

ASSEMBLY BILL NO. 586—COMMITTEE ON TAXATION

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 26, 2007

Referred to Committee on Taxation

SUMMARY—Revises certain provisions governing the regulation and taxation of the sales and use of cigarettes and other tobacco products. (BDR 32-515)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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

AN ACT relating to tobacco; revising certain provisions for the enforcement of taxes and restrictions on the sale and use of cigarettes to provide for the enforcement of taxes and restrictions on the sale and use of other tobacco products; requiring the production of certain documents to assist in the administration and enforcement of the requirements for delivery sales of tobacco; revising certain provisions governing the regulation and taxation of tobacco for consistency; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the imposition, administration and enforcement of taxes on cigarettes. (NRS 370.001-370.430) Existing law provides separately for the imposition and administration of a tax on products made from tobacco, other than cigarettes. (NRS 370.440-370.503)

**Section 3** of this bill provides a common definition of "other tobacco product."

**Sections 2, 4, 9 and 25-28** of this bill assist in the enforcement of the tax on any "other tobacco product" by providing for the treatment of and imposition of criminal penalties regarding contraband "other tobacco products" in the same manner as contraband cigarettes.

Existing law prohibits the sale and distribution of cigarettes and other tobacco products to a minor and imposes criminal penalties for violations of that prohibition. (NRS 202.2493, 202.24935) Existing law also imposes various requirements on the delivery sale of cigarettes to assist in the enforcement of that prohibition. (NRS 370.321-370.329) **Sections 10, 15 and 20-24** of this bill expand



those requirements to include delivery sales of the other tobacco products. To assist in the administration and enforcement of the requirements for delivery sales, **section 6** of this bill requires the production of any related documents for inspection by the Department of Taxation.

Existing law requires the licensing of wholesale and retail dealers of cigarettes. (NRS 370.080) Existing law also requires the licensing of wholesale and retail dealers of tobacco products other than cigarettes. (NRS 370.445) **Sections 14, 16 and 39** of this bill repeal the licensing requirements for dealers in tobacco products other than cigarettes and includes those dealers in the licensing requirements for cigarette dealers.

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

**Section 1.** Chapter 370 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

**Sec. 2.** *“Other counterfeit tobacco product” means any other tobacco product or tobacco product package bearing a false manufacturing label.*

**Sec. 3.** *“Other tobacco product” means any tobacco of any description or any product made from tobacco, other than cigarettes.*

**Sec. 4.** *“Tobacco product package” means the individual pack, box or other container that contains any other tobacco product. The term does not include a container that itself contains other containers.*

**Sec. 5.** *“Wholesale tobacco price” means:*

*1. Except as otherwise provided in subsection 2, the established price for which a manufacturer sells any other tobacco product to a wholesale dealer before any discount or other reduction is made.*

*2. For any other tobacco product sold to a retail dealer or a consumer by a wholesale dealer who manufactures or produces any other tobacco products within this State and who sells or distributes those products within the State to other wholesale dealers, retail dealers or consumers, the established price for which the product is sold to the retail dealer or consumer before any discount or other reduction is made.*

**Sec. 6.** *1. To assist in the administration and enforcement of NRS 370.321 to 370.329, inclusive, any person who makes a delivery sale or mails, ships or otherwise delivers cigarettes or any other tobacco product to a consumer in this State, or who retains another person to make a delivery sale or mail, ship or otherwise deliver cigarettes or any other tobacco product to a consumer in this State, shall, upon the request of any agent of the Department,*



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1 *produce and make available for inspection by any agent of the*  
2 *Department any books, records and other documents relating to*  
3 *that delivery sale, mailing, shipment or other delivery.*

4 2. *If any person described in subsection 1 fails or refuses to*  
5 *produce and make available for inspection any book, record or*  
6 *other document described in that subsection upon the request of*  
7 *an agent of the Department, the Executive Director or Attorney*  
8 *General may issue a subpoena to require the production of that*  
9 *document.*

10 3. *If any person refuses to produce any document as required*  
11 *by the subpoena, the Executive Director or Attorney General may*  
12 *report to the district court by petition, setting forth that:*

13 (a) *Due notice has been given of the time and place of the*  
14 *production of the document;*

15 (b) *The person has been subpoenaed by the Executive Director*  
16 *or Attorney General pursuant to this section; and*

