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7-3 **Sec. 12. "Counterfeit stamp" means any stamp that:**
7-4 **1. Falsely depicts a stamp approved by the Department or the**
revenue department of any other state; or
7-5 **2. Was not sold by the Department or its agents.**

20-9 **Sec. 51. NRS 370.257 is hereby amended to read as follows:**
20-10 **370.257 1. Each manufacturer, wholesale dealer and retail**
20-11 **dealer shall provide to the Executive Director and his**
designees
20-12 **and to the Secretary or his designee, upon request, access to**
all the
20-13 **reports and records required by NRS 370.001 to 370.430,**
20-14 **inclusive, and sections 10 to 37, inclusive, of this act. The**
20-15 **Department at its sole discretion may share the records and**
20-16 **reports required by those sections with law enforcement**
officials of this state and
20-17 **of the Federal Government, other states or international**
20-18 **authorities.**

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ASSEMBLY JUDICIARY
DATE: 4/3/03 ROOM: 3138 EXHIBIT M
SUBMITTED BY: Jacobs/Hoffman



Digest of A. B. 460 (with Proposed Amendments)

[Note: The following summary of the provisions of Assembly Bill 460 includes amendments proposed by the Office of the Attorney General and the Retail Association of Nevada, where noted]

- Section 1. Definition of "Delivery Sale"
- Section 2. Replaces "use of Internet" with "delivery sale."
- Section 3. Amends Chapter 62 of NRS by adding sections 4 and 5 below.
- Section 4. Outlaws child under age of 18 from falsely representing age to purchase or obtain cigarettes or tobacco products.
- Proposed Amendment: Confirms that child under 18 cannot be found guilty if assisting in "sting" for law enforcement.
- Section 5. Allows merchant to take child who has falsely represented age into custody. Gives merchant immunity if required signage posted.
- Section 6. Defines child who violates Section 4 as child in need of supervision.
- Section 7. Punishment for violation of Section 4 is community service.
- Section 8. Provides for seizure and forfeiture for violation of Section 34.
- Section 9. Amends Chapter 370 of NRS by adding Sections 10 to 37.
- Section 10. Definition of "cigarette package."
- Section 11. Definition of "counterfeit cigarettes."
- Section 12. Definition of "counterfeit stamp."
- Proposed Amendment: Confirms that term does not include stamp lawfully issued by other state.
- Section 13. Definition of "delivery sale."
- Section 14. Definition of "delivery service."
- Section 15. Definition of "Importer."

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Proposed Amendment: Deletes this definition but includes it as part of the definition of "manufacturer."

- Section 16. Definition of "license."
Section 17. Definition of "licensee."
Section 18. Definition of "Manufacturer."

Proposed Amendment: Clarifies "Importing" as within definition of "manufacturer."

- Section 19. Definition of "place of business."
Section 20. Definition of "Secretary" as Secretary of U. S. Treasury.
Section 21. Definition of "shipping container."
Section 22. Definition of "shipping documents."
Section 23. Definition of "stamp."
Section 24. Sets forth restrictions for issuance of license.

Proposed Amendments: Subsection 1: Removes duplicate language and clarifies restrictions.

Subsection 2. Clarifies requirement for compliance with NRS 370A.140 (2) for non-participating manufacturers, as applicable.

- Section 25. Requires department to create list of all valid licenses.
Section 26. Prohibits person other than wholesale dealer may possess unstamped cigarette packages.

Proposed Amendment: Adds prohibition that no unauthorized person may possess more than 20 cigarette packages with valid tax stamps from another state. (similar to California law)

- Section 27. Prescribes required reports from manufacturers.

Proposed Amendment: Restates required reports for consistency.



