

ASSEMBLY BILL NO. 460—COMMITTEE ON JUDICIARY

MARCH 24, 2003

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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.

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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. 1. Except as otherwise provided in subsection 2, a**  
37 **child under the age of 18 years shall not falsely represent that he**  
38 **is 18 years of age or older to purchase or obtain cigarettes,**  
39 **cigarette paper, tobacco of any description or products made from**  
40 **tobacco.**

41       **2. Subsection 1 does not apply to a child who is assisting in**  
42 **an inspection pursuant to NRS 202.2496.**



1     **Sec. 5.** (Deleted by amendment.)  
2     **Sec. 6.** NRS 62.040 is hereby amended to read as follows:  
3     62.040 1. Except if the child involved is subject to the  
4 exclusive jurisdiction of an Indian tribe, and except as otherwise  
5 provided in this chapter, the court has exclusive original jurisdiction  
6 in proceedings:  
7     (a) Concerning any child living or found within the county who  
8 is in need of supervision because he:  
9         (1) Is a child who is subject to compulsory school attendance  
10 and is a habitual truant from school;  
11         (2) *Engages in an act prohibited by section 4 of this act;*  
12         (3) Habitually disobeys the reasonable and lawful demands  
13 of his parents, guardian or other custodian, and is unmanageable; or  
14         ~~(3)~~ (4) Deserts, abandons or runs away from his home or  
15 usual place of abode,  
16 and is in need of care or rehabilitation. ~~[The]~~ A child *who is in need*  
17 *of supervision pursuant to this paragraph* must not be considered a  
18 delinquent.  
19     (b) Concerning any child living or found within the county who  
20 has committed a delinquent act. A child commits a delinquent act if  
21 he violates a county or municipal ordinance or any rule or regulation  
22 having the force of law, or he commits an act designated a crime  
23 under the law of the State of Nevada.  
24     (c) Concerning any child in need of commitment to an  
25 institution for the mentally retarded.  
26     2. For the purposes of subsection 1, each of the following acts  
27 shall be deemed not to be a delinquent act, and the court does not  
28 have jurisdiction of a person who is charged with committing such  
29 an act:  
30     (a) Murder or attempted murder and any other related offense  
31 arising out of the same facts as the murder or attempted murder,  
32 regardless of the nature of the related offense.  
33     (b) Sexual assault or attempted sexual assault involving the use  
34 or threatened use of force or violence against the victim and any  
35 other related offense arising out of the same facts as the sexual  
36 assault or attempted sexual assault, regardless of the nature of the  
37 related offense, if:  
38         (1) The person was 16 years of age or older when the sexual  
39 assault or attempted sexual assault was committed; and  
40         (2) Before the sexual assault or attempted sexual assault was  
41 committed, the person previously had been adjudicated delinquent  
42 for an act that would have been a felony if committed by an adult.  
43     (c) An offense or attempted offense involving the use or  
44 threatened use of a firearm and any other related offense arising out  
45 of the same facts as the offense or attempted offense involving the



1 use or threatened use of a firearm, regardless of the nature of the  
2 related offense, if:

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

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

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

13 (1) The felony was committed on the property of a public or  
14 private school when pupils or employees of the school were present  
15 or may have been present, at an activity sponsored by a public or  
16 private school or on a school bus while the bus was engaged in its  
17 official duties; and

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

22 (e) Any other offense if, before the offense was committed, the  
23 person previously had been convicted of a criminal offense.

24 3. If a child is charged with a minor traffic offense, the court  
25 may transfer the case and record to a justice's or municipal court if  
26 the judge determines that it is in the best interest of the child. If a  
27 case is so transferred:

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

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

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

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

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

37 62.212 1. Except as otherwise provided in subsection ~~3.~~ 4,  
38 if the court finds that a child is within the purview of paragraph (a)  
39 of subsection 1 of NRS 62.040 and has not previously been the  
40 subject of a complaint under NRS 62.128 before committing the acts  
41 for which the petition was filed, the court shall:

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



1 (b) Refer the child, without adjudication, to services available in  
2 the community for counseling, behavioral modification and social  
3 adjustment.

4 **2.** Except as otherwise provided in subsection ~~3~~ **4**, a child  
5 *described in subsection 1* must not be adjudicated to be a child in  
6 need of supervision unless a subsequent petition based upon  
7 additional facts is filed with the court after admonition and referral  
8 pursuant to ~~this subsection.~~  
9 ~~2~~ *that subsection.*

10 **3.** A child who is:

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

14 (b) Not adjudicated to be delinquent must not be committed to  
15 or otherwise placed in the Nevada Youth Training Center, the  
16 Caliente Youth Center or any other facility that provides  
17 correctional care.

18 ~~3~~ **4.** The provisions of subsection 1 do not apply to a child  
19 alleged to be in need of supervision because he is a habitual truant.

20 **5.** *In addition to the actions set forth in subsection 1, a court*  
21 *may order a child who engages in an act prohibited by section 4 of*  
22 *this act to perform community service. Community service so*  
23 *ordered must be performed:*

24 (a) *For and under the supervising authority of a county, city,*  
25 *town or other political subdivision or agency of this state or a*  
26 *charitable organization that renders service to the community or*  
27 *its residents; and*

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

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

30 179.1164 1. Except as otherwise provided in subsection 2,  
31 the following property is subject to seizure and forfeiture in a  
32 proceeding for forfeiture:

33 (a) Any proceeds attributable to the commission or attempted  
34 commission of any felony.

35 (b) Any property or proceeds otherwise subject to forfeiture  
36 pursuant to NRS 179.121, 200.760, 202.257, 453.301 or 501.3857  
37 ~~1~~, *or section 34 of this act.*

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

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

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



1 (b) Shows the court that he had good cause not to evict the  
2 tenant summarily pursuant to NRS 40.254,  
3 the owner of real property or a mobile home used or intended for  
4 use by a tenant to facilitate any violation of the provisions of NRS  
5 453.011 to 453.552, inclusive, except NRS 453.336, is disputably  
6 presumed to have known of and consented to that use if the notices  
7 required by NRS 453.305 have been given in connection with  
8 another such violation relating to the property or mobile home. The  
9 holder of a lien or encumbrance on the property or mobile home is  
10 disputably presumed to have acquired his interest in the property for  
11 fair value and without knowledge or consent to such use, regardless  
12 of when the act giving rise to the forfeiture occurred.

13 **Sec. 9.** Chapter 370 of NRS is hereby amended by adding  
14 thereto the provisions set forth as sections 10 to 58, inclusive, of this  
15 act.