17 (c) *The person has failed or refused to produce the document*  
18 *required by the subpoena,*  
19 *and asking for an order of the court compelling the person to*  
20 *produce the document.*

21 4. *Upon such petition, the court shall enter an order directing*  
22 *the person to appear before the court at a time and place to be*  
23 *fixed by the court in its order, the time to be not more than 10 days*  
24 *after the date of the order, and to show cause why he has not*  
25 *produced the document. A certified copy of the order must be*  
26 *served upon the person.*

27 5. *If it appears to the court that the subpoena was regularly*  
28 *issued by the Executive Director or Attorney General, the court*  
29 *shall enter an order that the person produce the required*  
30 *document at the time and place fixed in the order. Failure to obey*  
31 *the order constitutes contempt of court.*

32 **Sec. 7.** NRS 370.001 is hereby amended to read as follows:

33 370.001 As used in NRS 370.001 to ~~370.430,~~ 370.530,  
34 inclusive, *and sections 2 to 6, inclusive, of this act*, unless the  
35 context otherwise requires, the words and terms defined in NRS  
36 370.005 to 370.055, inclusive, *and sections 2 to 5, inclusive, of this*  
37 *act* have the meanings ascribed to them in those sections.

38 **Sec. 8.** NRS 370.020 is hereby amended to read as follows:

39 370.020 "Consumer" means any person who comes into *the*  
40 possession of cigarettes *or any other tobacco product* in this State  
41 as a final user for any purpose other than offering them for sale as a  
42 wholesale or retail dealer.

43 **Sec. 9.** NRS 370.025 is hereby amended to read as follows:

44 370.025 "Contraband ~~cigarettes~~ *tobacco products*" means  
45 any:



1. Counterfeit cigarettes; ~~or~~
2. *Other counterfeit tobacco product; or*
3. Cigarettes ~~or~~ *or other tobacco product:*

(a) Exported from or imported into this State, or mailed, shipped, delivered, sold, exchanged, transported, distributed or held for distribution within the borders of this State by any person in violation of any of the provisions of this chapter; or

(b) In any way held in the possession or constructive possession of any person not authorized under this chapter to possess or constructively possess the cigarettes ~~or~~ *or other tobacco product.*

**Sec. 10.** NRS 370.0285 is hereby amended to read as follows:

370.0285 1. "Delivery sale" means any sale of cigarettes ~~or~~ *or any other tobacco product*, whether the seller is located within or outside of the borders of this State, to a consumer in this State for which:

(a) The purchaser submits the order for the sale by means of a telephonic or other method of voice transmission, the mail or any other delivery service, or the Internet or any other on-line service; or

(b) The cigarettes *or other tobacco products* are delivered by mail or the use of another delivery service.

2. For the purpose of this section, any sale of cigarettes *or any other tobacco product* to a natural person in this State who does not hold a current license as a wholesale or retail dealer constitutes a sale to a consumer.

**Sec. 11.** NRS 370.0305 is hereby amended to read as follows:

370.0305 "License" means a license issued pursuant to NRS 370.001 to 370.430, inclusive, *and sections 2 to 6, inclusive, of this act* that authorizes the holder to conduct business as a manufacturer or a wholesale or retail dealer.

**Sec. 12.** NRS 370.0315 is hereby amended to read as follows:

370.0315 "Manufacturer" means any person who:

1. Manufactures, fabricates, assembles, processes or labels a finished cigarette ~~or~~ *or any other tobacco product; or*

2. Imports, whether directly or indirectly, a finished cigarette *or any other tobacco product* into the United States for sale or distribution in this State.

**Sec. 13.** NRS 370.032 is hereby amended to read as follows:

370.032 "Place of business" means, for a person engaged in business as:

1. A wholesale dealer, any location from which cigarettes *or any other tobacco products* are distributed or where cigarettes *or any other tobacco products* are warehoused, stored or affixed with stamps; or



2. A retail dealer, any store, stand, outlet or other location through which cigarettes *or any other tobacco products* are distributed or sold to a consumer.

**Sec. 14.** NRS 370.033 is hereby amended to read as follows:

370.033 "Retail dealer" means any person, whether located within or outside of the borders of this State, who sells or distributes cigarettes *or any other tobacco product* to a consumer within the State.

**Sec. 15.** NRS 370.044 is hereby amended to read as follows:

370.044 "Shipping container" means a container in which cigarettes *or any other tobacco products* are shipped in connection with a delivery sale.