- Section 28.** Prohibits acceptance for delivery sale unless licensed as retail dealer.
- Section 29.** Requires certification that purchaser in delivery sale be at least 18 years of age and related verification and confirmation of order. Also sets forth required notice.
- Proposed Amendment:** Removes requirements for 15 U. S. C. 1331(a)(1) warning.
- Section 30.** Requires a mail or deliver service to carry out provisions of Section 32 and to include specified documentation.
- Section 31.** Requires every person other than a delivery service to file copy of sales invoice, name and address of person to whom sold, and quantity and brand of cigarettes sold by deliver sale.
- Section 32.** Sets forth requirements for "delivery sale" by "delivery service."
- Section 33.** Provides for additional civil penalties.
- Section 34.** Provides for forfeiture of property and materials involved in various violations of NRS Chapter 370 and sections of this bill.
- Section 35.** Provides for specified unlawful acts relating to failure to pay tax or to counterfeit stamps or sell or possess such stamps, among others.
- Section 36.** Makes it unlawful to knowingly sell or possess for purpose of sale any counterfeit cigarettes and provides for related penalties.
- Section 37.** Provides for Felony C treatment of violation of Sections 28 through 32.
- Additionally provides for Attorney General or district attorney to investigate and prosecute criminal and civil violations of Sections 10 through 56.
- Proposed Amendment** Clarifies ability to investigate and prosecute violations instead of merely enjoining activity.
- Section 38.** Clarifies utilization of definitions.
- Section 39.** Clarifies definition of "cigarette vending machine operator" in NRS 370.015 to retail dealer only.



- Section 40.** Clarifies definition of “contraband cigarettes” in NRS 370.025.
- Section 41.** Clarifies definition of “retail dealer” in NRS 370.033.
- Section 42.** Clarifies definition of “wholesale dealer” in NRS 370.055.
- Section 43.** Clarifies access with and without warrant under NRS 370.065.
- Section 44.** Clarifies categories of licenses under NRS 370.080.
- Section 45.** Clarifies application requirements for licensure under NRS 370.100.
- Section 46.** Clarifies provisions relating to manufacturer’s license under NRS 370.140.
- Section 47.** Provides that licenses issued under NRS 370.150 are valid for calendar year in which issued related changes.
- Section 48.** Amends NRS 370.210 to require wholesale dealer to stamp cigarettes within 72 hours [Proposed Amendment: ten days] after receipt and for separate storage from stamped cigarettes.
- Section 49.** Amends NRS 370.250 relating to circumstances for suspension, revocation, or revocation of licensee.
- Section 50.** Amends NRS 370.255 relating to required record-keeping and retention of documentation for manufacturers and wholesale dealers.
- Section 51.** Amends NRS 370.257 to require each manufacturer, wholesale dealer or retail dealer to give Department access to records and reports.
- Section 52.** Makes conforming amendments to NRS 370.301.
- Section 53.** Conforms NRS 370.380 to accommodate amendments in other provisions.
- Section 54.** Amends NRS 370.390 to add various sections relating to gross misdemeanor penalty.
- Section 55.** Conforms NRS 370.410 in relation to Section 36 of this bill.



- Section 56.** Clarifies extension of seizure provisions of NRS 370.415 to counterfeit stamps and machinery used to manufacture contraband cigarettes.
- Section 56A.** Adds a new section enabling private party enforcement of provisions of Sections 10 through 56 for licensee.
- Section 57 through Section 75** Creates a new chapter 370B relating to clarification and extension of non-participating manufacturer provisions of Master Settlement Agreement.

Proposed Amendment: Section 73: Revise existing NRS 370A.150 to conform to latest version (February 25, 2003) of "allocable share amendment approved by National Association of Attorneys General which changes only Subsection 2.

- Section 73A** Adds new section covering severability of sections without invalidating remainder.



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EDITORIAL: Meanwhile ...

Those who favor levying monster "sin" taxes on cigarettes and other items may want to consider a story that came out of New York City this week.

Recall that tax hikes in the Big Apple and New York state have pushed the price of a pack of smokes to almost \$7. The inevitable result: black-market smuggling.

On Monday, New York police arrested three people and seized 97,000 packs of cigarettes marked with counterfeit tax stamps. The cigarettes had a "street value of \$727,500," The Associated Press reports.

Surely New York City residents sleep better tonight knowing that -- thanks to East Coast Nanny Staters creating a whole new criminal class -- law enforcement officials now divert crime-fighting resources to combat tobacco smugglers.

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