
ASSEMBLY BILL NO. 460—COMMITTEE ON JUDICIARY

MARCH 24, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes regarding manufacture, sale and use of tobacco products. (BDR 15-1283)

FISCAL NOTE: Effect on Local Government: Yes.
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; making various changes relating to the sale of tobacco products to and the purchase of those products by minors; making various changes regarding the sale, delivery and taxation of cigarettes; revising the duties, rights and licensing requirements of manufacturers, wholesale dealers and retail dealers of cigarettes; providing additional procedures for statutory enforcement; increasing certain criminal penalties and providing additional civil and criminal penalties; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 202.2485 is hereby amended to read as
2 follows:
3 202.2485 As used in NRS 202.2485 to 202.2497, inclusive:
4 1. *“Delivery sale” means any sale or distribution of a product*
5 *for which:*
6 (a) *The purchaser submits the order for the sale by means of a*
7 *telephonic or other method of voice transmission, the mail or any*
8 *other delivery service, or the Internet or any other online service;*
9 *or*
10 (b) *The product is delivered by mail or the use of another*
11 *delivery service, or by the seller or distributor or his agent.*



1 **2. “Delivery service” means any person engaged in the**
2 **commercial delivery of letters, packages or other containers.**

3 **3. “Distribute” includes furnishing, giving away or providing**
4 **products made from tobacco or samples thereof at no cost to**
5 **promote the product, whether or not in combination with a sale.**

6 ~~2.~~ **4. “Health authority” means the district health officer in a**
7 **district, or his designee, or, if none, the State Health Officer, or his**
8 **designee.**

9 **Sec. 2.** NRS 202.24935 is hereby amended to read as follows:

10 202.24935 1. It is unlawful for a person to knowingly sell or
11 distribute cigarettes, cigarette paper, tobacco of any description or
12 products made from tobacco to a child under the age of 18 years
13 through ~~the use of the Internet.~~ **a delivery sale.**

14 2. A person who violates the provisions of subsection 1 shall
15 be punished by a fine of not more than \$500 and a civil penalty of
16 not more than \$500. Any money recovered pursuant to this section
17 as a civil penalty must be deposited in the same manner as money is
18 deposited pursuant to subsection 6 of NRS 202.2493.

19 3. Every person who sells or distributes cigarettes, cigarette
20 paper, tobacco of any description or products made from tobacco
21 through ~~the use of the Internet.~~ **a delivery sale** shall adopt a policy
22 to prevent a child under the age of 18 years from obtaining
23 cigarettes, cigarette paper, tobacco of any description or products
24 made from tobacco from the person through ~~the use of the~~
25 ~~Internet.~~ **a delivery sale.** The policy must include, without
26 limitation, a method for ensuring that the person who delivers such
27 items obtains the signature of a person who is over the age of 18
28 years when delivering the items, that the packaging or wrapping of
29 the items when they are shipped is clearly marked with the word
30 “cigarettes” or the words “tobacco products,” and that the person
31 complies with the provisions of 15 U.S.C. § 376. A person who fails
32 to adopt a policy pursuant to this subsection is guilty of a
33 misdemeanor and shall be punished by a fine of not more than \$500.

34 **Sec. 3.** Chapter 62 of NRS is hereby amended by adding
35 thereto the provisions set forth as sections 4 and 5 of this act.

36 **Sec. 4. A child under the age of 18 years shall not falsely**
37 **represent that he is 18 years of age or older to purchase or obtain**
38 **cigarettes, cigarette paper, tobacco of any description or products**
39 **made from tobacco.**

40 **Sec. 5. 1. A merchant who has reason to believe that a**
41 **child has falsely represented his age in violation of section 4 of**
42 **this act on the premises of the merchant may take the child into**
43 **custody and detain him, on the premises, in a reasonable manner**
44 **and for a reasonable length of time, to inform a peace officer of**
45 **the circumstances of such detention. Except as otherwise provided**



1 *in subsection 2, such a taking into custody and detention by a*
2 *merchant does not render the merchant criminally or civilly liable*
3 *for false arrest, false imprisonment, slander or unlawful detention*
4 *unless the taking into custody and detention are unreasonable*
5 *under all the circumstances.*

6 *2. A merchant is entitled to the immunity from liability*
7 *provided for in this section only if there is displayed in a*
8 *conspicuous place on his premises a notice in boldface type which*
9 *is clearly legible and in substantially the following form:*

10
11 *A merchant or his agent who has reason to believe that a*
12 *child under the age of 18 years has falsely represented that*
13 *he is 18 years of age or older to purchase or obtain*
14 *cigarettes, cigarette paper, tobacco of any description or*
15 *products made from tobacco may detain the child on the*
16 *premises of the merchant to notify a peace officer. Section 5*
17 *of this act.*

18
19 *3. The notice set forth in subsection 2 must be prepared and*
20 *copies thereof supplied upon request by the Superintendent of the*
21 *State Printing Division of the Department of Administration.*

22 **Sec. 6.** NRS 62.040 is hereby amended to read as follows:

23 62.040 1. Except if the child involved is subject to the
24 exclusive jurisdiction of an Indian tribe, and except as otherwise
25 provided in this chapter, the court has exclusive original jurisdiction
26 in proceedings:

27 (a) Concerning any child living or found within the county who
28 is in need of supervision because he:

29 (1) Is a child who is subject to compulsory school attendance
30 and is a habitual truant from school;

31 (2) *Engages in an act described in section 4 of this act;*

32 (3) Habitually disobeys the reasonable and lawful demands
33 of his parents, guardian or other custodian, and is unmanageable; or

34 ~~(3)~~ (4) Deserts, abandons or runs away from his home or
35 usual place of abode,

36 and is in need of care or rehabilitation. ~~The~~ *A child who is in need*
37 *of supervision pursuant to this paragraph* must not be considered a
38 delinquent.

39 (b) Concerning any child living or found within the county who
40 has committed a delinquent act. A child commits a delinquent act if
41 he violates a county or municipal ordinance or any rule or regulation
42 having the force of law, or he commits an act designated a crime
43 under the law of the State of Nevada.

44 (c) Concerning any child in need of commitment to an
45 institution for the mentally retarded.



1 2. For the purposes of subsection 1, each of the following acts
2 shall be deemed not to be a delinquent act, and the court does not
3 have jurisdiction of a person who is charged with committing such
4 an act:
5 (a) Murder or attempted murder and any other related offense
6 arising out of the same facts as the murder or attempted murder,
7 regardless of the nature of the related offense.
8 (b) Sexual assault or attempted sexual assault involving the use
9 or threatened use of force or violence against the victim and any
10 other related offense arising out of the same facts as the sexual
11 assault or attempted sexual assault, regardless of the nature of the
12 related offense, if:
13 (1) The person was 16 years of age or older when the sexual
14 assault or attempted sexual assault was committed; and
15 (2) Before the sexual assault or attempted sexual assault was
16 committed, the person previously had been adjudicated delinquent
17 for an act that would have been a felony if committed by an adult.
18 (c) An offense or attempted offense involving the use or
19 threatened use of a firearm and any other related offense arising out
20 of the same facts as the offense or attempted offense involving the
21 use or threatened use of a firearm, regardless of the nature of the
22 related offense, if:
23 (1) The person was 16 years of age or older when the offense
24 or attempted offense involving the use or threatened use of a firearm
25 was committed; and
26 (2) Before the offense or attempted offense involving the use
27 or threatened use of a firearm was committed, the person previously
28 had been adjudicated delinquent for an act that would have been a
29 felony if committed by an adult.
30 (d) A felony resulting in death or substantial bodily harm to the
31 victim and any other related offense arising out of the same facts as
32 the felony, regardless of the nature of the related offense, if:
33 (1) The felony was committed on the property of a public or
34 private school when pupils or employees of the school were present
35 or may have been present, at an activity sponsored by a public or
36 private school or on a school bus while the bus was engaged in its
37 official duties; and
38 (2) The person intended to create a great risk of death or
39 substantial bodily harm to more than one person by means of a
40 weapon, device or course of action that would normally be
41 hazardous to the lives of more than one person.
42 (e) Any other offense if, before the offense was committed, the
43 person previously had been convicted of a criminal offense.
44 3. If a child is charged with a minor traffic offense, the court
45 may transfer the case and record to a justice's or municipal court if



1 the judge determines that it is in the best interest of the child. If a
2 case is so transferred:

3 (a) The restrictions set forth in subsection 7 of NRS 62.170 are
4 applicable in those proceedings; and

5 (b) The child must be accompanied at all proceedings by a
6 parent or legal guardian.

7 With the consent of the judge of the juvenile division, the case may
8 be transferred back to the juvenile court.

9 4. As used in this section, "school bus" has the meaning
10 ascribed to it in NRS 483.160.