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

20 **Sec. 11.** *“Counterfeit cigarettes” means any cigarettes or*  
21 *cigarette packages:*

- 22 1. *Bearing false manufacturing labels;*
- 23 2. *Bearing no stamps;*
- 24 3. *Bearing counterfeit stamps; or*
- 25 4. *Meeting any combination of the descriptions contained in*  
26 *subsections 1, 2 and 3.*

27 **Sec. 12.** *“Counterfeit stamp” means any stamp that:*

- 28 1. *Falsely depicts a stamp approved by the Department or a*  
29 *tax stamp authorized pursuant to the laws of any other state*  
30 *governing the taxation of cigarettes; or*
- 31 2. *Was not sold by the Department or its agents or pursuant*  
32 *to the laws of any other state governing the taxation of cigarettes.*

33 **Sec. 13.** 1. *“Delivery sale” means any sale of cigarettes,*  
34 *whether the seller is located within or outside of the borders of this*  
35 *state, to a consumer in this state for which:*

36 (a) *The purchaser submits the order for the sale by means of a*  
37 *telephonic or other method of voice transmission, the mail or any*  
38 *other delivery service, or the Internet or any other online service;*  
39 *or*

40 (b) *The cigarettes are delivered by mail or the use of another*  
41 *delivery service.*

42 2. *For the purpose of this section, any sale of cigarettes to a*  
43 *natural person in this state who does not hold a current license as*  
44 *a wholesale or retail dealer constitutes a sale to a consumer.*



- 1     **Sec. 14.** *“Delivery service” means any person engaged in the*  
2 *commercial delivery of letters, packages or other containers.*
- 3     **Sec. 15.** (Deleted by amendment.)
- 4     **Sec. 16.** *“License” means a license issued pursuant to NRS*  
5 *370.001 to 370.430, inclusive, and sections 10 to 37, inclusive, of*  
6 *this act, that authorizes the holder to conduct business as a*  
7 *manufacturer or a wholesale or retail dealer.*
- 8     **Sec. 17.** *“Licensee” means the holder of a license.*
- 9     **Sec. 18.** *“Manufacturer” means any person who:*
- 10     1. *Manufactures, fabricates, assembles, processes or labels a*  
11 *finished cigarette; or*
- 12     2. *Imports, whether directly or indirectly, a finished cigarette*  
13 *for sale or distribution in this state.*
- 14     **Sec. 19.** *“Place of business” means, for a person engaged in*  
15 *business as:*
- 16     1. *A wholesale dealer, any location from which cigarettes are*  
17 *distributed or where cigarettes are warehoused, stored or affixed*  
18 *with stamps; or*
- 19     2. *A retail dealer, any store, stand, outlet or other location*  
20 *through which cigarettes are distributed or sold to a consumer.*
- 21     **Sec. 20.** *“Secretary” means the Secretary of the United*  
22 *States Department of the Treasury.*
- 23     **Sec. 21.** *“Shipping container” means a container in which*  
24 *cigarettes are shipped in connection with a delivery sale.*
- 25     **Sec. 22.** *“Shipping documents” means bills of lading, airbills*  
26 *or any other documents used to evidence an undertaking by a*  
27 *delivery service to deliver letters, packages or other containers.*
- 28     **Sec. 23.** *“Stamp” means the indicia required to be placed on*  
29 *a cigarette package that evidences payment of the taxes on*  
30 *cigarettes imposed pursuant to NRS 370.0751 and 370.165.*
- 31     **Sec. 24.** *No license may be issued, maintained or renewed:*
- 32     1. *If the applicant for the license or any combination of*  
33 *persons directly or indirectly owning, in the aggregate, more than*  
34 *10 percent of the ownership interests in the applicant:*
- 35         (a) *Owes \$500 or more in delinquent cigarette taxes;*
- 36         (b) *Had a license as a manufacturer or as a wholesale or retail*  
37 *dealer revoked by the Department within the past 2 years;*
- 38         (c) *Has been convicted of a crime relating to the sale of stolen*  
39 *or counterfeit cigarettes or stamps or the receipt of stolen*  
40 *cigarettes;*
- 41         (d) *Is a manufacturer who has:*
- 42             (1) *Imported any cigarettes into the United States in*  
43 *violation of 19 U.S.C. § 1681a; or*





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

4           (e) *Is a nonparticipating manufacturer, as defined in section*  
5 *46 of this act, who is not in full compliance with subsection 2 of*  
6 *NRS 370A.140.*

7           2. *Unless the applicant for the license certifies in writing,*  
8 *under penalty of perjury, that the applicant will comply fully with*  
9 *the provisions of chapter 370A of NRS and sections 38 to 58,*  
10 *inclusive, of this act.*

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

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

18           (a) *No person, other than a wholesale dealer that receives*  
19 *unstamped cigarette packages directly from a person who holds a*  
20 *current permit to engage in business as a manufacturer or*  
21 *importer of cigarettes issued pursuant to 26 U.S.C. § 5713, may*  
22 *possess an unstamped cigarette package.*

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

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

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

32           (a) *The quantity of cigarette packages that were distributed or*  
33 *shipped to another manufacturer or to a wholesale dealer within*  
34 *the borders of this state during the reporting period, and the name*  
35 *and address of each person to whom those products were*  
36 *distributed or shipped;*

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

40           (c) *The quantity of cigarette packages that were distributed or*  
41 *shipped within the borders of this state to Indian tribal entities or*  
42 *instrumentalities of the Federal Government during the reporting*  
43 *period, and the name and address of each person to whom those*  
44 *products were distributed or shipped.*





- 1       2. *Each wholesale dealer shall submit to the Department*  
2 *periodic reports of:*
- 3       (a) *The inventory of stamped and unstamped cigarette*  
4 *packages held by the wholesale dealer for sale or distribution*  
5 *within the borders of this state on hand at the beginning of the*  
6 *reporting period;*
- 7       (b) *The inventory of cigarette packages held by the wholesale*  
8 *dealer for sale or distribution outside of the borders of this state on*  
9 *hand at the beginning of the reporting period;*
- 10       (c) *The quantity of stamped cigarette packages held for sale or*  
11 *distribution within the borders of this state that were received by*  
12 *the wholesale dealer from another person during the reporting*  
13 *period, and the name and address of each person from whom*  
14 *those products were received;*
- 15       (d) *The quantity of cigarette packages held for sale or*  
16 *distribution outside of the borders of this state that were received*  
17 *by the wholesale dealer from another person during the reporting*  
18 *period, and the name and address of each person from whom*  
19 *those products were received;*
- 20       (e) *The quantity of cigarette packages to which Nevada stamps*  
21 *were affixed that were distributed or shipped to another wholesale*  
22 *dealer or to a retail dealer within the borders of this state during*  
23 *the reporting period, and the name and address of each person to*  
24 *whom those products were distributed or shipped;*
- 25       (f) *The quantity of cigarette packages to which Nevada stamps*  
26 *were affixed that were distributed or shipped to another facility of*  
27 *the same wholesale dealer within the borders of this state during*  
28 *the reporting period;*
- 29       (g) *The quantity of stamped cigarette packages that were*  
30 *distributed or shipped within the borders of this state to Indian*  
31 *tribal entities or instrumentalities of the Federal Government*  
32 *during the reporting period, and the name and address of each*  
33 *person to whom those products were distributed or shipped;*
- 34       (h) *The quantity of cigarette packages held for distribution*  
35 *outside of the borders of this state that were distributed or shipped*  
36 *outside of the borders of this state during the reporting period;*
- 37       (i) *The inventory of stamped and unstamped cigarette*  
38 *packages held for sale or distribution within the borders of this*  
39 *state on hand at the end of the reporting period;*
- 40       (j) *The inventory of cigarette packages held for sale or*  
41 *distribution outside of the borders of this state on hand at the end*  
42 *of the reporting period;*
- 43       (k) *The number of each type of stamp on hand at the*  
44 *beginning of the reporting period;*



