

ASSEMBLY BILL NO. 122—ASSEMBLYMEN YEAGER AND HAFEN

FEBRUARY 9, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to tobacco. (BDR 32-728)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

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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; providing an exception to the age verification requirements governing the sale, distribution or offering for sale of tobacco products within certain areas of a casino; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits a person from selling, distributing or offering to sell
2 cigarettes, cigarette paper or other tobacco products to any person under 40 years of
3 age without first performing age verification. (NRS 370.521) This bill provides an
4 exception to that requirement, allowing the sale, distribution or offering of tobacco
5 products without age verification within an area of a casino where persons under
6 the age of 21 years are already prohibited from loitering. This bill becomes
7 effective upon its passage by the Legislature and approval by the Governor.

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

1 Section 1. NRS 370.521 is hereby amended to read as follows:
2 370.521 1. Except as otherwise provided in subsections 2, 4
3 and 5, a person shall not sell, distribute or offer to sell cigarettes,
4 cigarette paper, any product containing, made or derived from
5 tobacco, any vapor product, any alternative nicotine product or any
6 product containing, made or derived from nicotine to any person
7 under the age of 21 years.

8 2. A person shall be deemed to be in compliance with the
9 provisions of subsection 1 if, before the person sells, distributes or



1 offers to sell to another any item described in subsection 1, the
2 person:

3 (a) Demands that the other person present a valid driver's
4 license, permanent resident card, tribal identification card or other
5 written or documentary evidence which shows that the other person
6 is 21 years of age or older;

7 (b) Is presented a valid driver's license, permanent resident card,
8 tribal identification card or other written or documentary evidence
9 which shows that the other person is 21 years of age or older; and

10 (c) Reasonably relies upon the driver's license, permanent
11 resident card, tribal identification card or other written or
12 documentary evidence presented by the other person.

13 3. ~~1A~~ *Except as otherwise provided in this subsection, a*
14 *person shall not sell, distribute or offer to sell cigarettes, cigarette*
15 *paper or other tobacco products to any person under 40 years of age*
16 *without first performing age verification through enhanced controls*
17 *that utilize a scanning technology or other automated, software-*
18 *based system to verify that the person is 21 years of age or older. A*
19 *person who violates this subsection is liable for a civil penalty of*
20 *\$100 for each offense. The provisions of this subsection do not*
21 *apply to a person selling, distributing or offering to sell cigarettes,*
22 *cigarette paper or other tobacco products in an area within a*
23 *casino where loitering by persons who are under 21 years of age is*
24 *already prohibited pursuant to NRS 463.350.*

25 4. The employer of a person who is under 21 years of age may,
26 for the purpose of allowing the person to handle or transport any
27 item described in subsection 1 in the course of the person's lawful
28 employment, provide an item described in subsection 1 to the person
29 under 21 years of age.

30 5. The provisions of this section do not apply to any product
31 regulated by the United States Food and Drug Administration under
32 Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21
33 U.S.C. §§ 351 et seq.

34 6. A person who violates subsection 1 is liable for a civil
35 penalty of:

36 (a) For the first violation within a 24-month period, \$100.

37 (b) For the second violation within a 24-month period, \$250.

38 (c) For the third and any subsequent violation within a 24-month
39 period, \$500.

40 7. If an employee or agent of a licensee has violated
41 subsection 1:

42 (a) For the first and second violation within a 24-month period
43 at the same premises, the licensee must be issued a warning.

44 (b) For the third violation within a 24-month period at the same
45 premises, the licensee is liable for a civil penalty of \$500.



1 (c) For the fourth violation within a 24-month period at the same
2 premises, the licensee is liable for a civil penalty of \$1,250.

3 (d) For the fifth and any subsequent violation within a 24-month
4 period at the same premises, the licensee is liable for a civil penalty
5 of \$2,500.

6 8. A peace officer or any person performing an inspection
7 pursuant to NRS 202.2496 may issue a notice of infraction for a
8 violation of this section. A notice of infraction must be issued on a
9 form prescribed by the Department and must contain:

10 (a) The location at which the violation occurred;

11 (b) The date and time of the violation;

12 (c) The name of the establishment at which the violation
13 occurred;

14 (d) The signature of the person who issued the notice of
15 infraction;

16 (e) A copy of the section which allegedly is being violated;

17 (f) Information advising the person to whom the notice of
18 infraction is issued of the manner in which, and the time within
19 which, the person must submit an answer to the notice of infraction;
20 and

21 (g) Such other pertinent information as the peace officer or
22 person performing the inspection pursuant to NRS 202.2496
23 determines is necessary.

24 9. A notice of infraction issued pursuant to subsection 8 or a
25 facsimile thereof must be filed with the Department and retained by
26 the Department and is deemed to be a public record of matters
27 which are observed pursuant to a duty imposed by law and is prima
28 facie evidence of the facts alleged in the notice.

29 10. A person to whom a notice of infraction is issued pursuant
30 to subsection 8 shall respond to the notice by:

31 (a) Admitting the violation stated in the notice and paying to the
32 State of Nevada the applicable civil penalty set forth in subsection 3,
33 6 or 7.

34 (b) Denying liability for the infraction by notifying the
35 Department and requesting a hearing in the manner indicated on the
36 notice of infraction. Upon receipt of a request for a hearing pursuant
37 to this paragraph, the Department shall provide the person
38 submitting the request an opportunity for a hearing pursuant to
39 chapter 233B of NRS.

40 11. Any money collected by the State of Nevada from a civil
41 penalty pursuant to this section must be deposited in a separate
42 account in the State General Fund to be used for the enforcement of
43 this section and NRS 202.2493 and 202.2494.

44 12. As used in this section, "licensee" means a person who
45 holds a license issued by the Department pursuant to this chapter.



1 **Sec. 2.** This act becomes effective upon passage and approval.

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