11 **Sec. 7.** NRS 62.212 is hereby amended to read as follows:

12 62.212 1. Except as otherwise provided in subsection ~~3.~~ 4,
13 if the court finds that a child is within the purview of paragraph (a)
14 of subsection 1 of NRS 62.040 and has not previously been the
15 subject of a complaint under NRS 62.128 before committing the acts
16 for which the petition was filed, the court shall:

17 (a) Admonish the child to obey the law and to refrain from
18 repeating the acts for which the petition was filed, and maintain a
19 record of the admonition; and

20 (b) Refer the child, without adjudication, to services available in
21 the community for counseling, behavioral modification and social
22 adjustment.

23 2. Except as otherwise provided in subsection ~~3.~~ 4, a child
24 *described in subsection 1* must not be adjudicated to be a child in
25 need of supervision unless a subsequent petition based upon
26 additional facts is filed with the court after admonition and referral
27 pursuant to ~~this subsection.~~
28 ~~2.~~ *that subsection.*

29 3. A child who is:

30 (a) Less than 12 years of age must not be committed to or
31 otherwise placed in the Nevada Youth Training Center or the
32 Caliente Youth Center.

33 (b) Not adjudicated to be delinquent must not be committed to
34 or otherwise placed in the Nevada Youth Training Center, the
35 Caliente Youth Center or any other facility that provides
36 correctional care.

37 ~~3.~~ 4. The provisions of subsection 1 do not apply to a child
38 alleged to be in need of supervision because he is a habitual truant.

39 5. *In addition to the actions set forth in subsection 1, a court*
40 *may order a child who engages in an act described in section 4 of*
41 *this act to perform community service. Community service so*
42 *ordered must be performed:*

43 (a) *For and under the supervising authority of a county, city,*
44 *town or other political subdivision or agency of this state or a*



1 *charitable organization that renders service to the community or*
2 *its residents; and*

3 *(b) At the child's school of attendance, if practicable.*

4 **Sec. 8.** NRS 179.1164 is hereby amended to read as follows:

5 179.1164 1. Except as otherwise provided in subsection 2,
6 the following property is subject to seizure and forfeiture in a
7 proceeding for forfeiture:

8 (a) Any proceeds attributable to the commission or attempted
9 commission of any felony.

10 (b) Any property or proceeds otherwise subject to forfeiture
11 pursuant to NRS 179.121, 200.760, 202.257, 453.301 or 501.3857
12 ~~§~~, *or section 34 of this act.*

13 2. Property may not, to the extent of the interest of any
14 claimant, be declared forfeited by reason of an act or omission
15 shown to have been committed or omitted without the knowledge,
16 consent or willful blindness of the claimant.

17 3. Unless the owner of real property or a mobile home:

18 (a) Has given the tenant notice to surrender the premises
19 pursuant to NRS 40.254 within 90 days after the owner receives
20 notice of a conviction pursuant to subsection 2 of NRS 453.305; or

21 (b) Shows the court that he had good cause not to evict the
22 tenant summarily pursuant to NRS 40.254,

23 the owner of real property or a mobile home used or intended for
24 use by a tenant to facilitate any violation of the provisions of NRS
25 453.011 to 453.552, inclusive, except NRS 453.336, is disputably
26 presumed to have known of and consented to that use if the notices
27 required by NRS 453.305 have been given in connection with
28 another such violation relating to the property or mobile home. The
29 holder of a lien or encumbrance on the property or mobile home is
30 disputably presumed to have acquired his interest in the property for
31 fair value and without knowledge or consent to such use, regardless
32 of when the act giving rise to the forfeiture occurred.

33 **Sec. 9.** Chapter 370 of NRS is hereby amended by adding
34 thereto the provisions set forth as sections 10 to 37, inclusive, of this
35 act.

36 **Sec. 10.** *“Cigarette package” means the individual pack, box*
37 *or other container that contains a cigarette. The term does not*
38 *include a container that itself contains other containers, such as a*
39 *carton of cigarettes.*

40 **Sec. 11.** *“Counterfeit cigarettes” means any cigarettes or*
41 *cigarette packages:*

42 1. *Bearing false manufacturing labels;*

43 2. *Bearing no stamps;*

44 3. *Bearing counterfeit stamps; or*



- 1 4. Meeting any combination of the descriptions contained in
2 subsections 1, 2 and 3.
- 3 **Sec. 12.** “Counterfeit stamp” means any stamp that:
4 1. Falsely depicts a stamp approved by the Department; or
5 2. Was not sold by the Department or its agents.
- 6 **Sec. 13.** 1. “Delivery sale” means any sale of cigarettes,
7 whether the seller is located within or outside of the borders of this
8 state, to a consumer in this state for which:
9 (a) The purchaser submits the order for the sale by means of a
10 telephonic or other method of voice transmission, the mail or any
11 other delivery service, or the Internet or any other online service;
12 or
13 (b) The cigarettes are delivered by mail or the use of another
14 delivery service.
15 2. For the purpose of this section, any sale of cigarettes to a
16 natural person in this state who does not hold a current license as
17 a wholesale or retail dealer constitutes a sale to a consumer.
- 18 **Sec. 14.** “Delivery service” means any person engaged in the
19 commercial delivery of letters, packages or other containers.
- 20 **Sec. 15.** “Importer” means an importer of cigarettes who
21 possesses a current permit issued pursuant to 26 U.S.C. § 5713.
- 22 **Sec. 16.** “License” means a license issued pursuant to NRS
23 370.001 to 370.430, inclusive, and sections 10 to 37, inclusive, of
24 this act, that authorizes the holder to conduct business as a
25 manufacturer or a wholesale or retail dealer.
- 26 **Sec. 17.** “Licensee” means the holder of a license.
- 27 **Sec. 18.** “Manufacturer” means any person:
28 1. Who:
29 (a) Manufactures, fabricates, assembles, processes or labels a
30 finished cigarette; or
31 (b) Is required to obtain a permit from the Federal
32 Government pursuant to 26 U.S.C. § 5713; and
33 2. Who sends cigarettes or causes cigarettes to be sent into
34 this state.
- 35 **Sec. 19.** “Place of business” means, for a person engaged in
36 business as:
37 1. A wholesale dealer, any location from which cigarettes are
38 distributed or where cigarettes are warehoused, stored or affixed
39 with stamps; or
40 2. A retail dealer, any store, stand, outlet or other location
41 through which cigarettes are distributed or sold to a consumer.
- 42 **Sec. 20.** “Secretary” means the Secretary of the United
43 States Department of the Treasury.
- 44 **Sec. 21.** “Shipping container” means a container in which
45 cigarettes are shipped in connection with a delivery sale.



1 **Sec. 22.** *“Shipping documents” means bills of lading, airbills*
2 *or any other documents used to evidence an undertaking by a*
3 *delivery service to deliver letters, packages or other containers.*

4 **Sec. 23.** *“Stamp” means the indicia required to be placed on*
5 *a cigarette package that evidences payment of the taxes on*
6 *cigarettes imposed pursuant to NRS 370.0751 and 370.165.*

7 **Sec. 24.** *No license may be issued, maintained or renewed:*

8 **1.** *If the applicant for the license or any combination of*
9 *persons directly or indirectly owning, in the aggregate, more than*
10 *10 percent of the ownership interests in the applicant:*

11 **(a)** *Owes \$500 or more in delinquent cigarette taxes;*

12 **(b)** *Had a license as a manufacturer or as a wholesale or retail*
13 *dealer revoked by the Department within the past 2 years;*

14 **(c)** *Has been convicted of a crime relating to cigarettes,*
15 *including, without limitation, the sale of stolen or counterfeit*
16 *cigarettes or stamps, the receipt of stolen cigarettes, or the*
17 *smuggling or counterfeiting of cigarettes;*

18 **(d)** *Has been convicted of a felony relating to the sale or*
19 *taxation of tobacco;*

20 **(e)** *Is a manufacturer who has:*

21 **(1)** *Imported any cigarettes into the United States in*
22 *violation of 19 U.S.C. § 1681a; or*

23 **(2)** *Imported or manufactured any cigarettes that do not*
24 *fully comply with the Federal Cigarette Labeling and Advertising*
25 *Act, 15 U.S.C. §§ 1331 et seq.; or*

26 **(f)** *Is a manufacturer of tobacco products, as defined in NRS*
27 *370A.060, who is not in full compliance with NRS 370A.140.*

28 **2.** *Unless the applicant for the license certifies in writing,*
29 *under penalty of perjury, that the applicant will comply fully with*
30 *the provisions of chapter 370A of NRS.*

31 **Sec. 25.** *The Department shall create and maintain on its*
32 *Internet website and otherwise make available for public*
33 *inspection a list of all currently valid licenses and the identity of*
34 *the licensees holding those licenses, and shall update that list at*
35 *least once each month.*

36 **Sec. 26. 1.** *Except as otherwise provided in subsection 2 or*
37 *a regulation of the Department:*

38 **(a)** *No person, other than a wholesale dealer that receives*
39 *unstamped cigarette packages directly from a manufacturer or*
40 *importer, may possess an unstamped cigarette package.*