- 1       (l) *The number of each type of stamp purchased or received*  
2 *during the reporting period;*  
3       (m) *The number of each type of stamp applied during the*  
4 *reporting period; and*  
5       (n) *The number of each type of stamp on hand at the end of*  
6 *the reporting period.*  
7       3. *The reports required by this section must be:*  
8       (a) *Submitted on forms provided by the Department; and*  
9       (b) *Provided separately for each of the facilities operated by*  
10 *the manufacturer or wholesale dealer.*  
11       4. *In each report required by this section, the information*  
12 *required must be itemized so as to disclose clearly:*  
13       (a) *The quantities of stamped and unstamped cigarettes to*  
14 *which the report applies; and*  
15       (b) *The brand and style of cigarettes to which the report*  
16 *applies.*  
17       5. *The Department shall by regulation establish:*  
18       (a) *A reporting period for the reports required by this section,*  
19 *which must be not less than 1 month nor more than 3 months; and*  
20       (b) *Procedures for the electronic submission of the reports*  
21 *required by this section.*  
22       **Sec. 28. 1.** *A person shall not accept an order for a delivery*  
23 *sale unless the person first obtains a license as a retail dealer.*  
24       2. *A person who accepts an order for a delivery sale shall*  
25 *comply with all of the requirements of this chapter and chapters*  
26 *370A, 372 and 374 of NRS, and all other laws of this state*  
27 *generally applicable to sales of cigarettes that occur entirely*  
28 *within this state.*  
29       **Sec. 29. 1.** *A person shall not cause the mailing or*  
30 *shipment of cigarettes in connection with an order for a delivery*  
31 *sale unless the person accepting the order first:*  
32       (a) *Obtains from the prospective purchaser a certification*  
33 *which includes:*  
34       (1) *Reliable confirmation that the purchaser is at least 18*  
35 *years of age; and*  
36       (2) *A statement signed by the prospective purchaser in*  
37 *writing and under penalty of perjury which:*  
38       (I) *Certifies the prospective purchaser's address and*  
39 *date of birth;*  
40       (II) *Confirms that the prospective purchaser*  
41 *understands that signing another person's name to such*  
42 *certification is illegal and that sales of cigarettes to children under*  
43 *18 years of age are illegal under the laws of this state; and*  
44       (III) *Confirms that the prospective purchaser desires to*  
45 *receive mailings from a tobacco company.*



- 1       ***(b) Makes a good faith effort to verify the information***  
2 ***contained in the certification provided by the prospective***  
3 ***purchaser pursuant to paragraph (a) against any federal or***  
4 ***commercially available database established for that purpose;***  
5       ***(c) Sends to the prospective purchaser, by electronic mail or***  
6 ***other means, a notice which meets the requirements of subsection***  
7 ***2 and requests confirmation that the order for the delivery sale***  
8 ***was placed by the prospective purchaser;***  
9       ***(d) Receives from the prospective purchaser confirmation,***  
10 ***pursuant to the request described in paragraph (c), that such***  
11 ***person placed the order for the delivery sale; and***  
12       ***(e) Receives payment for the delivery sale from the prospective***  
13 ***purchaser by a credit or debit card that has been issued in that***  
14 ***purchaser's name.***  
15       **2. The notice required by paragraph (c) of subsection 1 must**  
16 **include:**  
17       ***(a) A prominent and clearly legible statement that the sale of***  
18 ***cigarettes to children under 18 years of age is illegal;***  
19       ***(b) A prominent and clearly legible statement that the sale of***  
20 ***cigarettes is restricted to persons who provide verifiable proof of***  
21 ***age in accordance with this section; and***  
22       ***(c) A prominent and clearly legible statement that sales of***  
23 ***cigarettes are taxable under this chapter, and an explanation of***  
24 ***how the tax has been or is to be paid with respect to the delivery***  
25 ***sale.***  
26       **3. Persons accepting orders for delivery sales may request**  
27 **that prospective purchasers provide their electronic mail**  
28 **addresses.**  
29       **Sec. 30. 1. A person who causes the mailing or shipment of**  
30 **cigarettes in connection with an order for a delivery sale shall:**  
31       ***(a) Use a method of mailing or shipping that obligates the***  
32 ***delivery service to carry out the provisions of section 32 of this act;***  
33       ***(b) Provide to the delivery service retained to deliver the***  
34 ***delivery sale evidence that all taxes levied by this state with respect***  
35 ***to the delivery sale have been paid to this state; and***  
36       ***(c) Include as part of the shipping documents:***  
37               ***(1) A copy of the retail dealer's license authorizing the***  
38 ***delivery sale;***  
39               ***(2) An envelope addressed to the Department, with postage***  
40 ***prepaid, that contains an invoice which provides the information***  
41 ***required by section 31 of this act for that delivery sale; and***  
42               ***(3) A clear and conspicuous statement providing as follows:***



1           ***“DELIVERY SALE OF CIGARETTES: NEVADA LAW***  
2           ***PROHIBITS SHIPPING TO CHILDREN UNDER 18***  
3           ***YEARS OF AGE AND REQUIRES THE PAYMENT OF***  
4           ***ALL APPLICABLE TAXES.”***  
5

6           2. *A person who accepts an order for a delivery sale and*  
7 *delivers the cigarettes without using a third-party delivery service*  
8 *shall comply with all the requirements of section 32 of this act*  
9 *applicable to a delivery service.*

10          **Sec. 31.** *Not later than the 10th day of each calendar month,*  
11 *each person who has mailed, shipped or otherwise delivered*  
12 *cigarettes in connection with a delivery sale during the previous*  
13 *calendar month, except a delivery service, shall file with the*  
14 *Department a memorandum or a copy of the invoice which*  
15 *provides for every such delivery sale:*

16           1. *The name and address of the person to whom the delivery*  
17 *sale was made; and*

18           2. *The quantity and brands of cigarettes that were sold in the*  
19 *delivery sale.*

20          **Sec. 32.** 1. *Except as otherwise provided in subsection 2, a*  
21 *delivery service shall:*

22           (a) *Before delivering a shipping container in connection with*  
23 *a delivery sale:*

24               (1) *Ensure that the shipping documents include the*  
25 *documents required by paragraph (c) of subsection 1 of section 30*  
26 *of this act;*

27               (2) *Obtain the evidence required by paragraph (b) of*  
28 *subsection 1 of section 30 of this act regarding the cigarettes in the*  
29 *shipping container; and*

30               (3) *Ensure that each cigarette package in the shipping*  
31 *container bears a valid stamp. The delivery service shall return to*  
32 *the shipper any cigarette packages that do not bear a valid stamp.*

33           (b) *When delivering a shipping container in connection with a*  
34 *delivery sale, require:*

35               (1) *The purchaser placing the order for the delivery sale, or*  
36 *an adult designated by that purchaser, to sign to accept delivery of*  
37 *the shipping container; and*

38               (2) *Proof, in the form of valid identification that was issued*  
39 *by a governmental entity and bears a photograph of the person*  
40 *who signs to accept delivery of the shipping container,*  
41 *demonstrating:*

42                   (I) *That the person is either the addressee or the adult*  
43 *designated by the addressee; and*

44                   (II) *If the person appears to be under 27 years of age,*  
45 *that the person is at least 18 years of age.*



1 (c) After delivering a shipping container in connection with a  
2 delivery sale, mail to the Department the invoice included in the  
3 shipping documents pursuant to paragraph (c) of subsection 1 of  
4 section 30 of this act.

