effects on the cardiovascular system in ways that increase the risk of a heart attack. Secondhand smoke is not a mere annoyance, but a serious health hazard that causes premature death and disease in children and non-smoking adults."

It also states, “there is no risk-free level of secondhand smoke exposure,” adding that separating smokers from non-smokers does not protect non-smokers.

Finally, it states that “smoke-free policies and regulations do not have an adverse economic impact on the hospitality industry.” Many areas with tourism-based economies have benefited from smoke-free laws.

Personal choice comes with responsibilities, especially when those choices harm others. Smoking is harmful to non-smokers. Question 4 is not responsible for behavior that harms others.

We believe Question 4 keeps Nevada's children and citizens at risk for cancer, heart disease and asthma.

We believe it benefits mainly special interests, not the majority of Nevadans.

Vote "No" on Question 4.

*The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252*

### **ARGUMENT OPPOSING PASSAGE**

Don't be fooled by Question 4.

We believe Question 4 fails to protect citizens, especially children, from the harmful effects of secondhand smoke, a documented and accepted dangerous pollutant. According to the Center for Disease Control: "Environmental tobacco smoke contains at least 250 chemicals known to be toxic or cause cancer. Unfortunately, the general public's exposure to secondhand smoke is much higher than most people realize."

While on the surface Question 4 appears to ban smoking, we believe it repeatedly increases Nevadans exposure to secondhand smoke.

Currently, school districts are the only local authority that can adopt tougher regulations on smoking and tobacco products. That law would be repealed, placing control over smoking and tobacco solely with the Nevada State Legislature, thereby denying control to any local authority. Also, it appears that Question 4 does not ban smoking in all school buildings.

It allows smoking in licensed child care facilities that provide care for fewer than 13 children.

It does not ban smoking entirely in grocery stores or convenience stores if just one gaming device is present. We believe there are potential conflicts in the language of Question 4 leaving the consequences unclear as to where smoking is allowed.

If a single gaming device is present, smoking may occur in certain areas in a restaurant. It appears that the current law that requires restaurants seating 50 or more to provide non-smoking sections may be repealed.

Subject to certain exceptions, smoking is allowed anywhere in a casino, including all restaurants. We believe that it would provide an unfair advantage for those restaurants.

Moreover, any area where there is a single gaming device may become a smoking area, within retail establishments, grocery stores and other areas potentially frequented by children and families. Again, we believe there are potential conflicts in the language of Question 4 leaving the consequences unclear as to where smoking is allowed.

It appears any business other than a restaurant that holds a permanent or temporary liquor license may become a “bar, tavern or saloon,” where smoking is allowed.

Question 4 is an attempt to confuse voters into casting a vote for public health. Don’t keep Nevada as the 12th highest rate of adult smokers in the nation.

A “YES” vote for Question 4 benefits only the tobacco industry and other special interests. Don’t let Nevadans continue to suffer from diseases caused by secondhand smoke. It’s time to stand up against “Big Tobacco” and special interests.

Vote “NO” on Question 4.

*The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252*

#### **REBUTTAL TO ARGUMENT OPPOSING PASSAGE**

Let’s get to the truth.

Question 4 restricts where people can smoke.

Opponents of Question 4 have stated that it weakens current state law. Nothing could be further from the truth. In fact, it bans smoking in most public places where children are permitted – allows smoking in areas where children are currently not allowed - casinos, adult-only areas of restaurants, bars and taverns.

Question 4 continues to allow bar and restaurant owners the opportunity to have smoke-free establishments while prohibiting children from entering bars, taverns and other adult-only areas where smoking would be allowed.

Nevada state law continues to mandate Ventilation and Purification Systems that have been proven to help reduce second-hand smoke.

Opponents have stated that Question 4 benefits “Big Tobacco,” but again, nothing could be further from the truth. This effort has not taken a penny from tobacco companies.

Question 4 has been funded by small businesses that understand that the more restrictive measure is an extreme attempt to ban smoking altogether – and recognize that this more reasonable approach will protect our children and our economy without stripping us of our rights.

Vote “YES” on Question 4.

*The above argument was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252*

## **FISCAL NOTE**

### **FINANCIAL IMPACT – CANNOT BE DETERMINED**

Question 4 proposes to amend Chapter 202 of *Nevada Revised Statutes* to prohibit smoking in government buildings, schools, child care facilities, hospitals and medical offices, video arcades, indoor portions of restaurants, movie theaters, grocery stores and bakeries, retail establishments, drug and convenience stores, and museums, libraries, galleries, or other places of public display or collection. The proposed prohibition on smoking would not apply to facilities with non-restricted gaming licenses; bars, taverns, and saloons; retail tobacco stores; strip clubs and brothels; hotel and motel rooms; and private residences, unless that private residence houses a child care facility. The proposed prohibition would also not apply to areas of businesses, such as grocery stores, drug and convenience stores, and other retail establishments, that are leased to or operated by persons licensed to provide gaming.

### **FINANCIAL IMPACT OF THE INITIATIVE**

Establishments where smoking is prohibited by Question 4 would be required to conspicuously post “No Smoking” signs at all entrances and throughout the establishment. State law currently prohibits smoking in public buildings, except in specific designated areas, and requires the posting of “No Smoking” signage in areas not designated as smoking areas. It is difficult to determine the amount of new or additional signage needed in state and local buildings, beyond those required by current statute, to comply with the provisions of Question 4. Thus, the specific financial impact to state and local governments, including school districts, with regard to the implementation of the provisions of Question 4 requiring “No Smoking” signage at all entrances and throughout public buildings cannot be determined with any degree of certainty.

The provisions of Question 4 give exclusive power over all regulations regarding the smoking of tobacco to the Nevada Legislature. Under current law, local governments are permitted to create ordinances regarding the smoking of tobacco, and to collect fines for violations of these ordinances. This provision of Question 4 would eliminate the authority of local governments to create ordinances and collect fines related to smoking. Any fines collected for the violation of regulations established by the Nevada Legislature in accordance with the provisions of Question 4 would be deposited in the State Permanent School Fund, as required under Article 11, Section 3 of the Nevada Constitution. With regard to the change of regulatory power over smoking from local governments to the Nevada Legislature, Question 4 would have a negative financial impact upon local governments and a positive financial impact upon the State Permanent School Fund. However, as it is difficult to determine the number of offenses or amount of fines that will occur as a result of the provisions of Question 4, the specific financial impact to local governments or the State Permanent School Fund cannot be reliably estimated.

Current statute requires health authorities and law enforcement agencies to enforce smoking laws within the state, but it is difficult to identify any potential increase in duties or responsibilities

requiring additional resources to enforce Question 4 compared to those required by current statute. Since the need or demand for additional resources cannot be easily predicted, a reasonable estimate of the financial impact upon state and local governments with regard to enforcement of Question 4 cannot be made.

*The fiscal note was prepared by the Legislative Counsel Bureau pursuant to NRS 295.015*