41 **(b)** *Any person who ships unstamped cigarette packages into*
42 *this state other than to a wholesale dealer who holds a current*
43 *license shall first file with the Department a notice of that*
44 *shipment.*



1 2. *Subsection 1 does not apply to any common or contract*
2 *carrier who is transporting cigarettes in compliance with the*
3 *provisions of NRS 370.295.*

4 **Sec. 27. 1.** *Each manufacturer shall submit to the*
5 *Department periodic reports of:*

6 (a) *The quantity of cigarette packages that were distributed or*
7 *shipped to another manufacturer or to a wholesale dealer within*
8 *the borders of this state during the reporting period, and the name*
9 *and address of each person to whom those products were*
10 *distributed or shipped;*

11 (b) *The quantity of cigarette packages that were distributed or*
12 *shipped to another facility of the same manufacturer within the*
13 *borders of this state during the reporting period; and*

14 (c) *The quantity of cigarette packages that were distributed or*
15 *shipped within the borders of this state to Indian tribal entities or*
16 *instrumentalities of the Federal Government during the reporting*
17 *period, and the name and address of each person to whom those*
18 *products were distributed or shipped.*

19 2. *Each wholesale dealer shall submit to the Department*
20 *periodic reports of:*

21 (a) *The quantity of cigarette packages that were distributed or*
22 *shipped within or outside of the borders of this state to another*
23 *wholesale dealer or a retailer during the reporting period, and the*
24 *name and address of each person to whom those products were*
25 *distributed or shipped;*

26 (b) *The quantity of cigarette packages that were distributed or*
27 *shipped within or outside of the borders of this state to another*
28 *facility of the same wholesale dealer during the reporting period;*
29 *and*

30 (c) *The quantity of cigarette packages that were distributed or*
31 *shipped within or outside of the borders of this state to Indian*
32 *tribal entities or instrumentalities of the Federal Government*
33 *during the reporting period, and the name and address of each*
34 *person to whom those products were distributed or shipped.*

35 3. *The reports required by this section must be:*

36 (a) *Submitted on forms provided by the Department; and*

37 (b) *Provided separately for each of the facilities operated by*
38 *the manufacturer or wholesale dealer.*

39 4. *In each report required by this section, the information*
40 *required must be itemized so as to disclose clearly:*

41 (a) *The quantities of stamped and unstamped cigarettes to*
42 *which the report applies; and*

43 (b) *The brand and style of cigarettes to which the report*
44 *applies.*

45 5. *The Department shall by regulation establish:*



1 (a) *A reporting period for the reports required by this section,*
2 *which must be not less than 1 month nor more than 3 months; and*
3 (b) *Procedures for the electronic submission of the reports*
4 *required by this section.*

5 **Sec. 28.** 1. *A person shall not accept an order for a delivery*
6 *sale unless the person first obtains a license as a retail dealer.*

7 2. *A person who accepts an order for a delivery sale shall*
8 *comply with all of the requirements of this chapter and chapters*
9 *370A, 372 and 374 of NRS, and all other laws of this state*
10 *generally applicable to sales of cigarettes that occur entirely*
11 *within this state.*

12 **Sec. 29.** 1. *A person shall not cause the mailing or*
13 *shipment of cigarettes in connection with an order for a delivery*
14 *sale unless the person accepting the order first:*

15 (a) *Obtains from the prospective purchaser a certification*
16 *which includes:*

17 (1) *Reliable confirmation that the purchaser is at least 18*
18 *years of age; and*

19 (2) *A statement signed by the prospective purchaser in*
20 *writing and under penalty of perjury which:*

21 (I) *Certifies the prospective purchaser's address and*
22 *date of birth;*

23 (II) *Confirms that the prospective purchaser*
24 *understands that signing another person's name to such*
25 *certification is illegal and that sales of cigarettes to children under*
26 *18 years of age are illegal under the laws of this state; and*

27 (III) *Confirms that the prospective purchaser desires to*
28 *receive mailings from a tobacco company.*

29 (b) *Makes a good faith effort to verify the information*
30 *contained in the certification provided by the prospective*
31 *purchaser pursuant to paragraph (a) against any federal or*
32 *commercially available database established for that purpose;*

33 (c) *Sends to the prospective purchaser, by electronic mail or*
34 *other means, a notice which meets the requirements of subsection*
35 *2 and requests confirmation that the order for the delivery sale*
36 *was placed by the prospective purchaser;*

37 (d) *Receives from the prospective purchaser confirmation,*
38 *pursuant to the request described in paragraph (c), that such*
39 *person placed the order for the delivery sale; and*

40 (e) *Receives payment for the delivery sale from the prospective*
41 *purchaser by a credit or debit card that has been issued in that*
42 *purchaser's name.*

43 2. *The notice required by paragraph (c) of subsection 1 must*
44 *include:*



- 1 (a) A prominent and clearly legible statement that the sale of
- 2 cigarettes to children under 18 years of age is illegal;
- 3 (b) A prominent and clearly legible statement that consists of
- 4 one of the warnings set forth in 15 U.S.C. § 1333(a)(1), which
- 5 must be rotated on a quarterly basis;
- 6 (c) A prominent and clearly legible statement that the sale of
- 7 cigarettes is restricted to persons who provide verifiable proof of
- 8 age in accordance with this section; and
- 9 (d) A prominent and clearly legible statement that sales of
- 10 cigarettes are taxable under this chapter, and an explanation of
- 11 how the tax has been or is to be paid with respect to the delivery
- 12 sale.
- 13 3. Persons accepting orders for delivery sales may request
- 14 that prospective purchasers provide their electronic mail
- 15 addresses.
- 16 **Sec. 30. 1. A person who causes the mailing or shipment of**
- 17 **cigarettes in connection with an order for a delivery sale shall:**
- 18 (a) Use a method of mailing or shipping that obligates the
- 19 delivery service to carry out the provisions of section 32 of this act;
- 20 (b) Provide to the delivery service retained to deliver the
- 21 delivery sale evidence that all taxes levied by this state with respect
- 22 to the delivery sale have been paid to this state; and
- 23 (c) Include as part of the shipping documents:
- 24 (1) A copy of the retail dealer's license authorizing the
- 25 delivery sale;
- 26 (2) An envelope addressed to the Department, with postage
- 27 prepaid, that contains an invoice which provides the information
- 28 required by section 31 of this act for that delivery sale; and
- 29 (3) A clear and conspicuous statement providing as follows:
- 30
- 31 **"DELIVERY SALE OF CIGARETTES: NEVADA LAW**
- 32 **PROHIBITS SHIPPING TO CHILDREN UNDER 18**
- 33 **YEARS OF AGE AND REQUIRES THE PAYMENT OF**
- 34 **ALL APPLICABLE TAXES."**
- 35
- 36 2. A person who accepts an order for a delivery sale and
- 37 delivers the cigarettes without using a third-party delivery service
- 38 shall comply with all the requirements of section 32 of this act
- 39 applicable to a delivery service.
- 40 **Sec. 31. Not later than the 10th day of each calendar month,**
- 41 **each person who has mailed, shipped or otherwise delivered**
- 42 **cigarettes in connection with a delivery sale during the previous**
- 43 **calendar month, except a delivery service, shall file with the**
- 44 **Department a memorandum or a copy of the invoice which**
- 45 **provides for every such delivery sale:**



- 1 1. *The name and address of the person to whom the delivery*
- 2 *sale was made; and*
- 3 2. *The quantity and brands of cigarettes that were sold in the*
- 4 *delivery sale.*
- 5 **Sec. 32.** *1. Except as otherwise provided in subsection 2, a*
- 6 *delivery service shall:*
- 7 (a) *Before delivering a shipping container in connection with*
- 8 *a delivery sale:*
- 9 (1) *Ensure that the shipping documents include the*
- 10 *documents required by paragraph (c) of subsection 1 of section 30*
- 11 *of this act;*
- 12 (2) *Obtain the evidence required by paragraph (b) of*
- 13 *subsection 1 of section 30 of this act regarding the cigarettes in the*
- 14 *shipping container; and*
- 15 (3) *Ensure that each cigarette package in the shipping*
- 16 *container bears a valid stamp. The delivery service shall return to*
- 17 *the shipper any cigarette packages that do not bear a valid stamp.*
- 18 (b) *When delivering a shipping container in connection with a*
- 19 *delivery sale, require:*
- 20 (1) *The purchaser placing the order for the delivery sale, or*
- 21 *an adult designated by that purchaser, to sign to accept delivery of*
- 22 *the shipping container; and*
- 23 (2) *Proof, in the form of valid identification that was issued*
- 24 *by a governmental entity and bears a photograph of the person*
- 25 *who signs to accept delivery of the shipping container,*
- 26 *demonstrating:*
- 27 (I) *That the person is either the addressee or the adult*
- 28 *designated by the addressee; and*
- 29 (II) *If the person appears to be under 27 years of age,*
- 30 *that the person is at least 18 years of age.*
- 31 (c) *After delivering a shipping container in connection with a*
- 32 *delivery sale, mail to the Department the invoice included in the*
- 33 *shipping documents pursuant to paragraph (c) of subsection 1 of*
- 34 *section 30 of this act.*
- 35 2. *A delivery service is required to comply with the provisions*
- 36 *of subsection 1 only if the delivery service:*
- 37 (a) *Is obligated to do so under a method of shipping;*
- 38 (b) *Delivers any container pursuant to shipping documents*
- 39 *containing the statement described in paragraph (c) of subsection*
- 40 *1 of section 30 of this act; or*
- 41 (c) *Delivers any container that the delivery service otherwise*
- 42 *has reason to know contains cigarettes sold pursuant to a delivery*
- 43 *sale.*
- 44 **Sec. 33.** *In addition to any other penalty authorized by law:*
- 45 1. *The Department may:*