5 2. A delivery service is required to comply with the provisions  
6 of subsection 1 only if the delivery service:

7 (a) Is obligated to do so under a method of shipping;

8 (b) Delivers any container pursuant to shipping documents  
9 containing the statement described in paragraph (c) of subsection  
10 1 of section 30 of this act; or

11 (c) Delivers any container that the delivery service otherwise  
12 has reason to know contains cigarettes sold pursuant to a delivery  
13 sale.

14 **Sec. 33.** In addition to any other penalty authorized by law:

15 1. The Department may:

16 (a) Impose a civil penalty of \$1,000 on any person who  
17 knowingly:

18 (1) Omits, neglects or refuses to:

19 (I) Comply with any duty imposed upon him pursuant to  
20 the provisions of NRS 370.080 to 370. 315, inclusive, and sections  
21 24 to 27, inclusive, of this act; or

22 (II) Do or cause to be done any of the things required  
23 pursuant to those provisions; or

24 (2) Does anything prohibited by the provisions of NRS  
25 370.080 to 370. 315, inclusive, and sections 24 to 27, inclusive, of  
26 this act.

27 (b) Impose on each person who violates any of the provisions  
28 of sections 28 to 32, inclusive, of this act, a civil penalty of:

29 (1) Not more than \$1,000 for the first violation; and

30 (2) Not less than \$1,000 nor more than \$5,000 for each  
31 subsequent violation.

32 2. Any person who fails to pay any tax imposed pursuant to  
33 the provisions of NRS 370.080 to 370. 315, inclusive, and sections  
34 24 to 32, inclusive, of this act within the time prescribed by law or  
35 regulation shall pay a penalty of 500 percent of the tax due but  
36 unpaid, in addition to the tax.

37 **Sec. 34.** All fixtures, equipment and other materials and  
38 personal property on the premises of any wholesale or retail dealer  
39 who, with intent to defraud the state:

40 1. Fails to keep or make any record, return, report or  
41 inventory required pursuant to NRS 370.080 to 370.315, inclusive,  
42 and sections 24 to 32, inclusive, of this act;

43 2. Keeps or makes any false or fraudulent record, return,  
44 report or inventory required pursuant to NRS 370.080 to 370.315,  
45 inclusive, and sections 24 to 32, inclusive, of this act;



1       3. Refuses to pay any tax imposed pursuant to NRS 370.080  
2 to 370.315, inclusive, and sections 24 to 32, inclusive, of this act;  
3 or

4       4. Attempts in any manner to evade or defeat the  
5 requirements of NRS 370.080 to 370.315, inclusive, and sections  
6 24 to 32, inclusive, of this act,  
7 is subject to forfeiture pursuant to NRS 179.1156 to 179.119,  
8 inclusive.

9       **Sec. 35. 1.** It is unlawful for a person, with the intent to  
10 defraud the state:

11       (a) To fail to keep or make any record, return, report or  
12 inventory, or keep or make any false or fraudulent record, return,  
13 report, or inventory, required pursuant to NRS 370.080 to 370.315,  
14 inclusive, and sections 24 to 32, inclusive, of this act or any  
15 regulations adopted for the administration or enforcement of those  
16 provisions;

17       (b) To refuse to pay any tax imposed pursuant to NRS 370.080  
18 to 370.315, inclusive, and sections 24 to 32, inclusive, of this act,  
19 or attempt in any manner to evade or defeat the tax or the payment  
20 thereof;

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

22       (d) To sell or possess for the purpose of sale any counterfeit  
23 stamp;

24       (e) To have in his possession any counterfeit stamp, with the  
25 intent to use the counterfeit stamp, knowing or having reasonable  
26 grounds to believe the stamp to be a counterfeit stamp;

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

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

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

33       2. A person who violates any of the provisions of subsection 1  
34 is guilty of a category C felony and shall be punished as provided  
35 in NRS 193.130.

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

40       2. A person who violates any provision of subsection 1 is  
41 guilty of:

42       (a) For the first offense involving less than 400 cigarettes, a  
43 misdemeanor.



1 (b) For each subsequent offense involving less than 400  
2 cigarettes, a category D felony and shall be punished as provided  
3 in NRS 193.130.

4 (c) For the first offense involving 400 or more cigarettes, a  
5 gross misdemeanor.

6 (d) For each subsequent offense involving 400 or more  
7 cigarettes, a category C felony and shall be punished as provided  
8 in NRS 193.130.

9 **Sec. 37.** A person who:

10 1. Knowingly violates any of the provisions of sections 28 to  
11 32, inclusive, of this act; or

12 2. Knowingly and falsely submits a certification pursuant to  
13 paragraph (a) of subsection 1 of section 29 of this act in the name  
14 of another person,  
15 is guilty of a category C felony and shall be punished as provided  
16 in NRS 193.130.

17 **Sec. 38.** The Legislature finds that:

18 1. Violations of the provisions of chapter 370A of NRS  
19 threaten the integrity of the Master Settlement Agreement, the  
20 fiscal soundness of the State and the public health.

21 2. The enactment of the procedural enhancements set forth in  
22 sections 38 to 58, inclusive, of this act will aid in the enforcement  
23 of the provisions of chapter 370A of NRS and thereby safeguard  
24 the Master Settlement Agreement, the fiscal soundness of the State  
25 and the public health.

26 **Sec. 39.** As used in sections 38 to 58, inclusive, of this act,  
27 unless the context otherwise requires, the words and terms defined  
28 in sections 40 to 50, inclusive, of this act have the meanings  
29 ascribed to them in those sections.

30 **Sec. 40.** "Brand family" means all styles of cigarettes sold  
31 under the same trademark and differentiated from one another by  
32 means of additional modifiers or descriptors, including, but not  
33 limited to, "menthol," "lights," "kings" and "100s," and includes  
34 any brand name, whether occurring alone or in conjunction with  
35 any other word, any trademark, logo, symbol, motto, selling  
36 message or recognizable pattern of colors, or any other indicia of  
37 product identification identical or similar to, or identifiable with, a  
38 previously known brand of cigarettes.