**Sec. 16.** NRS 370.055 is hereby amended to read as follows:

370.055 "Wholesale dealer" means:

1. Any person, whether located within or outside of the borders of this State, who:

(a) Brings, sends, or causes to be brought or sent into this State any unstamped cigarettes *or other tobacco products* purchased from the manufacturer or another wholesale dealer; and

(b) Stores, sells or otherwise disposes of those cigarettes *or other tobacco products* within the State.

2. Any person who manufactures or produces cigarettes *or any other tobacco products* within this State and who sells or distributes them within the State.

3. Any person, whether located within or outside of the borders of this State, who acquires cigarettes *or any other tobacco products* solely for the purpose of bona fide resale to retail dealers in this State or to other persons in this State for the purpose of resale only.

**Sec. 17.** NRS 370.077 is hereby amended to read as follows:

370.077 All *cigarette* taxes paid under the provisions of this chapter are direct taxes upon the consumer and are precollected for convenience only. Taxes paid by persons other than the consumer are advances, and shall be added to the selling price of the cigarettes.

**Sec. 18.** NRS 370.085 is hereby amended to read as follows:

370.085 The Department shall create and maintain on its Internet website and otherwise make available for public inspection a list of all:

1. Currently valid licenses and the identity of the licensees holding those licenses; and

2. Indian tribes on whose reservations or colonies cigarettes or *any other tobacco products* ~~[made from tobacco]~~ are sold and, pursuant to NRS 370.515, from which the Department does not collect the tax imposed by this chapter on such cigarettes or other



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1 *tobacco* products ~~[made from tobacco]~~ sold on the reservations or  
2 colonies.

3 ➔ The Department shall update the list at least once each month.

4 **Sec. 19.** NRS 370.270 is hereby amended to read as follows:

5 370.270 1. Every retail dealer making a sale *of cigarettes* to a  
6 customer shall, at the time of *the* sale, see that each package, packet  
7 or container has the Nevada cigarette revenue stamp or metered  
8 stamping machine indicia properly affixed.

9 2. Every cigarette vending machine operator placing cigarettes  
10 in his coin-operated cigarette vending machines for sale to the  
11 ultimate consumers shall at the time of placing them in his machine  
12 see that each package, packet or container has the Nevada cigarette  
13 revenue stamp or metered stamping machine indicia properly  
14 affixed.

15 3. No unstamped packages, packets or containers of cigarettes  
16 may lawfully be accepted or held in the possession of any person,  
17 except as authorized by law or regulation. For the purposes of this  
18 subsection, "held in possession" means:

19 (a) In the actual possession of the person; or

20 (b) In the constructive possession of the person when cigarettes  
21 are being transported or held for him or for his designee by another  
22 person. Constructive possession is deemed to occur at the location  
23 of the cigarettes being transported or held.

24 4. Any cigarettes found in the possession of any person except  
25 a person authorized by law or regulation to possess them, which do  
26 not bear indicia of Nevada excise tax stamping, must be seized by  
27 the Department or any of its agents, and caused to be stamped by a  
28 licensed cigarette dealer, or confiscated and sold by the Department  
29 or its agents to the highest bidder among the licensed wholesale  
30 dealers in this State after due notice to all licensed Nevada  
31 wholesale dealers has been given by mail to the addresses contained  
32 in the Department's records. If there is no bidder, or in the opinion  
33 of the Department the quantity of the cigarettes is insufficient, or for  
34 any other reason such disposition would be impractical, the  
35 cigarettes must be destroyed or disposed of as the Department may  
36 see fit. The proceeds of all sales must be classed as revenues derived  
37 under the provisions of NRS 370.001 to 370.430, inclusive ~~[ ]~~, *and*  
38 *sections 2 to 6, inclusive, of this act.*

39 5. Any cigarette vending machine in which unstamped  
40 cigarettes are found may be so seized and sold to the highest bidder.

41 **Sec. 20.** NRS 370.321 is hereby amended to read as follows:

42 370.321 1. A person shall not accept an order for a delivery  
43 sale unless the person first obtains a license as a retail dealer.

44 2. A person who accepts an order for a delivery sale shall  
45 comply with all of the requirements of this chapter, *NRS 202.2493*



1 *and 202.24935* and chapters 370A, 372 and 374 of NRS, and all  
2 other laws of this State generally applicable to sales of cigarettes *or*  
3 *any other tobacco product* that occur entirely within this State.