- 1 (a) *Impose a civil penalty of \$1,000 on any person who*
- 2 *knowingly:*
- 3 (1) *Omits, neglects or refuses to:*
- 4 (I) *Comply with any duty imposed upon him pursuant to*
- 5 *the provisions of NRS 370.080 to 370. 315, inclusive, and sections*
- 6 *24 to 27, inclusive, of this act; or*
- 7 (II) *Do or cause to be done any of the things required*
- 8 *pursuant to those provisions; or*
- 9 (2) *Does anything prohibited by the provisions of NRS*
- 10 *370.080 to 370. 315, inclusive, and sections 24 to 27, inclusive, of*
- 11 *this act.*
- 12 (b) *Impose on each person who violates any of the provisions*
- 13 *of sections 28 to 32, inclusive, of this act, a civil penalty of:*
- 14 (1) *Not more than \$1,000 for the first violation; and*
- 15 (2) *Not less than \$1,000 nor more than \$5,000 for each*
- 16 *subsequent violation.*
- 17 2. *Any person who fails to pay any tax imposed pursuant to*
- 18 *the provisions of NRS 370.080 to 370. 315, inclusive, and sections*
- 19 *24 to 32, inclusive, of this act within the time prescribed by law or*
- 20 *regulation shall pay a penalty of 500 percent of the tax due but*
- 21 *unpaid, in addition to the tax.*
- 22 **Sec. 34.** *All fixtures, equipment and other materials and*
- 23 *personal property on the premises of any wholesale or retail dealer*
- 24 *who, with intent to defraud the state:*
- 25 1. *Fails to keep or make any record, return, report or*
- 26 *inventory required pursuant to NRS 370.080 to 370.315, inclusive,*
- 27 *and sections 24 to 32, inclusive, of this act;*
- 28 2. *Keeps or makes any false or fraudulent record, return,*
- 29 *report or inventory required pursuant to NRS 370.080 to 370.315,*
- 30 *inclusive, and sections 24 to 32, inclusive, of this act;*
- 31 3. *Refuses to pay any tax imposed pursuant to NRS 370.080*
- 32 *to 370.315, inclusive, and sections 24 to 32, inclusive, of this act;*
- 33 *or*
- 34 4. *Attempts in any manner to evade or defeat the*
- 35 *requirements of NRS 370.080 to 370.315, inclusive, and sections*
- 36 *24 to 32, inclusive, of this act,*
- 37 *is subject to forfeiture pursuant to NRS 179.1156 to 179.119,*
- 38 *inclusive.*
- 39 **Sec. 35.** 1. *It is unlawful for a person, with the intent to*
- 40 *defraud the state:*
- 41 (a) *To fail to keep or make any record, return, report or*
- 42 *inventory, or keep or make any false or fraudulent record, return,*
- 43 *report, or inventory, required pursuant to NRS 370.080 to 370.315,*
- 44 *inclusive, and sections 24 to 32, inclusive, of this act or any*



1 *regulations adopted for the administration or enforcement of those*
2 *provisions;*

3 (b) *To refuse to pay any tax imposed pursuant to NRS 370.080*
4 *to 370.315, inclusive, and sections 24 to 32, inclusive, of this act,*
5 *or attempt in any manner to evade or defeat the tax or the payment*
6 *thereof;*

7 (c) *To alter, forge or otherwise counterfeit any stamp;*

8 (d) *To sell or possess for the purpose of sale any counterfeit*
9 *stamp;*

10 (e) *To have in his possession any counterfeit stamp, with the*
11 *intent to use the counterfeit stamp, knowing or having reasonable*
12 *grounds to believe the stamp to be a counterfeit stamp;*

13 (f) *To have in his possession any stamp which he knows has*
14 *been removed from any cigarette package to which it was affixed;*

15 (g) *To affix to any cigarette package a stamp which he knows*
16 *has been removed from any other cigarette package; or*

17 (h) *To fail to comply with any requirement of NRS 370.080 to*
18 *370.315, inclusive, and sections 24 to 32, inclusive, of this act.*

19 2. *A person who violates any of the provisions of subsection 1*
20 *is guilty of a category C felony and shall be punished as provided*
21 *in NRS 193.130.*

22 **Sec. 36. 1.** *It is unlawful for any person knowingly to sell*
23 *or to possess for the purpose of sale any counterfeit cigarettes. The*
24 *presence of counterfeit cigarettes in a cigarette vending machine*
25 *is prima facie evidence of the purpose to sell those cigarettes.*

26 2. *A person who violates any provision of subsection 1 is*
27 *guilty of:*

28 (a) *For the first offense involving less than 400 cigarettes, a*
29 *misdemeanor.*

30 (b) *For each subsequent offense involving less than 400*
31 *cigarettes, a category D felony and shall be punished as provided*
32 *in NRS 193.130.*

33 (c) *For the first offense involving 400 or more cigarettes, a*
34 *gross misdemeanor.*

35 (d) *For each subsequent offense involving 400 or more*
36 *cigarettes, a category C felony and shall be punished as provided*
37 *in NRS 193.130.*

38 **Sec. 37. 1.** *A person who:*

39 (a) *Knowingly violates any of the provisions of sections 28 to*
40 *32, inclusive, of this act; or*

41 (b) *Knowingly and falsely submits a certification pursuant to*
42 *paragraph (a) of subsection 1 of section 29 of this act in the name*
43 *of another person,*
44 *is guilty of a category C felony and shall be punished as provided*
45 *in NRS 193.130.*



1 **2. The Attorney General or the district attorney of the proper**
2 **county may bring an action in the district courts of this state to**
3 **enjoin any violation of sections 28 to 32, inclusive, of this act.**

4 **Sec. 38.** NRS 370.001 is hereby amended to read as follows:
5 370.001 As used in NRS 370.001 to 370.430, inclusive, **and**
6 **sections 10 to 37, inclusive, of this act**, unless the context otherwise
7 requires, the words and terms defined in NRS 370.005 to 370.055,
8 inclusive, **and sections 10 to 23, inclusive, of this act** have the
9 meanings ascribed to them in those sections.

10 **Sec. 39.** NRS 370.015 is hereby amended to read as follows:
11 370.015 “Cigarette vending machine operator” means any
12 ~~[person]~~ **retail dealer** licensed to sell only Nevada stamped
13 cigarettes by means of coin-operated machines anywhere in Nevada.

14 **Sec. 40.** NRS 370.025 is hereby amended to read as follows:
15 370.025 “Contraband cigarettes” means any ~~[cigarettes~~
16 ~~exported]~~ :

- 17 1. **Counterfeit cigarettes; or**
- 18 2. **Cigarettes:**

19 (a) **Exported** from or imported into this state , **or mailed,**
20 **shipped, delivered or held for distribution within the borders of**
21 **this state** by any person in violation of any of the provisions of this
22 chapter ~~[or which are, in any way,]~~ ;

23 (b) **In any way** held in the possession or constructive possession
24 of any person not authorized under this chapter to possess or
25 constructively possess ~~[these cigarettes.]~~ **the cigarettes; or**

26 (c) **Stamped, sold, or offered or possessed for sale in violation**
27 **of section 71 of this act.**

28 **Sec. 41.** NRS 370.033 is hereby amended to read as follows:
29 370.033 “Retail dealer” means any person , **whether located**
30 **within or outside of the borders of this state,** who ~~[offers to sell~~
31 ~~cigarettes at retail or who is engaged in selling cigarettes at retail.]~~
32 **sells or distributes cigarettes to a consumer within the State.**

33 **Sec. 42.** NRS 370.055 is hereby amended to read as follows:
34 370.055 “Wholesale dealer” means:

- 35 1. Any person , **whether located within or outside of the**
36 **borders of this state,** who ~~[brings]~~ :

37 (a) **Brings, sends,** or causes to be brought **or sent** into this state
38 **any** unstamped cigarettes purchased from the manufacturer or
39 another ~~[wholesaler, and who stores,]~~ **wholesale dealer; and**

40 (b) **Stores,** sells or otherwise disposes of ~~[them]~~ **those cigarettes**
41 **within the State.**

42 2. Any person who manufactures or produces cigarettes within
43 this state and who sells or distributes them within the State.

