

(REPRINTED WITH ADOPTED AMENDMENTS)
SECOND REPRINT S.B. 381

SENATE BILL NO. 381—SENATOR JACOBSEN

MARCH 19, 2001

Referred to Committee on Taxation

SUMMARY—Makes various changes to provisions governing tax on products made from tobacco, other than cigarettes. (BDR 32-818)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; revising the definitions of “wholesale dealer” and “wholesale price” for the purpose of imposing the tax on products made from tobacco, other than cigarettes; requiring the payment of the tax after the sale of the products by a wholesale dealer; 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 370.440 is hereby amended to read as follows:
2 370.440 As used in NRS 370.440 to 370.503, inclusive, unless the
3 context otherwise ~~provides:~~ *requires:*
4 1. “Retail dealer” means any person who is engaged in selling products
5 made from tobacco, other than cigarettes, to customers.
6 2. “Sale” means any transfer, exchange, barter, gift, offer for sale, or
7 distribution for consideration of products made from tobacco, other than
8 cigarettes.
9 3. *“Ultimate consumer” means a person who purchases a product*
10 *made from tobacco, other than cigarettes, for his household or personal*
11 *use and not for resale.*
12 4. “Wholesale dealer” means any person who ~~purchases products~~
13 ~~made from tobacco, other than cigarettes, directly from the manufacturer or~~
14 ~~who purchases those products from any other person who purchases them~~
15 ~~from the manufacturer to sell to retail dealers and who serves retail outlets~~
16 ~~from an established place of business including, but not limited to, the~~
17 ~~maintenance of a warehouse for the storage and distribution of those~~
18 ~~products.~~
19 ~~—4.1:~~
20 (a) *Brings or causes to be brought into this state products made from*
21 *tobacco, other than cigarettes, purchased from the manufacturer or a*



1 *wholesale dealer and who stores, sells or otherwise disposes of those*
2 *products within this state;*

3 *(b) Manufactures or produces products made from tobacco, other*
4 *than cigarettes, within this state and who sells or distributes those*
5 *products within this state to other wholesale dealers, retail dealers or*
6 *ultimate consumers; or*

7 *(c) Purchases products made from tobacco, other than cigarettes,*
8 *solely for the purpose of bona fide resale to retail dealers or to other*
9 *persons for the purpose of resale only.*

10 5. "Wholesale price" means :

11 *(a) Except as otherwise provided in paragraph (b), the established*
12 *price for which a manufacturer sells a product made from tobacco, other*
13 *than cigarettes, to a wholesale dealer before any discount or other reduction*
14 *is made.*

15 *(b) For a product made from tobacco, other than cigarettes, sold to a*
16 *retail dealer or an ultimate consumer by a wholesale dealer described in*
17 *paragraph (b) of subsection 3, the established price for which the product*
18 *is sold to the retail dealer or ultimate consumer before any discount or*
19 *other reduction is made.*

20 **Sec. 2.** NRS 370.450 is hereby amended to read as follows:

21 370.450 1. Except as otherwise provided in subsection 2, there is
22 hereby imposed upon the purchase or possession of products made from
23 tobacco, other than cigarettes, by a customer in this state a tax of 30
24 percent of the wholesale price of those products.

25 2. The provisions of subsection 1 do not apply to those products which
26 are:

27 (a) Shipped out of the state for sale and use outside the state; or

28 (b) Displayed or exhibited at a trade show, convention or other
29 exhibition in this state by a manufacturer or wholesale dealer who is not
30 licensed in this state.

31 3. This tax must be collected and paid by the wholesale dealer to the
32 department ~~before~~, *in accordance with the provisions of NRS 370.465,*
33 *after the sale or distribution of those products ~~to the customer~~ by the*
34 *wholesale dealer.* The wholesale dealer is entitled to retain 2 percent of the
35 taxes collected to cover the costs of collecting and administering the taxes.

36 4. Any wholesale dealer who sells *or distributes* any of those products
37 without ~~first~~ paying the tax provided for by this section is guilty of a
38 misdemeanor.

39 **Sec. 3.** NRS 370.460 is hereby amended to read as follows:

40 370.460 It is unlawful for any person to sell or offer to sell any
41 products made from tobacco, other than cigarettes, on which the tax ~~has~~
42 ~~not been~~ *is not* paid as provided for in NRS 370.450.