4 **Sec. 21.** NRS 370.323 is hereby amended to read as follows:

5 370.323 1. A person shall not cause the mailing or shipment  
6 of cigarettes *or any other tobacco product* in connection with an  
7 order for a delivery sale unless the person accepting the order first:

8 (a) Obtains from the prospective purchaser a certification which  
9 includes:

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

12 (2) A statement signed by the prospective purchaser in  
13 writing and under penalty of perjury which:

14 (I) Certifies the prospective purchaser's address and date  
15 of birth;

16 (II) Confirms that the prospective purchaser understands  
17 that signing another person's name to such certification is illegal  
18 and that sales of cigarettes *or other tobacco products* to children  
19 under 18 years of age are illegal under the laws of this State; and

20 (III) Confirms that the prospective purchaser desires to  
21 receive mailings from a tobacco company.

22 (b) Makes a good faith effort to verify the information contained  
23 in the certification provided by the prospective purchaser pursuant  
24 to paragraph (a) against any federal or commercially available  
25 database established for that purpose.

26 (c) Sends to the prospective purchaser, by electronic mail or  
27 other means, a notice which meets the requirements of subsection 2  
28 and requests confirmation that the order for the delivery sale was  
29 placed by the prospective purchaser.

30 (d) Receives from the prospective purchaser confirmation,  
31 pursuant to the request described in paragraph (c), that such person  
32 placed the order for the delivery sale.

33 (e) Receives payment for the delivery sale from the prospective  
34 purchaser by a credit or debit card that has been issued in that  
35 purchaser's name.

36 2. The notice required by paragraph (c) of subsection 1 must  
37 include:

38 (a) A prominent and clearly legible statement that the sale of  
39 cigarettes *or other tobacco products* to children under 18 years of  
40 age is illegal;

41 (b) A prominent and clearly legible statement that the sale of  
42 cigarettes *or other tobacco products* is restricted to persons who  
43 provide verifiable proof of age in accordance with this section; and

44 (c) A prominent and clearly legible statement that sales of  
45 cigarettes *or other tobacco products* are taxable under this chapter,





1 and an explanation of how the tax has been or is to be paid with  
2 respect to the delivery sale.

3 3. Persons accepting orders for delivery sales may request that  
4 prospective purchasers provide their electronic mail addresses.

5 **Sec. 22.** NRS 370.325 is hereby amended to read as follows:

6 370.325 1. A person who causes the mailing or shipment of  
7 cigarettes *or other tobacco products* in connection with an order for  
8 a delivery sale shall:

9 (a) Use a method of mailing or shipping that obligates the  
10 delivery service to carry out the provisions of NRS 370.329;

11 (b) Provide to the delivery service retained to deliver the  
12 delivery sale evidence that all taxes levied by this State with respect  
13 to the delivery sale have been paid to this State; and

14 (c) Include as part of the shipping documents:

15 (1) A copy of the retail dealer's license authorizing the  
16 delivery sale; and

17 (2) A clear and conspicuous statement providing as follows:

18  
19 DELIVERY SALE OF CIGARETTES ~~OR~~ *OR OTHER*  
20 *TOBACCO PRODUCTS*: NEVADA LAW PROHIBITS  
21 SHIPPING TO CHILDREN UNDER 18 YEARS OF AGE  
22 AND REQUIRES THE PAYMENT OF ALL APPLICABLE  
23 TAXES.  
24

25 2. A person who accepts an order for a delivery sale and  
26 delivers the cigarettes *or other tobacco products* without using a  
27 third-party delivery service shall comply with all the requirements  
28 of NRS 370.329 applicable to a delivery service.

29 **Sec. 23.** NRS 370.327 is hereby amended to read as follows:

30 370.327 Not later than the 10th day of each calendar month,  
31 each person who has mailed, shipped or otherwise delivered  
32 cigarettes *or other tobacco products* in connection with a delivery  
33 sale during the previous calendar month, except a delivery service,  
34 shall create and maintain records containing the following  
35 information relating to every such delivery sale:

36 1. The name and address of the person to whom the delivery  
37 sale was made; and

38 2. The quantity and brands of cigarettes *or other tobacco*  
39 *products* that were sold in the delivery sale.

40 ➔ The records required by this section must be provided to the  
41 Department at the Department's request and must be retained for not  
42 less than 3 years after the date of the applicable transaction unless  
43 the Department, in writing, authorizes the records to be removed or  
44 destroyed at an earlier time.