39 **Sec. 41.** "Cigarette" has the meaning ascribed to it in  
40 NRS 370A.050.

41 **Sec. 42.** "Directory" means the directory created pursuant to  
42 section 53 of this act.

43 **Sec. 43.** "Distributor" means a person that is authorized to  
44 affix stamps to cigarette packages pursuant to this chapter or any





- 1 *person that is required to pay the taxes on cigarettes imposed*  
2 *pursuant to this chapter.*
- 3 **Sec. 44.** *“Manufacturer of tobacco products” has the*  
4 *meaning ascribed to it in NRS 370A.060.*
- 5 **Sec. 45.** *“Master Settlement Agreement” has the meaning*  
6 *ascribed to it in NRS 370A.070.*
- 7 **Sec. 46.** *“Nonparticipating manufacturer” means any*  
8 *manufacturer of tobacco products that is not a participating*  
9 *manufacturer.*
- 10 **Sec. 47.** *“Participating manufacturer” has the meaning*  
11 *ascribed to it in NRS 370A.080.*
- 12 **Sec. 48.** *“Qualified escrow fund” has the meaning ascribed*  
13 *to it in NRS 370A.090.*
- 14 **Sec. 49.** *“Stamp” means the indicia required to be placed on*  
15 *a cigarette package that evidences payment of the taxes on*  
16 *cigarettes imposed pursuant to this chapter.*
- 17 **Sec. 50.** *“Units sold” has the meaning ascribed to it in*  
18 *NRS 370A.120.*
- 19 **Sec. 51.** *1. A manufacturer of tobacco products whose*  
20 *cigarettes are sold in this state, whether directly or through a*  
21 *distributor, retailer or similar intermediary or intermediaries,*  
22 *shall, not later than April 30 of each year, execute and deliver to*  
23 *the Attorney General and the Department, on a form provided by*  
24 *the Department, a certification which certifies under penalty of*  
25 *perjury that, as of the date of that certification, the manufacturer*  
26 *of tobacco products is either:*
- 27 *(a) A participating manufacturer; or*  
28 *(b) In full compliance with subsection 2 of NRS 370A.140,*  
29 *including any quarterly installment payments required pursuant to*  
30 *section 56 of this act.*
- 31 *2. Except as otherwise provided in section 52 of this act:*
- 32 *(a) A participating manufacturer shall include in its*  
33 *certification pursuant to this section a list of its brand families.*  
34 *The participating manufacturer shall update that list at least 30*  
35 *calendar days before it adds to or modifies its brand families by*  
36 *executing and delivering a supplemental certification to the*  
37 *Attorney General and the Department.*
- 38 *(b) A nonparticipating manufacturer shall, in its certification*  
39 *pursuant to this section:*
- 40 *(1) Include:*
- 41 *(I) A list of all of its brand families and the number of*  
42 *units sold for each brand family that were sold in the State during*  
43 *the preceding calendar year; and*  
44 *(II) A list of all of its brand families that have been sold*  
45 *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 54 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 chapter 370A of NRS and any regulations*  
27 *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 chapter*  
31 *370A of NRS and any regulations adopted pursuant thereto;*  
32        (e) *The account number of that qualified escrow fund and any*  
33 *sub-account number for this state;*  
34        (f) *The amount the nonparticipating manufacturer placed in*  
35 *that qualified escrow fund for cigarettes sold in the State during*  
36 *the preceding calendar year, the date and amount of each such*  
37 *deposit, and such evidence or verification as may be deemed*  
38 *necessary by the Department to confirm the information required*  
39 *by this paragraph; and*  
40        (g) *The amount and date of any withdrawal or transfer of*  
41 *money the nonparticipating manufacturer made at any time from*  
42 *that qualified escrow fund or from any other qualified escrow*  
43 *fund into which it ever made escrow payments pursuant to chapter*  
44 *370A of NRS and any regulations adopted pursuant thereto.*



1 **Sec. 52. A manufacturer of tobacco products:**

2 *1. Shall not include a brand family in its certification*  
3 *pursuant to section 51 of this act unless, if the manufacturer is:*

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

9 *(b) A nonparticipating manufacturer, the manufacturer*  
10 *affirms that the brand family is to be deemed to be its cigarettes*  
11 *for purposes of chapter 370A of NRS.*

12 *This subsection must not be construed as limiting or otherwise*  
13 *affecting the right of the State to maintain that a brand family*  
14 *constitutes cigarettes of a different manufacturer of tobacco*  
15 *products for purposes of calculating payments under the Master*  
16 *Settlement Agreement or for purposes of chapter 370A of NRS.*

17 *2. Shall maintain all invoices and documentation of sales,*  
18 *and any other information relied upon by the manufacturer for its*  
19 *certification pursuant to section 51 of this act, for at least 5 years,*  
20 *unless the manufacturer is otherwise required by law to maintain*  
21 *them for a greater period.*

22 **Sec. 53. 1. The Department shall create and maintain on**  
23 *its Internet website and otherwise make available for public*  
24 *inspection a directory that lists, except as otherwise provided in*  
25 *sections 38 to 58, inclusive, of this act, all manufacturers of*  
26 *tobacco products that have provided current and accurate*  
27 *certifications conforming to the requirements of sections 38 to 58,*  
28 *inclusive, of this act and all brand families that are listed in those*  
29 *certifications. The Department:*

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

36 *(b) Shall not include or retain in the directory a manufacturer*  
37 *of tobacco products or brand family if the Department concludes,*  
38 *for a nonparticipating manufacturer, that:*

39 *(1) Any escrow payment required pursuant to chapter 370A*  
40 *of NRS for any period for any brand family, whether or not listed*  
41 *by the nonparticipating manufacturer, has not been fully paid into*  
42 *a qualified escrow fund governed by a qualified escrow agreement*  
43 *which has been approved by the Attorney General; or*



1           (2) Any outstanding final judgment, including any interest  
2 thereon, for a violation of chapter 370A of NRS has not been fully  
3 satisfied for that manufacturer or brand family.

4           2. The Department shall update the directory as necessary to  
5 correct mistakes and to add or remove a manufacturer of tobacco  
6 products or brand family to keep the directory in conformity with  
7 the requirements of sections 38 to 58, inclusive, of this act.

8           3. Any determination of the Department not to include in or  
9 to remove from the directory a manufacturer of tobacco products  
10 or brand family is a final decision for the purposes of judicial  
11 review.

12       **Sec. 54.** 1. Any nonresident or foreign nonparticipating  
13 manufacturer that has not registered to do business in the State as  
14 a foreign corporation or other business entity must, as a condition  
15 precedent to having its brand families included or retained in the  
16 directory, appoint and continually engage without interruption the  
17 services of an agent in this state to act as its agent for the service  
18 of process on whom all process, in any action or proceeding  
19 against it concerning or arising out of the enforcement of this  
20 chapter, may be served in any manner authorized by law. Such  
21 service constitutes legal and valid service of process on the  
22 nonparticipating manufacturer. The nonparticipating  
23 manufacturer shall provide the name, address, phone number and  
24 proof of the appointment and availability of such agent to, and to  
25 the satisfaction of, the Attorney General and the Department.