43 **Sec. 4.** NRS 370.465 is hereby amended to read as follows:

44 370.465 1. A wholesale dealer ~~for retail dealer~~ shall, not later than
45 20 days after the end of each month, submit to the department ~~:-~~

46 ~~-(a) A list~~ *a report on a form prescribed by the department* setting forth
47 each ~~purchase~~ *sale* of products made from tobacco, other than cigarettes,
48 that ~~the~~ *the wholesale dealer* made during the previous month. ~~:-and~~



1 ~~— (b) A copy of the invoice for each such purchase that is required to be~~
2 ~~provided to him pursuant to NRS 370.470.~~
3 ~~— 2. The department shall maintain a record of the invoices for not less~~
4 ~~than 3 years after the receipt of those invoices.~~
5 *2. Each report submitted pursuant to this section on or after*
6 *August 20, 2001, must be accompanied by the tax owed pursuant to NRS*
7 *370.450 for products made from tobacco, other than cigarettes, that were*
8 *sold by the wholesale dealer during the previous month.*
9 3. The department may impose a penalty on a wholesale dealer ~~for retail~~
10 ~~dealer~~ who violates any of the provisions of ~~subsection 1~~ *this section* as
11 follows:
12 (a) For the first violation within 7 years, a fine of \$1,000.
13 (b) For a second violation within 7 years, a fine of \$5,000.
14 (c) For a third or subsequent violation within 7 years, revocation of the
15 license of the wholesale dealer. ~~for retail dealer.~~
16 **Sec. 5.** NRS 370.470 is hereby amended to read as follows:
17 370.470 ~~1.~~ A wholesale dealer must obtain from each manufacturer
18 or wholesale dealer who is not licensed in this state itemized invoices of all
19 products made from tobacco, other than cigarettes, purchased from and
20 delivered by the manufacturer or wholesale dealer who is not licensed in
21 this state. The wholesale dealer must obtain from the manufacturer or
22 wholesale dealer who is not licensed in this state separate invoices for each
23 purchase made. The invoice must include:
24 ~~(a)~~ *1.* The name and address of the manufacturer or wholesale dealer
25 who is not licensed in this state;
26 ~~(b)~~ *2.* The name and address of the wholesale dealer;
27 ~~(c)~~ *3.* The date of the purchase; and
28 ~~(d)~~ *4.* The quantity and wholesale price of those products.
29 ~~2. A retail dealer must obtain from each manufacturer or wholesale~~
30 ~~dealer who is not licensed in this state itemized invoices of all products~~
31 ~~made from tobacco, other than cigarettes, purchased from and delivered by~~
32 ~~that manufacturer or wholesale dealer. The retail dealer must obtain from~~
33 ~~the manufacturer or wholesale dealer who is not licensed in this state~~
34 ~~separate invoices for each purchase made. The invoice must include:~~
35 ~~— (a) The name and address of the manufacturer or wholesale dealer who~~
36 ~~is not licensed in this state;~~
37 ~~— (b) The name and address of the retail dealer;~~
38 ~~— (c) The date of the purchase; and~~
39 ~~— (d) The quantity and wholesale price of those products.~~
40 **Sec. 6.** NRS 370.480 is hereby amended to read as follows:
41 370.480 1. Every wholesale dealer must keep at his place of business
42 complete and accurate records for that place of business, including copies
43 of all invoices of products made from tobacco, other than cigarettes, which
44 he holds, purchases and delivers, *distributes* or sells in this state. All
45 records must be preserved for at least 3 years after the date of purchase or
46 after the date of the last entry made on the record.
47 2. Every retail dealer shall keep at his place of business complete and
48 accurate records for that place of business, including copies of all itemized
49 invoices or purchases of such products purchased and delivered from



1 wholesale dealers. The invoices must show the name and address of the
2 wholesale dealer and the date of the purchase. All records must be
3 preserved for *at least* 3 years after the date of the purchase.

4 **Sec. 7.** NRS 370.490 is hereby amended to read as follows:

5 370.490 1. The department shall allow a credit of 30 percent of the
6 wholesale price, less a discount of 2 percent for the services rendered in
7 collecting the tax, for products made from tobacco, other than cigarettes,
8 *upon which the tax has been paid pursuant to NRS 370.450 and* that may
9 no longer be sold. If the products have been purchased and delivered, a
10 credit memo of the manufacturer is required for proof of returned
11 merchandise.

12 2. A credit must also be granted for any products made from tobacco,
13 other than cigarettes, shipped from this state and destined for retail sale and
14 consumption outside the state on which the tax has previously been paid. A
15 duplicate or copy of the invoice is required for proof of the sale outside the
16 state.

17 3. A wholesale dealer may claim a credit by filing with the department
18 the proof required by this section. The claim must be made on a form
19 prescribed by the department.

20 **Sec. 8.** The amendatory provisions of this act do not apply to offenses
21 that were committed before July 1, 2001.

22 **Sec. 9.** 1. Notwithstanding the provisions of NRS 370.450, as
23 amended by section 2 of this act, and NRS 370.465, as amended by section
24 4 of this act, a wholesale dealer is not required to pay any tax or report any
25 sales or purchases with respect to products made from tobacco, other than
26 cigarettes, if the purchase of such products was reported to the department
27 of taxation pursuant to NRS 370.465 as a purchase made before July 1,
28 2001, and the appropriate tax was remitted to the department with respect
29 to that purchase as required by NRS 370.450.

30 2. As used in this section, “wholesale dealer” has the meaning ascribed
31 to it in NRS 370.440, as amended by section 1 of this act.

32 **Sec. 10.** This act becomes effective on July 1, 2001.