**Sec. 24.** NRS 370.329 is hereby amended to read as follows:

370.329 1. Except as otherwise provided in subsection 2, a delivery service shall:

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

(1) Ensure that the shipping documents include the documents required by paragraph (c) of subsection 1 of NRS 370.325; and

(2) Obtain the evidence required by paragraph (b) of subsection 1 of NRS 370.325 regarding the cigarettes *or other tobacco products* in the shipping container.

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

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

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

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

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

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

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

(b) Delivers any container pursuant to shipping documents containing the statement described in paragraph (c) of subsection 1 of NRS 370.325; or

(c) Delivers any container that the delivery service otherwise has reason to know contains cigarettes *or other tobacco products* sold pursuant to a delivery sale.

**Sec. 25.** NRS 370.405 is hereby amended to read as follows:

370.405 1. It is unlawful for any person knowingly to sell or to possess for the purpose of sale any ~~{counterfeit-cigarettes.}~~ *contraband tobacco products*. The presence of ~~{counterfeit cigarettes in a cigarette}~~ *any contraband tobacco products in a vending machine* is prima facie evidence of the purpose to sell those ~~{cigarettes.}~~ *products*.

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

(a) For the first offense involving ~~[less than 400 cigarettes,]~~ *contraband tobacco products having a value of \$25 or more but less than \$250*, a misdemeanor.



(b) For each subsequent offense involving ~~fewer than 400 cigarettes,~~ *contraband tobacco products having a value of \$25 or more but less than \$250*, a category D felony and shall be punished as provided in NRS 193.130.

(c) For the first offense involving ~~400 or more cigarettes,~~ *contraband tobacco products having a value of \$250 or more*, a gross misdemeanor.

(d) For each subsequent offense involving ~~400 or more cigarettes,~~ *contraband tobacco products having a value of \$250 or more*, a category C felony and shall be punished as provided in NRS 193.130.

**Sec. 26.** NRS 370.410 is hereby amended to read as follows:

370.410 Except as otherwise provided in NRS 370.405, any person exporting, importing, possessing or constructively possessing contraband ~~cigarettes,~~ *tobacco products* is guilty of a gross misdemeanor.

**Sec. 27.** NRS 370.413 is hereby amended to read as follows:

370.413 In order to obtain evidence of any violation of this chapter, the Department, its agents, and all peace officers and revenue-collecting officers of this State may enter and inspect, without a warrant during normal business hours and with a warrant at any other time:

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

2. Any other place where they may have reason to believe contraband ~~cigarettes,~~ *tobacco products* are stored, warehoused or kept for sale.

**Sec. 28.** NRS 370.415 is hereby amended to read as follows:

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

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

3. After consultation with the Department, the sheriff or other peace officer shall transmit the ~~cigarettes,~~ *contraband tobacco products* to the Department if:

(a) The *contraband tobacco products consist of* cigarettes ~~except~~ *and:*



(1) *Except* for revenue stamps or metered machine impressions being properly affixed as required by this chapter, *the cigarettes* comply with all state and federal statutes and regulations; and

~~[(b)]~~ (2) The Department approves the transmission of the cigarettes ~~[(b)]~~; or

*(b) The contraband tobacco products consist of any other tobacco products and the Department approves the transmission of the other tobacco products.*

4. Upon *the* receipt of ~~[(the cigarettes,)]~~ any:

*(a) Cigarettes pursuant to subsection 3,* the Department shall dispose of the cigarettes as provided in subsection 4 of NRS 370.270 ~~[(b)]~~; or

*(b) Other tobacco products pursuant to subsection 3, the Department shall:*

*(1) Sell the other tobacco products to the highest bidder among the licensed wholesale dealers in this State after due notice to all licensed Nevada wholesale dealers has been given by mail to the addresses contained in the Department's records; or*

*(2) If there is no bidder, or in the opinion of the Department the quantity of the other tobacco products is insufficient, or for any other reason such disposition would be impractical, destroy or dispose of the other tobacco products as the Department may see fit.*

*↳ The proceeds of all sales pursuant to this paragraph must be classed as revenues derived under the provisions of NRS 370.450 to 370.503, inclusive.*

5. The sheriff or other peace officer who seizes any stamps, ~~[(cigarettes)]~~ *contraband tobacco products* or machinery pursuant to this section shall:

(a) Destroy the stamps and machinery; and

(b) If he does not transmit the ~~[(cigarettes)]~~ *contraband tobacco products* to the Department, destroy the ~~[(cigarettes,)]~~ *contraband tobacco products.*

**Sec. 29.** NRS 370.450 is hereby amended to read as follows:

370.450 1. Except as otherwise provided in subsection 2, there is hereby imposed upon the purchase or possession of *any other tobacco* products ~~[(made from tobacco, other than cigarettes,)]~~ by a customer in this State a tax of 30 percent of the wholesale *tobacco* price of those products.