26           2. A nonparticipating manufacturer shall provide notice to  
27 the Attorney General and the Department at least 30 calendar days  
28 before the termination of the authority of an agent appointed  
29 pursuant to this section and shall provide proof to the satisfaction  
30 of the Attorney General and the Department of the appointment of  
31 a new agent not less than 5 calendar days before the termination  
32 of appointment of an existing agent. If an agent terminates his  
33 appointment as an agent, the nonparticipating manufacturer shall  
34 notify the Attorney General and the Department of that  
35 termination within 5 calendar days and include with that  
36 notification proof to the satisfaction of the Attorney General and  
37 the Department of the appointment of a new agent.

38           3. Any nonparticipating manufacturer whose cigarettes are  
39 sold in this state and who has not appointed and engaged an agent  
40 as required by this section shall be deemed to have appointed the  
41 Secretary of State as such agent and may be proceeded against in  
42 courts of this state by service of process upon the Secretary of  
43 State, except that the appointment of the Secretary of State as such  
44 agent does not satisfy the condition precedent for having the brand



1 *families of the nonparticipating manufacturer included or*  
2 *retained in the directory.*

3 **Sec. 55.** 1. *Not later than 20 calendar days after the end of*  
4 *each calendar quarter, and more frequently if so directed by the*  
5 *Department, each distributor shall submit such information as the*  
6 *Department requires to facilitate compliance with the provisions of*  
7 *sections 38 to 58, inclusive, of this act, including, without*  
8 *limitation, a list by brand family of the total number of cigarettes*  
9 *or, in the case of “roll-your-own” tobacco, the equivalent unit*  
10 *count, for which the distributor affixed stamps during the previous*  
11 *calendar quarter or otherwise paid the tax due for those cigarettes.*  
12 *The distributor shall maintain for at least 5 years, and make*  
13 *available to the Department, all invoices and documentation of*  
14 *sales of all cigarettes of nonparticipating manufacturers and any*  
15 *other information relied upon in reporting to the Department.*

16 2. *The Department may disclose to the Attorney General any*  
17 *information received pursuant to sections 38 to 58, inclusive, of*  
18 *this act and requested by the Attorney General for purposes of*  
19 *determining compliance with and enforcing the provisions of*  
20 *sections 38 to 58, inclusive, of this act. The Department and*  
21 *Attorney General shall share with each other the information*  
22 *received pursuant to the provisions of sections 38 to 58, inclusive,*  
23 *of this act, and may share such information with other federal,*  
24 *state or local agencies only for purposes of enforcement of those*  
25 *provisions, the provisions of chapter 370A of NRS or the*  
26 *corresponding laws of other states.*

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

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

42 5. *Every distributor shall provide to the Department and*  
43 *update as necessary an electronic mail address for receiving any*  
44 *notifications as may be required to carry out sections 38 to 58,*  
45 *inclusive, of this act.*



1       **Sec. 56. 1.** *To promote compliance with the provisions of*  
2 *NRS 370A.140, the Department may adopt regulations requiring a*  
3 *manufacturer of tobacco products to make the escrow deposits*  
4 *required by NRS 370A.140 in quarterly installments during the*  
5 *year in which the sales covered by those deposits are made. The*  
6 *Department may require the production of information sufficient*  
7 *to enable the Department to determine the adequacy of the amount*  
8 *of each quarterly installment.*

9       **2.** *The Department may adopt such regulations as it deems*  
10 *necessary to carry out the provisions of sections 38 to 58,*  
11 *inclusive, of this act.*

12       **Sec. 57. 1.** *It is unlawful for any person to:*

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

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

19       **2.** *A person who violates any provision of subsection 1 is*  
20 *guilty of a gross misdemeanor.*

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

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

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

31       **Sec. 58. 1.** *The Attorney General, on behalf of the*  
32 *Department, may bring an action in the district court of this state*  
33 *to:*

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

37       **(b)** *Enforce any of the provisions of sections 38 to 58,*  
38 *inclusive, of this act.*

39       **2.** *In any action brought by the State to enforce the provisions*  
40 *of sections 38 to 58, inclusive, of this act, the State is entitled to*  
41 *recover any costs of investigation, expert witness fees, costs of the*  
42 *action and reasonable attorney fees.*

43       **3.** *If a court determines that any person has violated any*  
44 *provision of sections 38 to 58, inclusive, of this act, the court shall*  
45 *order any profits, gain, gross receipts or other benefit from the*





1 *violation to be disgorged and paid to the State Treasurer for*  
2 *deposit in the State General Fund.*

3 *4. The remedies and penalties provided in sections 38 to 58,*  
4 *inclusive, of this act are cumulative to each other and to the*  
5 *remedies and penalties available under any other law of this state.*

6 **Sec. 59.** NRS 370.001 is hereby amended to read as follows:

7 370.001 As used in NRS 370.001 to 370.430, inclusive, *and*  
8 *sections 10 to 37, inclusive, of this act*, unless the context otherwise  
9 requires, the words and terms defined in NRS 370.005 to 370.055,  
10 inclusive, *and sections 10 to 23, inclusive, of this act* have the  
11 meanings ascribed to them in those sections.

12 **Sec. 60.** NRS 370.015 is hereby amended to read as follows:

13 370.015 “Cigarette vending machine operator” means any  
14 ~~[person]~~ *retail dealer* licensed to sell only Nevada stamped  
15 cigarettes by means of coin-operated machines anywhere in Nevada.

16 **Sec. 61.** NRS 370.025 is hereby amended to read as follows:

17 370.025 “Contraband cigarettes” means any ~~[cigarettes~~  
18 ~~exported]~~ :

- 19 1. *Counterfeit cigarettes; or*
- 20 2. *Cigarettes:*

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

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

28 (c) *Stamped, sold, or offered or possessed for sale in violation*  
29 *of section 57 of this act.*

30 **Sec. 62.** NRS 370.033 is hereby amended to read as follows:

31 370.033 “Retail dealer” means any person , *whether located*  
32 *within or outside of the borders of this state*, who ~~[offers to sell~~  
33 ~~cigarettes at retail or who is engaged in selling cigarettes at retail.]~~  
34 *sells or distributes cigarettes to a consumer within the State.*

35 **Sec. 63.** NRS 370.055 is hereby amended to read as follows:

36 370.055 “Wholesale dealer” means:

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

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

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

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





1 3. Any person , *whether located within or outside of the*  
2 *borders of this state*, who acquires cigarettes solely for the purpose  
3 of bona fide resale to retail dealers *in this state* or to other persons  
4 *in this state* for the purpose of resale only.