44 3. Any person , **whether located within or outside of the**
45 **borders of this state,** who acquires cigarettes solely for the purpose



1 of bona fide resale to retail dealers *in this state* or to other persons
2 *in this state* for the purpose of resale only.

3 **Sec. 43.** NRS 370.065 is hereby amended to read as follows:
4 370.065 In order to obtain evidence of any violation of this
5 chapter, the Department, its agents, and all peace officers and
6 revenue-collecting officers of this state ~~[shall have the right of~~
7 ~~visitation and inspection of any]~~ *may enter and inspect, without a*
8 *warrant during normal business hours and with a warrant at any*
9 *other time:*

10 *1. The facilities and records of any manufacturer, wholesale*
11 *dealer or retail dealer; and*

12 *2. Any other* place where they may have reason to believe
13 ~~[unstamped]~~ *contraband* cigarettes are stored, warehoused or kept
14 for sale. ~~[Such visitation and inspection shall be conducted during~~
15 ~~business hours.]~~

16 **Sec. 44.** NRS 370.080 is hereby amended to read as follows:
17 370.080 *1. A person shall not engage in business as a [dealer*
18 ~~of cigarettes]~~ *wholesale dealer* in the State of Nevada unless he first
19 secures a ~~[wholesale or retail cigarette dealer's]~~ license *to engage in*
20 *that activity* from the Department.

21 *2. A person shall not engage in business as a retail dealer in*
22 *the State of Nevada unless he first secures a license to engage in*
23 *that activity from the Department.*

24 *3. A manufacturer shall not sell any cigarettes to a wholesale*
25 *dealer in the State of Nevada unless he first secures a license to*
26 *engage in that activity from the Department.*

27 *4. A separate license is required to engage in each of the*
28 *activities described in this section.*

29 **Sec. 45.** NRS 370.100 is hereby amended to read as follows:
30 370.100 An application for a ~~[cigarette dealer's]~~ license must:

31 *1. Be made to the Department on forms prescribed by the*
32 *Department.*

33 *2. Include the name and address of the applicant. If the*
34 *applicant is a firm, association or partnership, the application must*
35 *include the names and addresses of [all partners.] each of its*
36 *members.* If the applicant is a corporation, ~~[association or other~~
37 ~~organization.]~~ the application must include the names and addresses
38 of the president, vice president, secretary and managing officer or
39 officers.

40 *3. Specify the location, by street and number, of the principal*
41 *place of business of the applicant and of the* premises for which the
42 license is sought.

43 *4. [Be] Specify any other information the Department may*
44 *require.*



1 *5. Except as otherwise provided in NRS 370.001 to 370.430,*
2 *inclusive, and sections 10 to 37, inclusive, of this act, be*
3 accompanied by the required license fee.

4 ~~[5.]~~ 6. Be accompanied by a certified copy of the certificate
5 required by NRS 602.010 or any renewal certificate required by
6 NRS 602.035.

7 **Sec. 46.** NRS 370.140 is hereby amended to read as follows:

8 370.140 1. ~~[Wholesale cigarette dealers' licenses shall permit~~
9 ~~the holders]~~ *A current license as a:*

10 (a) *Manufacturer authorizes the holder* thereof to sell
11 cigarettes ~~[to retail dealers, or to other Nevada licensed wholesale~~
12 ~~cigarette dealers, or to cigarette vending machine operators~~
13 ~~anywhere in Nevada.~~

14 ~~—2. No retailer, retail cigarette dealer or cigarette vending~~
15 ~~machine operator shall purchase any cigarettes from other than a~~
16 ~~Nevada licensed wholesale cigarette dealer.] anywhere within the~~
17 ~~borders of this state to a wholesale dealer who holds a current~~
18 ~~license.~~

19 (b) *Wholesale dealer authorizes the holder thereof to:*

20 (1) *Purchase cigarettes from any manufacturer or*
21 *wholesale dealer who holds a current license; or*

22 (2) *Sell cigarettes anywhere within the borders of this state*
23 *to any wholesale or retail dealer who holds a current license.*

24 (c) *Retail dealer authorizes the holder thereof to:*

25 (1) *Purchase cigarettes from any wholesale dealer who*
26 *holds a current license; or*

27 (2) *Sell cigarettes anywhere within the borders of this state*
28 *to any consumer.*

29 2. *No person who holds a current license as a:*

30 (a) *Manufacturer may sell cigarettes within the borders of this*
31 *state to any person other than a wholesale dealer who holds a*
32 *current license.*

33 (b) *Wholesale or retail dealer may purchase cigarettes for sale*
34 *within the borders of this state or sell cigarettes within the borders*
35 *of this state except as authorized pursuant to subsection 1.*

36 **Sec. 47.** NRS 370.150 is hereby amended to read as follows:

37 370.150 1. *Each license issued by the Department is valid*
38 *only for the calendar year for which it is issued, and must be*
39 *renewed annually.*

40 2. The Department shall not charge *any* license fees for a
41 *manufacturer's or retail [cigarette] dealer's license.*

42 ~~[2.]~~ 3. An annual license fee of \$150 ~~[shall]~~ *must* be charged
43 for each wholesale ~~[cigarette]~~ dealer's license. If ~~[any license, other~~
44 ~~than the renewal of a delinquent license,]~~ *such a license* is issued at
45 any time during the year other than on January 1, *except for the*



1 *renewal of a delinquent license pursuant to subsection 5*, the
2 licensee shall pay a proportionate part of the annual fee for the
3 remainder of the year, but not less than 25 percent of the annual
4 license fee.

5 ~~[3.—Wholesale cigarette]~~

6 *4. The fees for a wholesale* dealer's license ~~[fees]~~ are due and
7 payable on January 1 of each year. If the annual license fee is not
8 paid by January 15, the license is cancelled automatically.

9 ~~[4.] 5.~~ A wholesale ~~[cigarette]~~ dealer's license which is
10 cancelled for nonpayment of the annual license fee may be renewed
11 at any time by the payment of the fee plus a 5 percent penalty
12 thereon.

13 **Sec. 48.** NRS 370.210 is hereby amended to read as follows:

14 370.210 *1. A wholesale dealer whose stamping facilities are*
15 *located within the borders of this state shall affix stamps to all*
16 *applicable cigarette packages received at those stamping facilities*
17 *within 72 hours after receipt. A wholesale dealer may set aside,*
18 *without affixing stamps, only that part of the stock of the*
19 *wholesale dealer that is identified for sale or distribution outside*
20 *of the borders of this state. A wholesale dealer must identify any*
21 *stock to be set aside pursuant to this subsection within 72 hours*
22 *after the receipt of that stock.*

23 *2. A wholesale dealer may affix stamps only to cigarette*
24 *packages that the wholesale dealer has received directly from a*
25 *manufacturer or importer.*

26 *3. If a wholesale dealer maintains stocks of unstamped*
27 *cigarette packages as authorized pursuant to subsection 1, those*
28 *unstamped cigarette packages must be stored separately from*
29 *stamped cigarette packages and must not be transferred by the*
30 *wholesale dealer to another facility of the wholesale dealer within*
31 *the borders of this state or to any other person within the borders*
32 *of this state.*

33 *4. A person shall not affix ~~[cigarette revenue stamps or metered~~*
34 *machine impressions] stamps to any ~~[package, packet or container~~*
35 *of cigarettes] cigarette packages except upon the premises*
36 *described in the license of a ~~[cigarette]~~ wholesale dealer or upon*
37 *other premises where authorized by regulation.*

38 **Sec. 49.** NRS 370.250 is hereby amended to read as follows:

39 370.250 *1. If any dealer in cigarettes upon which a*
40 *precollected or advance tax is required to be paid fails to file any*
41 *report ~~[to]~~ required pursuant to NRS 370.240 with* the Department
42 *or its agents on or before the date due, the Department may suspend*
43 *his license ~~[or permit]~~ until the report is received and found to be*
44 *correct.*



1 2. The Department may temporarily suspend or permanently
2 revoke the ~~licenses~~ license of any ~~cigarette dealer~~ licensee for
3 violating, or causing or permitting to be violated, any of the
4 provisions of NRS 370.001 to 370.430, inclusive ~~[]~~, and sections
5 10 to 37, inclusive, of this act, or of sections 65 to 70, inclusive, of
6 this act, or any regulations adopted for the administration or
7 enforcement of any of those provisions.

8 3. The Department shall permanently revoke the license of
9 any licensee convicted of any felony pursuant to section 36 of this
10 act.