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

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



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

3. This tax must be collected and paid by the wholesale dealer to the Department, in accordance with the provisions of NRS 370.465, after the sale or distribution of those products by the wholesale dealer. The wholesale dealer is entitled to retain 0.5 percent of the taxes collected to cover the costs of collecting and administering the taxes if the taxes are paid in accordance with the provisions of NRS 370.465.

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

**Sec. 30.** NRS 370.460 is hereby amended to read as follows:

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

**Sec. 31.** NRS 370.465 is hereby amended to read as follows:

370.465 1. A wholesale dealer shall, not later than 20 days after the end of each month, submit to the Department a report on a form prescribed by the Department setting forth each sale of ~~products made from tobacco, other than cigarettes,~~ *any other tobacco product* that the wholesale dealer made during the previous month.

2. Each report submitted pursuant to this section on or after August 20, 2001, must be accompanied by the tax owed pursuant to NRS 370.450 for *any other tobacco* products ~~made from tobacco, other than cigarettes,~~ that were sold by the wholesale dealer during the previous month.

3. The Department may impose a penalty on a wholesale dealer who violates any of the provisions of this section as follows:

(a) For the first violation within 7 years, a fine of \$1,000.

(b) For a second violation within 7 years, a fine of \$5,000.

(c) For a third or subsequent violation within 7 years, revocation of the license of the wholesale dealer.

**Sec. 32.** NRS 370.470 is hereby amended to read as follows:

370.470 A wholesale dealer must obtain from each manufacturer or wholesale dealer who is not licensed in this State itemized invoices of all *other tobacco* products ~~made from tobacco, other than cigarettes,~~ purchased from and delivered by the manufacturer or wholesale dealer who is not licensed in this State. The wholesale dealer must obtain from the manufacturer or wholesale dealer who is not licensed in this State separate invoices for each purchase made. The invoice must include:



1 1. The name and address of the manufacturer or wholesale  
2 dealer who is not licensed in this State;

3 2. The name and address of the wholesale dealer;

4 3. The date of the purchase; and

5 4. The quantity and wholesale *tobacco* price of those products.

6 **Sec. 33.** NRS 370.480 is hereby amended to read as follows:

7 370.480 1. Every wholesale dealer must keep at his place of  
8 business complete and accurate records for that place of business,  
9 including copies of all invoices of *any other tobacco* products  
10 ~~[made from tobacco, other than cigarettes,]~~ which he holds,  
11 purchases and delivers, distributes or sells in this State. All records  
12 must be preserved for at least 3 years after the date of purchase or  
13 after the date of the last entry made on the record.

14 2. Every retail dealer shall keep at his place of business  
15 complete and accurate records for that place of business, including  
16 copies of all itemized invoices or purchases of such products  
17 purchased and delivered from wholesale dealers. The invoices must  
18 show the name and address of the wholesale dealer and the date of  
19 the purchase. All records must be preserved for at least 3 years after  
20 the date of the purchase.

21 **Sec. 34.** NRS 370.490 is hereby amended to read as follows:

22 370.490 1. The Department shall allow a credit of 30 percent  
23 of the wholesale *tobacco* price, less a discount of 0.5 percent for the  
24 services rendered in collecting the tax, for *any other tobacco*  
25 products ~~[made from tobacco, other than cigarettes,]~~ upon which the  
26 tax has been paid pursuant to NRS 370.450 and that may no longer  
27 be sold. If the products have been purchased and delivered, a credit  
28 memo of the manufacturer is required for proof of returned  
29 merchandise.

30 2. A credit must also be granted for any *other tobacco* products  
31 ~~[made from tobacco, other than cigarettes,]~~ shipped from this State  
32 and destined for retail sale and consumption outside the State on  
33 which the tax has previously been paid. A duplicate or copy of the  
34 invoice is required for proof of the sale outside the State.