5 **Sec. 64.** NRS 370.065 is hereby amended to read as follows:  
6 370.065 In order to obtain evidence of any violation of this  
7 chapter, the Department, its agents, and all peace officers and  
8 revenue-collecting officers of this state ~~[shall have the right of~~  
9 ~~visitation and inspection of any]~~ *may enter and inspect, without a*  
10 *warrant during normal business hours and with a warrant at any*  
11 *other time:*

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

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

18 **Sec. 65.** NRS 370.080 is hereby amended to read as follows:

19 370.080 1. A person shall not engage in business as a ~~[dealer~~  
20 ~~of cigarettes]~~ *wholesale dealer* in the State of Nevada unless he first  
21 secures a ~~[wholesale or retail cigarette dealer's]~~ license *to engage in*  
22 *that activity* from the Department.

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

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

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

31 **Sec. 66.** NRS 370.100 is hereby amended to read as follows:

32 370.100 An application for a ~~[cigarette dealer's]~~ license must:

33 1. Be made to the Department on forms prescribed by the  
34 Department.

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

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



1 4. ~~[Be]~~ Specify any other information the Department may  
2 require.

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

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

9 **Sec. 67.** NRS 370.140 is hereby amended to read as follows:

10 370.140 1. ~~[Wholesale cigarette dealers' licenses shall permit~~  
11 ~~the holders]~~ A current license as a:

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

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

21 (b) Wholesale dealer authorizes the holder thereof to:

22 (1) Purchase cigarettes from any manufacturer or  
23 wholesale dealer who holds a current license; or

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

26 (c) Retail dealer authorizes the holder thereof to:

27 (1) Purchase cigarettes from any wholesale dealer who  
28 holds a current license; or

29 (2) Sell cigarettes anywhere within the borders of this state  
30 to any consumer.

31 2. No person who holds a current license as a:

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

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

38 **Sec. 68.** NRS 370.150 is hereby amended to read as follows:

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

42 2. The Department shall not charge any license fees for a  
43 manufacturer's or retail ~~[cigarette]~~ dealer's license.

44 ~~[2.]~~ 3. An annual license fee of \$150 ~~[shall]~~ must be charged  
45 for each wholesale ~~[cigarette]~~ dealer's license. If ~~[any license, other~~



1 ~~than the renewal of a delinquent license,] such a license~~ is issued at  
2 any time during the year other than on January 1, *except for the*  
3 *renewal of a delinquent license pursuant to subsection 5*, the  
4 licensee shall pay a proportionate part of the annual fee for the  
5 remainder of the year, but not less than 25 percent of the annual  
6 license fee.

7 ~~[3.—Wholesale cigarette]~~

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

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

15 **Sec. 69.** NRS 370.210 is hereby amended to read as follows:

16 370.210 *1. A wholesale dealer whose stamping facilities are*  
17 *located within the borders of this state shall affix stamps to all*  
18 *applicable cigarette packages received at those stamping facilities*  
19 *within 10 days after receipt. A wholesale dealer may set aside,*  
20 *without affixing stamps, only that part of the stock of the*  
21 *wholesale dealer that is identified for sale or distribution outside*  
22 *of the borders of this state. A wholesale dealer must identify any*  
23 *stock to be set aside pursuant to this subsection within 10 days*  
24 *after the receipt of that stock.*

25 *2. A wholesale dealer may affix stamps only to cigarette*  
26 *packages that the wholesale dealer has received directly from a*  
27 *person who holds a current permit to engage in business as a*  
28 *manufacturer or importer of cigarettes issued pursuant to 26*  
29 *U.S.C. § 5713.*

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

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

42 **Sec. 70.** NRS 370.250 is hereby amended to read as follows:

43 370.250 *1.* If any dealer in cigarettes upon which a  
44 precollected or advance tax is required to be paid fails to *file any*  
45 report ~~[to]~~ *required pursuant to NRS 370.240 with* the Department



1 or its agents on or before the date due, the Department may suspend  
2 his license ~~[or permit]~~ until the report is received and found to be  
3 correct.

4 2. The Department may temporarily suspend or permanently  
5 revoke the ~~[licenses]~~ license of any ~~[cigarette dealer]~~ licensee for  
6 violating, or causing or permitting to be violated, any of the  
7 provisions of NRS 370.001 to 370.430, inclusive ~~[ ]~~, *and sections*  
8 *10 to 37, inclusive, of this act, or of sections 51 to 57, inclusive, of*  
9 *this act, or any regulations adopted for the administration or*  
10 *enforcement of any of those provisions.*

11 3. *The Department shall permanently revoke the license of*  
12 *any licensee convicted of any felony pursuant to section 36 of this*  
13 *act.*

14 **Sec. 71.** NRS 370.255 is hereby amended to read as follows:

15 370.255 1. Each ~~[dealer authorized to purchase or affix~~  
16 ~~cigarette revenue stamps]~~:

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

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

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

43 2. *The records required by this section must be preserved on*  
44 *the premises described in the license of the manufacturer,*  
45 *wholesale dealer or retail dealer in such a manner as to ensure*



1 *permanency and accessibility for inspection at reasonable hours*  
2 *by authorized personnel of the Department. With the permission of*  
3 *the Department, manufacturers, wholesale dealers and retail*  
4 *dealers with multiple places of business may retain centralized*  
5 *records, but shall transmit duplicates of the invoices or the*  
6 *equivalent documentation to each place of business within 24*  
7 *hours after the request of the Executive Director or his designee.*

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

12 **Sec. 72.** NRS 370.257 is hereby amended to read as follows:

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

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

29 3. The Department may audit the records of each ~~dealer~~  
30 ~~authorized to purchase or affix cigarette revenue stamps~~  
31 *manufacturer, wholesale dealer or retail dealer* to determine ~~that~~  
32 ~~the dealer~~ *whether the manufacturer, wholesale dealer or retail*  
33 *dealer* has complied with the provisions of NRS 370.001 to  
34 370.430, inclusive ~~[-], and sections 10 to 37, inclusive, of this act.~~

35 **Sec. 73.** NRS 370.301 is hereby amended to read as follows:

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

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



1 3. Transportation of cigarettes through this state from a point  
2 outside this state to a point in some other state is not a violation of  
3 this section if the person transporting the cigarettes has in his  
4 possession adequate invoices or delivery tickets which give the true  
5 name and address of the out-of-state seller or consignor and the out-  
6 of-state purchaser or consignee.

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

13 **Sec. 74.** NRS 370.380 is hereby amended to read as follows:

14 370.380 1. It is unlawful for a person, with the intent to  
15 defraud the State:

16 (a) To alter, forge or counterfeit any license ~~[, stamp or cigarette~~  
17 ~~tax meter impression provided for in this chapter,]; or~~

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

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

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

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

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

38 **Sec. 75.** NRS 370.390 is hereby amended to read as follows:

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



1     **Sec. 76.** NRS 370.410 is hereby amended to read as follows:  
2     370.410 ~~[Any]~~ *Except as otherwise provided in section 36 of*  
3 *this act, any* person exporting, importing, possessing or  
4 constructively possessing contraband cigarettes is guilty of a gross  
5 misdemeanor.