11 **Sec. 50.** NRS 370.255 is hereby amended to read as follows:

12 370.255 **1.** Each ~~dealer authorized to purchase or affix~~
13 ~~cigarette revenue stamps~~ :

14 (a) ~~Wholesale dealer~~ shall maintain ~~records of all cigarettes~~
15 ~~received, sold or distributed by him. Each dealer shall also obtain~~
16 ~~and keep receipts, freight bills, invoices and other documents~~
17 ~~necessary to substantiate his records. Records and documents shall~~
18 ~~be kept at the dealer's place of business~~ copies of invoices or
19 equivalent documentation for each of its facilities for every
20 transaction in which the wholesale dealer is the seller, purchaser,
21 consignor, consignee or recipient of cigarettes. The invoices or
22 documentation must indicate the name and address of the
23 consignor, seller, purchaser or consignee, and the quantity by
24 brand and style of the cigarettes involved in the transaction.

25 (b) ~~Retail dealer~~ shall maintain copies of invoices or
26 equivalent documentation for every transaction in which the retail
27 dealer receives or purchases cigarettes at each of its facilities. The
28 invoices or documentation must indicate the name and address of
29 the wholesale dealer from whom, or the address of another facility
30 of the same retail dealer from which, the cigarettes were received,
31 and the quantity of each brand and style of the cigarettes received
32 in the transaction.

33 (c) ~~Manufacturer~~ shall maintain copies of invoices or
34 equivalent documentation for each of its facilities for every
35 transaction in which the manufacturer is the seller, purchaser,
36 consignor, consignee or recipient of cigarettes. The invoices or
37 documentation must indicate the name and address of the
38 consignor, seller, purchaser or consignee, and the quantity by
39 brand and style of the cigarettes involved in the transaction.

40 2. The records required by this section must be preserved on
41 the premises described in the license of the manufacturer,
42 wholesale dealer or retail dealer in such a manner as to ensure
43 permanency and accessibility for inspection at reasonable hours
44 by authorized personnel of the Department. With the permission of
45 the Department, manufacturers, wholesale dealers and retail



1 *dealers with multiple places of business may retain centralized*
2 *records, but shall transmit duplicates of the invoices or the*
3 *equivalent documentation to each place of business within 24*
4 *hours after the request of the Executive Director or his designee.*

5 3. *The records required by this section must be retained for*
6 *not less than ~~4~~ 3 years after the date of the transaction unless the*
7 *Department authorizes, in writing, their earlier removal or*
8 *destruction.*

9 **Sec. 51.** NRS 370.257 is hereby amended to read as follows:

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

19 2. *Except as otherwise provided in this subsection, the reports*
20 *submitted by licensees pursuant to NRS 370.001 to 370.430,*
21 *inclusive, and sections 10 to 37, inclusive, of this act are public*
22 *records. Any information contained in those reports about*
23 *quantities of cigarettes by brand must not be released to anyone*
24 *other than persons permitted access to those reports pursuant to*
25 *subsection 1.*

26 3. The Department may audit the records of each ~~dealer~~
27 ~~authorized to purchase or affix cigarette revenue stamps]~~
28 *manufacturer, wholesale dealer or retail dealer to determine [that*
29 ~~the dealer]~~ *whether the manufacturer, wholesale dealer or retail*
30 *dealer has complied with the provisions of NRS 370.001 to*
31 *370.430, inclusive ~~4~~, and sections 10 to 37, inclusive, of this act.*

32 **Sec. 52.** NRS 370.301 is hereby amended to read as follows:

33 370.301 1. If any unstamped cigarettes are consigned to or
34 purchased by any person in this state, such purchaser or consignee
35 must be a person authorized by this chapter to possess unstamped
36 cigarettes.

37 2. If invoices or delivery tickets for unstamped cigarettes are
38 lacking, if the name or address of the consignee or purchaser is
39 falsified or if the purchaser or consignee is not authorized by this
40 chapter to possess unstamped cigarettes, the cigarettes transported
41 ~~shall be~~ *are* subject to seizure and sale under the provisions of
42 NRS 370.270.

43 3. Transportation of cigarettes through this state from a point
44 outside this state to a point in some other state is not a violation of
45 this section if the person transporting the cigarettes has in his



1 possession adequate invoices or delivery tickets which give the true
2 name and address of the out-of-state seller or consignor and the out-
3 of-state purchaser or consignee.

4 4. In any case where the Department, its duly authorized agent
5 or any peace officer of the state has knowledge or reasonable
6 grounds to believe that any vehicle is transporting cigarettes in
7 violation of this ~~section,~~ *chapter*, the Department, agent or peace
8 officer may stop the vehicle and inspect it for ~~unstamped~~
9 *contraband* cigarettes.

10 **Sec. 53.** NRS 370.380 is hereby amended to read as follows:

11 370.380 1. It is unlawful for a person, with the intent to
12 defraud the State:

13 (a) To alter, forge or counterfeit any license ~~stamp or cigarette~~
14 ~~tax meter impression provided for in this chapter;~~ *; or*

15 (b) To have in his possession any forged, counterfeited, spurious
16 or altered license ~~stamp or cigarette tax meter impression,~~ with
17 the intent to use the same, knowing or having reasonable grounds to
18 believe the same to be such. ~~;~~

19 ~~—(c) To have in his possession one or more cigarette stamps or~~
20 ~~cigarette tax meter impressions which he knows have been removed~~
21 ~~from the pieces of packages or packages of cigarettes to which they~~
22 ~~were affixed;~~

23 ~~—(d) To affix to any piece of a package or package of cigarettes a~~
24 ~~stamp or cigarette tax meter impression which he knows has been~~
25 ~~removed from any other piece of a package or package of cigarettes;~~
26 ~~or~~

27 ~~—(e) To have in his possession for the purpose of sale cigarettes~~
28 ~~which do not bear indicia of the State of Nevada excise tax~~
29 ~~stamping. Presence of the cigarettes in a cigarette vending machine~~
30 ~~is prima facie evidence of the purpose to sell.]~~

31 2. A person who violates any of the provisions of subsection 1
32 is guilty of ~~a misdemeanor on the first offense and upon the second~~
33 ~~or subsequent offense is guilty of~~ a category ~~D~~ *C* felony and shall
34 be punished as provided in NRS 193.130.

35 **Sec. 54.** NRS 370.390 is hereby amended to read as follows:

36 370.390 Except as otherwise provided in NRS 370.380 ~~and~~
37 *section 35 of this act*, any person violating any of the provisions of
38 NRS 370.080 to ~~370.310, inclusive, shall be~~ *370.315, inclusive,*
39 *and sections 24 to 27, inclusive, of this act is* guilty of a gross
40 misdemeanor.

41 **Sec. 55.** NRS 370.410 is hereby amended to read as follows:

42 370.410 ~~Any~~ *Except as otherwise provided in section 36 of*
43 *this act, any* person exporting, importing, possessing or
44 constructively possessing contraband cigarettes is guilty of a gross
45 misdemeanor.



1 **Sec. 56.** NRS 370.415 is hereby amended to read as follows:

2 370.415 1. The Department, its agents, sheriffs within their
3 respective counties and all other peace officers of the State of
4 Nevada shall seize any *counterfeit stamps and any* contraband
5 cigarettes *and machinery used to manufacture contraband*
6 *cigarettes*, found or located in the State of Nevada.

7 2. A sheriff or other peace officer who seizes *stamps*, cigarettes
8 *or machinery* pursuant to this section shall provide written
9 notification of the seizure to the Department not later than 5
10 working days after the seizure. The notification must include the
11 reason for the seizure.

12 3. After consultation with the Department, the sheriff or other
13 peace officer shall transmit the cigarettes to the Department if:

14 (a) The cigarettes, except for revenue stamps or metered
15 machine impressions being properly affixed as required by this
16 chapter, comply with all state and federal statutes and regulations;
17 and

18 (b) The Department approves the transmission of the cigarettes.

19 4. Upon receipt of the cigarettes, the Department shall dispose
20 of the cigarettes as provided in subsection 4 of NRS 370.270.

21 5. ~~He~~ *The* sheriff or other peace officer *who seizes any*
22 *stamps, cigarettes or machinery pursuant to this section shall:*

23 (a) *Destroy the stamps and machinery; and*

24 (b) *If he* does not transmit the cigarettes to the Department, ~~he~~
25 ~~shall~~ destroy the cigarettes.

26 **Sec. 57.** Chapter 370A of NRS is hereby amended by adding
27 thereto the provisions set forth as sections 58 to 72, inclusive, of this
28 act.