35 3. A wholesale dealer may claim a credit by filing with the  
36 Department the proof required by this section. The claim must be  
37 made on a form prescribed by the Department.

38 **Sec. 35.** NRS 370.500 is hereby amended to read as follows:

39 370.500 1. All amounts of tax required to be paid to the State  
40 pursuant to NRS ~~[370.440]~~ *370.450* to 370.490, inclusive, must be  
41 paid to the Department in the form of remittances payable to the  
42 Department.

43 2. The Department shall deposit these payments with the State  
44 Treasurer for credit to the Account for the Tax on Products Made  
45 From Tobacco, Other Than Cigarettes, in the State General Fund.



**Sec. 36.** NRS 370.501 is hereby amended to read as follows:

370.501 1. The governing body of an Indian reservation or Indian colony may impose an excise tax on ~~[any product made from tobacco, other than cigarettes,]~~ *other tobacco products* sold on the reservation or colony.

2. If an excise tax is imposed, the governing body may establish procedures for collecting the excise tax from any retail dealer authorized to do business on the reservation or colony.

**Sec. 37.** NRS 370.503 is hereby amended to read as follows:

370.503 1. Upon proof satisfactory to the Department, a refund must be allowed for the taxes paid pursuant to NRS 370.450, upon *any other tobacco* products ~~[made from tobacco other than cigarettes,]~~ that are sold to:

(a) The United States Government for the purposes of the Army, Air Force, Navy or Marine Corps and are shipped to a point within this State to a place which has been lawfully ceded to the United States Government for the purposes of the Army, Air Force, Navy or Marine Corps;

(b) Veterans' hospitals for distribution or sale to disabled servicemen or ex-servicemen interned therein, but not to civilians or civilian employees;

(c) Any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed which is equal to or greater than the rate of the tax imposed pursuant to NRS 370.501; or

(d) An Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the tax imposed pursuant to NRS 370.501.

2. Any refund must be paid as other claims against the State are paid.

**Sec. 38.** NRS 370.515 is hereby amended to read as follows:

370.515 The Department shall not collect the tax imposed by this chapter on cigarettes or other *tobacco* products ~~[made from tobacco]~~ sold on an Indian reservation or Indian colony if:

1. The governing body of the reservation or colony imposes an excise tax pursuant to NRS 370.0751 or 370.501;

2. The excise tax imposed is equal to or greater than the tax imposed pursuant to this chapter; and

3. The governing body of the colony or reservation submits a copy of the ordinance imposing the excise tax to the Department.

**Sec. 39.** NRS 370.440 and 370.445 are hereby repealed.

**Sec. 40.** This act becomes effective on July 1, 2007.



\* A B 5 8 6 \*

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**TEXT OF REPEALED SECTIONS**

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**370.440 Definitions.** As used in NRS 370.440 to 370.503, inclusive, unless the context otherwise requires:

1. “Retail dealer” means any person who is engaged in selling products made from tobacco, other than cigarettes, to customers.

2. “Sale” means any transfer, exchange, barter, gift, offer for sale, or distribution for consideration of products made from tobacco, other than cigarettes.

3. “Ultimate consumer” means a person who purchases a product made from tobacco, other than cigarettes, for his household or personal use and not for resale.

4. “Wholesale dealer” means any person who:

(a) Brings or causes to be brought into this State products made from tobacco, other than cigarettes, purchased from the manufacturer or a wholesale dealer and who stores, sells or otherwise disposes of those products within this State;

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

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

5. “Wholesale price” means:

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

(b) For a product made from tobacco, other than cigarettes, sold to a retail dealer or an ultimate consumer by a wholesale dealer described in paragraph (b) of subsection 4, the established price for which the product is sold to the retail dealer or ultimate consumer before any discount or other reduction is made.

**370.445 Dealer’s license required; penalty.**

1. Except as otherwise provided in subsection 2, a person shall not engage in the business of a wholesale dealer or retail dealer in this State unless he first obtains a license as a wholesale dealer or retail dealer from the Department. A person may be licensed as a wholesale dealer and as a retail dealer.



\* A B 5 8 6 \*



2. A person who wishes to engage in the business of a retail dealer is not required to obtain a license as a retail dealer pursuant to this section if he is licensed as a retail cigarette dealer pursuant to this chapter.

3. Any person who violates any of the provisions of this section is guilty of a misdemeanor.

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\* A B 5 8 6 \*