

CHAPTER.....

AN ACT relating to tobacco; repealing certain requirements regarding the delivery of cigarettes sold to consumers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes certain duties regarding the delivery of cigarettes sold to consumers to assist in ensuring compliance with requirements for the taxation of tobacco and the licensing of retail tobacco dealers and to assist in preventing the delivery of cigarettes to children under 18 years of age. (NRS 370.325, 370.329) In *Rowe v. New Hampshire Motor Transp. Ass'n*, 128 S.Ct. 989 (2008), the United States Supreme Court held that the requirements of similar Maine statutes were preempted by federal law. **Section 6** of this bill repeals the preempted requirements of this State and two definitions that are thereby rendered obsolete.

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

Section 1. NRS 370.382 is hereby amended to read as follows:

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

(a) To fail to keep or make any record, return, report or inventory, or keep or make any false or fraudulent record, return, report or inventory, required pursuant to NRS 370.080 to ~~370.329,~~ **370.327**, inclusive, or any regulations adopted for the administration or enforcement of those provisions;

(b) To refuse to pay any tax imposed pursuant to NRS 370.080 to ~~370.329,~~ **370.327**, inclusive, or attempt in any manner to evade or defeat the tax or the payment thereof;

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

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

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

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

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

(h) To fail to comply with any requirement of NRS 370.080 to ~~370.329,~~ **370.327**, inclusive.



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

Sec. 2. NRS 370.395 is hereby amended to read as follows:

370.395 A person who:

1. Knowingly violates any of the provisions of NRS 370.321 ~~{to 370.329, inclusive;}~~, **370.323 or 370.327;** or

2. Knowingly and falsely submits a certification pursuant to paragraph (a) of subsection 1 of NRS 370.323 in the name of another person,

↪ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Sec. 3. NRS 370.419 is hereby amended to read as follows:

370.419 All fixtures, equipment and other materials and personal property on the premises of any wholesale or retail dealer who, with intent to defraud the State:

1. Fails to keep or make any record, return, report or inventory required pursuant to NRS 370.080 to ~~{370.329,}~~ **370.327,** inclusive;

2. Keeps or makes any false or fraudulent record, return, report or inventory required pursuant to NRS 370.080 to ~~{370.329,}~~ **370.327,** inclusive;

3. Refuses to pay any tax imposed pursuant to NRS 370.080 to ~~{370.329,}~~ **370.327,** inclusive; or

4. Attempts in any manner to evade or defeat the requirements of NRS 370.080 to ~~{370.329,}~~ **370.327,** inclusive,

↪ is subject to forfeiture pursuant to NRS 179.1156 to 179.119, inclusive.

Sec. 4. NRS 370.425 is hereby amended to read as follows:

370.425 In addition to any other penalty authorized by law:

1. The Department may:

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

(1) Omits, neglects or refuses to:

(I) Comply with any duty imposed upon him pursuant to the provisions of NRS 370.080 to 370.315, inclusive; or

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

(2) Does anything prohibited by the provisions of NRS 370.080 to 370.315, inclusive.

(b) Impose on each person who violates any of the provisions of NRS 370.321 ~~{to 370.329, inclusive;}~~, **370.323 or 370.327** a civil penalty of:

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



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

2. Any person who fails to pay any tax imposed pursuant to the provisions of NRS 370.080 to ~~{370.329,}~~ 370.327, inclusive, within the time prescribed by law or regulation shall pay a penalty of 500 percent of the tax due but unpaid, in addition to the tax.

Sec. 5. NRS 370.525 is hereby amended to read as follows:

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

(a) Sells, distributes or manufactures cigarettes; and

(b) Sustains direct economic or commercial injury as a result of a violation of NRS 370.080 to ~~{370.329,}~~ 370.327, inclusive, 370.380, 370.382, 370.385, 370.395, 370.405 or 370.410.

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

Sec. 6. NRS 370.044, 370.046, 370.325 and 370.329 are hereby repealed.

Sec. 7. This act becomes effective upon passage and approval.