29 **Sec. 58.** *The Legislature finds that:*

30 1. *Violations of the provisions of NRS 370A.130 to 370A.160,*
31 *inclusive, threaten the integrity of the Master Settlement*
32 *Agreement, the fiscal soundness of the State and the public health.*

33 2. *The enactment of the procedural enhancements set forth in*
34 *sections 58 to 72, inclusive, of this act will aid in the enforcement*
35 *of the provisions of NRS 370A.130 to 370A.160, inclusive, and*
36 *thereby safeguard the Master Settlement Agreement, the fiscal*
37 *soundness of the State and the public health.*

38 **Sec. 59.** *As used in sections 58 to 72, inclusive, of this act,*
39 *unless the context otherwise requires, the words and terms defined*
40 *in sections 60 to 64, inclusive, of this act have the meanings*
41 *ascribed to them in those sections.*

42 **Sec. 60.** *“Brand family” means all styles of cigarettes sold*
43 *under the same trade mark and differentiated from one another by*
44 *means of additional modifiers or descriptors, including, but not*
45 *limited to, “menthol,” “lights,” “kings,” and “100s,” and includes*



1 *any brand name, whether occurring alone or in conjunction with*
2 *any other word, any trademark, logo, symbol, motto, selling*
3 *message or recognizable pattern of colors, or any other indicia of*
4 *product identification identical or similar to, or identifiable with, a*
5 *previously known brand of cigarettes.*

6 **Sec. 61.** *“Directory” means the directory created pursuant to*
7 *section 67 of this act.*

8 **Sec. 62.** *“Distributor” means a person that is authorized to*
9 *affix stamps to cigarette packages pursuant to chapter 370 of NRS*
10 *or any person that is required to pay the taxes on cigarettes*
11 *imposed pursuant to chapter 370 of NRS.*

12 **Sec. 63.** *“Nonparticipating manufacturer” means any*
13 *manufacturer of tobacco products that is not a participating*
14 *manufacturer.*

15 **Sec. 64.** *“Stamp” means the indicia required to be placed on*
16 *a cigarette package that evidences payment of the taxes on*
17 *cigarettes imposed pursuant to chapter 370 of NRS.*

18 **Sec. 65. 1.** *A manufacturer of tobacco products whose*
19 *cigarettes are sold in this state, whether directly or through a*
20 *distributor, retailer or similar intermediary or intermediaries,*
21 *shall, not later than April 30 of each year, execute and deliver to*
22 *the Attorney General and the Department, on a form provided by*
23 *the Department, a certification which certifies under penalty of*
24 *perjury that, as of the date of that certification, the manufacturer*
25 *of tobacco products is either:*

26 *(a) A participating manufacturer; or*
27 *(b) In full compliance with subsection 2 of NRS 370A.140,*
28 *including any quarterly installment payments required pursuant to*
29 *section 70 of this act.*

30 **2.** *Except as otherwise provided in section 66 of this act:*

31 *(a) A participating manufacturer shall include in its*
32 *certification pursuant to this section a list of its brand families.*
33 *The participating manufacturer shall update that list at least 30*
34 *calendar days before it adds to or modifies its brand families by*
35 *executing and delivering a supplemental certification to the*
36 *Attorney General and the Department.*

37 *(b) A nonparticipating manufacturer shall, in its certification*
38 *pursuant to this section:*

39 *(1) Include:*

40 *(I) A list of all of its brand families and the number of*
41 *units sold for each brand family that were sold in the State during*
42 *the preceding calendar year; and*

43 *(II) A list of all of its brand families that have been sold*
44 *in the State at any time during the current calendar year;*



1 (2) Indicate, by an asterisk, any brand family sold in the
2 State during the preceding calendar year that is no longer being
3 sold in the State as of the date of the certification; and

4 (3) Identify, by name and address, any other manufacturer
5 of those brand families in the preceding or current calendar
6 year.

7 A nonparticipating manufacturer shall update the information
8 required by this paragraph at least 30 calendar days before it adds
9 to or modifies its brand families by executing and delivering a
10 supplemental certification to the Attorney General and the
11 Department.

12 3. In addition to the requirements of subsection 2, the
13 certification of a nonparticipating manufacturer pursuant to this
14 section must certify:

15 (a) That the nonparticipating manufacturer is registered to do
16 business in the State or has appointed a resident agent for service
17 of process and provided notice thereof as required by section 68 of
18 this act;

19 (b) That the nonparticipating manufacturer has:

20 (1) Established and continues to maintain a qualified
21 escrow fund; and

22 (2) Executed a qualified escrow agreement governing the
23 qualified escrow fund that has been reviewed and approved by the
24 Attorney General;

25 (c) That the nonparticipating manufacturer is in full
26 compliance with NRS 370A.130 to 370A.160, inclusive, and any
27 regulations adopted pursuant thereto;

28 (d) The name, address and telephone number of the financial
29 institution where the nonparticipating manufacturer has
30 established the qualified escrow fund required pursuant to NRS
31 370A.130 to 370A.160, inclusive, and any regulations adopted
32 pursuant thereto;

33 (e) The account number of that qualified escrow fund and any
34 sub-account number for this state;

35 (f) The amount the nonparticipating manufacturer placed in
36 that qualified escrow fund for cigarettes sold in the State during
37 the preceding calendar year, the date and amount of each such
38 deposit, and such evidence or verification as may be deemed
39 necessary by the Department to confirm the information required
40 by this paragraph; and

41 (g) The amount and date of any withdrawal or transfer of
42 money the nonparticipating manufacturer made at any time from
43 that qualified escrow fund or from any other qualified escrow
44 fund into which it ever made escrow payments pursuant to NRS



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1 370A.130 to 370A.160, inclusive, and any regulations adopted
2 pursuant thereto.

3 **Sec. 66. A manufacturer of tobacco products:**

4 1. Shall not include a brand family in its certification
5 pursuant to section 65 of this act unless, if the manufacturer is:

6 (a) A participating manufacturer, the manufacturer affirms
7 that the brand family is to be deemed to be its cigarettes for
8 purposes of calculating its payments under the Master Settlement
9 Agreement for the relevant year, in the volume and shares
10 determined pursuant to the Master Settlement Agreement; or

11 (b) A nonparticipating manufacturer, the manufacturer
12 affirms that the brand family is to be deemed to be its cigarettes
13 for purposes of NRS 370A.130 to 370A.160, inclusive.

14 This subsection must not be construed as limiting or otherwise
15 affecting the right of the State to maintain that a brand family
16 constitutes cigarettes of a different manufacturer of tobacco
17 products for purposes of calculating payments under the Master
18 Settlement Agreement or for purposes of NRS 370A.130 to
19 370A.160, inclusive.

20 2. Shall maintain all invoices and documentation of sales and
21 any other information relied upon by the manufacturer for its
22 certification pursuant to section 65 of this act, for at least 5 years,
23 unless the manufacturer is otherwise required by law to maintain
24 them for a greater period.

25 **Sec. 67. 1. The Department shall create and maintain on**
26 **its Internet website and otherwise make available for public**
27 **inspection a directory that lists, except as otherwise provided in**
28 **sections 58 to 72, inclusive, of this act, all manufacturers of**
29 **tobacco products that have provided current and accurate**
30 **certifications conforming to the requirements of sections 58 to 72,**
31 **inclusive, of this act and all brand families that are listed in those**
32 **certifications. The Department:**

33 (a) Shall not include or retain in the directory the name or
34 brand families of any nonparticipating manufacturer that has
35 failed to provide the required certification or whose certification
36 the Department determines is not in compliance with sections 58
37 to 72, inclusive, of this act, unless the Department has determined
38 that such violation has been cured to its satisfaction.

39 (b) Shall not include or retain in the directory a manufacturer
40 of tobacco products or brand family if the Department concludes,
41 for a nonparticipating manufacturer, that:

42 (1) Any escrow payment required pursuant to NRS
43 370A.130 to 370A.160, inclusive, for any period for any brand
44 family, whether or not listed by the nonparticipating
45 manufacturer, has not been fully paid into a qualified escrow fund



1 *governed by a qualified escrow agreement which has been*
2 *approved by the Attorney General; or*
3 *(2) Any outstanding final judgment, including any interest*
4 *thereon, for a violation of NRS 370A.130 to 370A.160, inclusive,*
5 *has not been fully satisfied for that manufacturer or brand family.*
6 *2. The Department shall update the directory as necessary to*
7 *correct mistakes and to add or remove a manufacturer of tobacco*
8 *products or brand family to keep the directory in conformity with*
9 *the requirements of sections 58 to 72, inclusive, of this act.*
10 *3. Any determination of the Department not to include in or*
11 *to remove from the directory a manufacturer of tobacco products*
12 *or brand family is a final decision for the purposes of judicial*
13 *review.*
14 **Sec. 68.** *1. Any nonresident or foreign nonparticipating*
15 *manufacturer that has not registered to do business in the State as*
16 *a foreign corporation or other business entity must, as a condition*
17 *precedent to having its brand families included or retained in the*
18 *directory, appoint and continually engage without interruption the*
19 *services of an agent in this state to act as its agent for the service*
20 *of process on whom all process, in any action or proceeding*
21 *against it concerning or arising out of the enforcement of this*
22 *chapter, may be served in any manner authorized by law. Such*
23 *service constitutes legal and valid service of process on the*
24 *nonparticipating manufacturer. The nonparticipating*
25 *manufacturer shall provide the name, address, phone number and*
26 *proof of the appointment and availability of such agent to and to*
27 *the satisfaction of the Attorney General and the Department.*
28 *2. A nonparticipating manufacturer shall provide notice to*
29 *the Attorney General and the Department at least 30 calendar days*
30 *before the termination of the authority of an agent appointed*
31 *pursuant to this section and shall provide proof to the satisfaction*
32 *of the Attorney General and the Department of the appointment of*
33 *a new agent not less than 5 calendar days before the termination*
34 *of appointment of an existing agent. If an agent terminates his*
35 *appointment as an agent, the nonparticipating manufacturer shall*
36 *notify the Attorney General and the Department of that*
37 *termination within 5 calendar days and include with that*
38 *notification proof to the satisfaction of the Attorney General and*
39 *the Department of the appointment of a new agent.*
40 *3. Any nonparticipating manufacturer whose cigarettes are*
41 *sold in this state and who has not appointed and engaged an agent*
42 *as required by this section shall be deemed to have appointed the*
43 *Secretary of State as such agent and may be proceeded against in*
44 *courts of this state by service of process upon the Secretary of*
45 *State, except that the appointment of the Secretary of State as such*



