

ASSEMBLY BILL NO. 586—COMMITTEE ON TAXATION

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 26, 2007

Referred to Committee on Taxation

SUMMARY—Provides for the enforcement of certain provisions governing the regulation and taxation of tobacco products other than cigarettes. (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; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

5 **Section 3** of this bill provides a common definition for such "other tobacco
6 product." **Sections 2, 4, 9 and 25-28** of this bill assist in the enforcement of the tax
7 on any "other tobacco product" by providing for the treatment of and imposition of
8 criminal penalties regarding contraband "other tobacco products" in the same
9 manner as contraband cigarettes.

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

1 **Section 1.** Chapter 370 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2. "Other counterfeit tobacco product" means any other**
4 **tobacco product or tobacco product package bearing a false**
5 **manufacturing label.**



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

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

8 **Sec. 5.** (Deleted by amendment.)

9 **Sec. 6.** (Deleted by amendment.)

10 **Sec. 7.** NRS 370.001 is hereby amended to read as follows:
11 370.001 As used in NRS 370.001 to 370.430, inclusive, **and**
12 **sections 2, 3 and 4 of this act**, unless the context otherwise requires,
13 the words and terms defined in NRS 370.005 to 370.055, inclusive,
14 **and sections 2, 3 and 4 of this act** have the meanings ascribed to
15 them in those sections.

16 **Sec. 8.** (Deleted by amendment.)

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

18 370.025 “Contraband ~~[-cigarettes-]~~ **tobacco products**” means
19 any:

20 1. Counterfeit cigarettes; ~~[-or-]~~

21 2. **Other counterfeit tobacco product; or**

22 3. Cigarettes ~~[-]~~ **or other tobacco product:**

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

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

30 **Sec. 10.** (Deleted by amendment.)

31 **Sec. 11.** (Deleted by amendment.)

32 **Sec. 12.** (Deleted by amendment.)

33 **Sec. 13.** (Deleted by amendment.)

34 **Sec. 14.** (Deleted by amendment.)

35 **Sec. 15.** (Deleted by amendment.)

36 **Sec. 16.** (Deleted by amendment.)

37 **Sec. 17.** (Deleted by amendment.)

38 **Sec. 18.** (Deleted by amendment.)

39 **Sec. 19.** (Deleted by amendment.)

40 **Sec. 20.** (Deleted by amendment.)

41 **Sec. 21.** (Deleted by amendment.)

42 **Sec. 22.** (Deleted by amendment.)

43 **Sec. 23.** (Deleted by amendment.)

44 **Sec. 24.** (Deleted by amendment.)



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

2 370.405 1. It is unlawful for any person knowingly to sell or
3 to possess for the purpose of sale any ~~{counterfeit cigarettes,}~~
4 **contraband tobacco products**. The presence of ~~{counterfeit~~
5 ~~cigarettes in a cigarette}~~ **any contraband tobacco products in a**
6 vending machine is prima facie evidence of the purpose to sell those
7 ~~{cigarettes,}~~ **products**.

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

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

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

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

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

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

25 370.410 Except as otherwise provided in NRS 370.405, any
26 person exporting, importing, possessing or constructively possessing
27 contraband ~~{cigarettes}~~ **tobacco products** is guilty of a gross
28 misdemeanor.

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

30 370.413 In order to obtain evidence of any violation of this
31 chapter, the Department, its agents, and all peace officers and
32 revenue-collecting officers of this State may enter and inspect,
33 without a warrant during normal business hours and with a warrant
34 at any other time:

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

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

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

41 370.415 1. The Department, its agents, sheriffs within their
42 respective counties and all other peace officers of the State of
43 Nevada shall seize any counterfeit stamps and any contraband
44 ~~{cigarettes}~~ **tobacco products** and machinery used to manufacture



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1 contraband ~~{cigarettes,}~~ *tobacco products*, found or located in the
2 State of Nevada.

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

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

11 (a) The *contraband tobacco products consist of* cigarettes ~~{~~
12 ~~except}~~ *and:*

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

17 ~~{(b)}~~ (2) The Department approves the transmission of the
18 cigarettes ~~{~~ ; or

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

22 4. Upon the receipt of ~~{the cigarettes,}~~ any:

23 (a) *Cigarettes pursuant to subsection 3*, the Department shall
24 dispose of the cigarettes as provided in subsection 4 of NRS
25 370.270 ~~{~~ ; or

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

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

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

37 *↪ The proceeds of all sales pursuant to this paragraph must be*
38 *classed as revenues derived under the provisions of NRS 370.440*
39 *to 370.503, inclusive.*

40 5. The sheriff or other peace officer who seizes any stamps,
41 ~~{cigarettes}~~ *contraband tobacco products* or machinery pursuant to
42 this section shall:

43 (a) Destroy the stamps and machinery; and



- 1 (b) If he does not transmit the ~~-cigarettes~~ *contraband tobacco*
2 *products* to the Department, destroy the ~~-cigarettes-~~ *contraband*
3 *tobacco products*.
4 **Sec. 29.** (Deleted by amendment.)
5 **Sec. 30.** (Deleted by amendment.)
6 **Sec. 31.** (Deleted by amendment.)
7 **Sec. 32.** (Deleted by amendment.)
8 **Sec. 33.** (Deleted by amendment.)
9 **Sec. 34.** (Deleted by amendment.)
10 **Sec. 35.** (Deleted by amendment.)
11 **Sec. 36.** (Deleted by amendment.)
12 **Sec. 37.** (Deleted by amendment.)
13 **Sec. 38.** (Deleted by amendment.)
14 **Sec. 39.** (Deleted by amendment.)
15 **Sec. 40.** (Deleted by amendment.)