6     **Sec. 77.** NRS 370.415 is hereby amended to read as follows:  
7     370.415 1. The Department, its agents, sheriffs within their  
8 respective counties and all other peace officers of the State of  
9 Nevada shall seize any *counterfeit stamps and any* contraband  
10 cigarettes *and machinery used to manufacture contraband*  
11 *cigarettes*, found or located in the State of Nevada.

12     2. A sheriff or other peace officer who seizes *stamps*, cigarettes  
13 *or machinery* pursuant to this section shall provide written  
14 notification of the seizure to the Department not later than 5  
15 working days after the seizure. The notification must include the  
16 reason for the seizure.

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

19     (a) The cigarettes, except for revenue stamps or metered  
20 machine impressions being properly affixed as required by this  
21 chapter, comply with all state and federal statutes and regulations;  
22 and

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

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

26     5. ~~[If the]~~ *The* sheriff or other peace officer *who seizes any*  
27 *stamps, cigarettes or machinery pursuant to this section shall:*

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

29     (b) ~~[If he~~ does not transmit the cigarettes to the Department, ~~[he~~  
30 ~~shall]~~ destroy the cigarettes.

31     **Sec. 78.** NRS 370.525 is hereby amended to read as follows:

32     370.525 1. Except as otherwise provided in subsection 2, a  
33 person may institute a civil action in a court of competent  
34 jurisdiction for appropriate injunctive relief if the person:

35     (a) Sells, distributes or manufactures cigarettes; and

36     (b) Sustains direct economic or commercial injury as a result of  
37 a violation of ~~[subsection 4 of NRS 370.240 or NRS 370.385.]~~ *NRS*  
38 *370.080 to 370.315, inclusive, and sections 24 to 32, inclusive, of*  
39 *this act, NRS 370.380, 370.385 or 370.410, or section 35, 36 or 37*  
40 *of this act.*

41     2. Nothing in this section authorizes an action against this state,  
42 a political subdivision of this state, or an officer, employee or  
43 agency thereof.





1       **Sec. 79.** NRS 370.530 is hereby amended to read as follows:  
2       370.530   **1. The Attorney General or the district attorney of**  
3       **the proper county may investigate and prosecute any civil or**  
4       **criminal violation of this chapter.**

5       **2.** Sheriffs, within their counties, and all other peace officers of  
6       the State of Nevada ~~fare charged with the duty,~~ **shall**, without  
7       further compensation, ~~of assisting~~ **assist** in the enforcement of this  
8       chapter.

9       **Sec. 80.** 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 shall  
12       receive the interest or other appreciation on the deposit as earned.  
13       The principal of the deposit may be released from escrow only  
14       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 **on account of units**  
23       **sold in the State** in a particular year was greater than ~~[this state's~~  
24       ~~allocable share of the total payments that the manufacturer would~~  
25       ~~have been required to make in that year under]~~ the Master  
26       Settlement Agreement **payments, as determined pursuant to section**  
27       **IX(i) of that Agreement including after final determination of all**  
28       **adjustments, that such manufacturer would have been required to**  
29       **make on account of such units sold** 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. 81.** NRS 370A.150 is hereby amended to read as follows:  
39       370A.150   A manufacturer of tobacco products that deposits  
40       money into escrow pursuant to subsection 2 of NRS 370A.140 shall  
41       receive the interest or other appreciation on the deposit as earned.  
42       The principal of the deposit may be released from escrow only  
43       under the following circumstances:

44       1. To pay a judgment or settlement on a released claim brought  
45       against that manufacturer by this state or by a releasing party located



1 or residing in this state. Money may be released from escrow under  
2 this subsection only in the order in which it was deposited into  
3 escrow and only to the extent and at the time necessary to make  
4 payments required under the judgment or settlement.

5 2. ~~¶ To the extent that the manufacturer establishes that the~~  
6 ~~amount it was required to deposit into escrow on account of units~~  
7 ~~sold in the State in a particular year was greater than the Master~~  
8 ~~Settlement Agreement payments, as determined pursuant to section~~  
9 ~~IX(i) of that Agreement including after final determination of all~~  
10 ~~adjustments, that such manufacturer would have been required to~~  
11 ~~make on account of such units sold if the manufacturer had been a~~  
12 ~~participating manufacturer, the excess must be released from escrow~~  
13 ~~and revert to the manufacturer.~~

14 ~~—3.]~~ To the extent not released from escrow under subsection 1 ,  
15 ~~¶ or 2,~~ deposits must be released from escrow and revert to the  
16 manufacturer 25 years after the date on which they were deposited.

17 **Sec. 82.** NRS 370A.150 is hereby amended to read as follows:

18 370A.150 A manufacturer of tobacco products that deposits  
19 money into escrow pursuant to subsection 2 of NRS 370A.140 shall  
20 receive the interest or other appreciation on the deposit as earned.  
21 The principal of the deposit may be released from escrow only  
22 under the following circumstances:

23 1. To pay a judgment or settlement on a released claim brought  
24 against that manufacturer by this state or by a releasing party located  
25 or residing in this state. Money may be released from escrow under  
26 this subsection only in the order in which it was deposited into  
27 escrow and only to the extent and at the time necessary to make  
28 payments required under the judgment or settlement.

29 2. *To the extent that the manufacturer establishes that the*  
30 *amount it was required to deposit into escrow in a particular year*  
31 *was greater than this state's allocable share of the total payments*  
32 *that the manufacturer would have been required to make in that*  
33 *year under the Master Settlement Agreement if the manufacturer*  
34 *had been a participating manufacturer, as such payments are*  
35 *determined pursuant to section IX(i)(2) of that Agreement and*  
36 *before any of the adjustments or offsets described in section*  
37 *IX(i)(3) of that Agreement other than the inflation adjustment, the*  
38 *excess must be released from escrow and revert to the*  
39 *manufacturer.*

40 3. To the extent not released from escrow under subsection 1  
41 ~~¶~~ or 2, deposits must be released from escrow and revert to the  
42 manufacturer 25 years after the date on which they were deposited.

43 **Sec. 83.** 1. The first report required by section 55 of this act  
44 is due on or before October 20, 2003.



1 2. Notwithstanding the provisions of section 51 of this act, the  
2 initial certifications required by that section are due on or before  
3 November 15, 2003.

4 3. The Department of Taxation shall create and make available  
5 for public inspection the directory required pursuant to section 53 of  
6 this act on or before December 31, 2003.

7 **Sec. 84.** 1. This section and sections 1 to 56, inclusive, 58 to  
8 80, inclusive, and 83 of this act become effective:

9 (a) Upon passage and approval for the purposes of adopting  
10 regulations and taking such other actions as are necessary to carry  
11 out the provisions of this act; and

12 (b) On October 1, 2003, for all other purposes.

13 2. Section 57 of this act becomes effective on January 1, 2004.

14 3. Section 81 of this act becomes effective on the date a court  
15 of competent jurisdiction enters a judgment determining that the  
16 amendatory provisions of section 80 of this act are unconstitutional.

17 4. Section 82 of this act becomes effective on the date a court  
18 of competent jurisdiction enters a judgment determining that the  
19 amendatory provisions of section 81 of this act are unconstitutional.