1 *agent does not satisfy the condition precedent for having the brand*
2 *families of the nonparticipating manufacturer included or*
3 *retained in the directory.*

4 **Sec. 69.** 1. *Not later than 20 calendar days after the end of*
5 *each calendar quarter, and more frequently if so directed by the*
6 *Department, each distributor shall submit such information as the*
7 *Department requires to facilitate compliance with the provisions of*
8 *sections 58 to 72, inclusive, of this act, including, without*
9 *limitation, a list by brand family of the total number of cigarettes*
10 *or, in the case of “roll-your-own” tobacco, the equivalent unit*
11 *count, for which the distributor affixed stamps during the previous*
12 *calendar quarter or otherwise paid the tax due for those cigarettes.*
13 *The distributor shall maintain for at least 5 years, and make*
14 *available to the Department, all invoices and documentation of*
15 *sales of all cigarettes of nonparticipating manufacturers and any*
16 *other information relied upon in reporting to the Department.*

17 2. *The Department may disclose to the Attorney General any*
18 *information received pursuant to sections 58 to 72, inclusive, of*
19 *this act and requested by the Attorney General for purposes*
20 *of determining compliance with and enforcing the provisions of*
21 *sections 58 to 72, inclusive, of this act. The Department and*
22 *Attorney General shall share with each other the information*
23 *received pursuant to the provisions of sections 58 to 72, inclusive,*
24 *of this act, and may share such information with other federal,*
25 *state or local agencies only for purposes of enforcement of those*
26 *provisions, the provisions of NRS 370A.130 to 370A.160,*
27 *inclusive, or the corresponding laws of other states.*

28 3. *The Department may require at any time from a*
29 *nonparticipating manufacturer proof, from the financial*
30 *institution in which that manufacturer has established a qualified*
31 *escrow fund for the purpose of compliance with NRS 370A.130 to*
32 *370A.160, inclusive, of the amount of money in that fund,*
33 *exclusive of interest, the amount and date of each deposit to that*
34 *fund, and the amount and date of each withdrawal from that fund.*

35 4. *In addition to the information otherwise required to be*
36 *submitted pursuant to sections 58 to 72, inclusive, of this act, the*
37 *Department may require a distributor or manufacturer of tobacco*
38 *products to submit any additional information, including, without*
39 *limitation, samples of the packaging or labeling of each brand*
40 *family, as is necessary to enable the Department to determine*
41 *whether a manufacturer of tobacco products is in compliance with*
42 *the provisions of sections 58 to 72, inclusive, of this act.*

43 5. *Every distributor shall provide to the Department and*
44 *update as necessary an electronic mail address for receiving any*



1 *notifications as may be required to carry out sections 58 to 72,*
2 *inclusive, of this act.*

3 **Sec. 70.** 1. *To promote compliance with the provisions of*
4 *NRS 370A.140, the Department may adopt regulations requiring a*
5 *manufacturer of tobacco products to make the escrow deposits*
6 *required by NRS 370A.140 in quarterly installments during the*
7 *year in which the sales covered by those deposits are made. The*
8 *Department may require the production of information sufficient*
9 *to enable the Department to determine the adequacy of the amount*
10 *of each quarterly installment.*

11 2. *The Department may adopt such regulations it deems*
12 *necessary to carry out the provisions of sections 58 to 72,*
13 *inclusive, of this act.*

14 **Sec. 71.** 1. *It is unlawful for any person to:*

15 (a) *Affix a stamp to a package or other container of cigarettes*
16 *of a manufacturer of tobacco products or brand family which is*
17 *not included in the directory; or*

18 (b) *Sell, or offer or possess for sale, in this state cigarettes of a*
19 *manufacturer of tobacco products or brand family not included in*
20 *the directory.*

21 2. *A person who violates any of the provisions of subsection 1*
22 *is guilty of a gross misdemeanor.*

23 3. *In addition to any other penalty authorized by law, the*
24 *Department may impose on each person who violates any*
25 *provision of subsection 1 a civil penalty for each such violation of*
26 *not more than \$5,000 or 500 percent of the retail value of the*
27 *cigarettes involved in the violation, whichever is greater.*

28 4. *Any violation of subsection 1 constitutes a deceptive trade*
29 *practice for the purposes of NRS 598.0903 to 598.0999, inclusive.*

30 5. *For the purposes of this section, each stamp affixed to and*
31 *each sale or offer to sell cigarettes in violation of subsection 1*
32 *constitutes a separate violation.*

33 **Sec. 72.** 1. *The Attorney General, on behalf of the*
34 *Department, may bring an action in the district court of this state*
35 *to:*

36 (a) *Enjoin any threatened or actual violation of the provisions*
37 *of sections 58 to 72, inclusive, of this act by a distributor and to*
38 *compel the distributor to comply with those provisions; or*

39 (b) *Enforce any of the provisions of sections 58 to 72,*
40 *inclusive, of this act.*

41 2. *In any action brought by the State to enforce the provisions*
42 *of sections 58 to 72, inclusive, of this act, the State is entitled to*
43 *recover any costs of investigation, expert witness fees, costs of the*
44 *action and reasonable attorney fees.*



1 3. *If a court determines that any person has violated any of*
2 *the provisions of sections 58 to 72, inclusive, of this act, the court*
3 *shall order any profits, gain, gross receipts or other benefit from*
4 *the violation to be disgorged and paid to the State Treasurer for*
5 *deposit in the State General Fund.*

6 4. *The remedies and penalties provided in sections 58 to 72,*
7 *inclusive, of this act are cumulative to each other and to the*
8 *remedies and penalties available under any other law of this state.*

9 **Sec. 73.** NRS 370A.150 is hereby amended to read as follows:

10 370A.150 A manufacturer of tobacco products that deposits
11 money into escrow pursuant to subsection 2 of NRS 370A.140
12 ~~[shall]~~ *is entitled to* receive the interest or other appreciation on the
13 deposit as earned. The principal of the deposit may be released from
14 escrow only under the following circumstances:

15 1. To pay a judgment or settlement on a released claim brought
16 against that manufacturer by this state or by a releasing party located
17 or residing in this state. Money may be released from escrow under
18 this subsection only in the order in which it was deposited into
19 escrow and only to the extent and at the time necessary to make
20 payments required under the judgment or settlement.

21 2. To the extent that the manufacturer establishes that the
22 amount it was required to deposit into escrow in a particular year *on*
23 *account of units sold in this state* was greater than ~~[this state's~~
24 ~~allocable share of the total payments that the manufacturer would~~
25 ~~have been required to make in]~~ *the amount required for* that year
26 under the Master Settlement Agreement, *as determined pursuant to*
27 *section IX(i) of that Agreement after the final determination of all*
28 *adjustments the manufacturer would have been required to make*
29 *on account of those units* if the manufacturer had been a
30 participating manufacturer, ~~[as such payments are determined~~
31 ~~pursuant to section IX(i)(2) of that Agreement and before any of the~~
32 ~~adjustments or offsets described in section IX(i)(3) of that~~
33 ~~Agreement other than the inflation adjustment,]~~ the excess must be
34 released from escrow and revert to the manufacturer.

35 3. To the extent not released from escrow under subsection 1 or
36 2, deposits must be released from escrow and revert to the
37 manufacturer 25 years after the date on which they were deposited.

38 **Sec. 74.** 1. The first report required by section 69 of this act
39 is due on or before October 20, 2003.

40 2. Notwithstanding the provisions of section 65 of this act, the
41 initial certifications required by that section are due on or before
42 November 15, 2003.

43 3. The Department of Taxation shall create and make available
44 for public inspection the directory required pursuant to section 67 of
45 this act on or before December 31, 2003.



- 1 **Sec. 75.** 1. This section and sections 1 to 70, inclusive, 72,
2 73 and 74 of this act become effective:
3 (a) Upon passage and approval for the purposes of adopting
4 regulations and taking such other actions as are necessary to carry
5 out the provisions of this act; and
6 (b) On October 1, 2003, for all other purposes.
7 2. Section 71 of this act becomes effective on January 1, 2004.

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