
SENATE BILL NO. 67—COMMITTEE ON REVENUE
AND ECONOMIC DEVELOPMENT

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 20, 2012

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions relating to tobacco. (BDR 32-404)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.

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 provisions relating to the Master Settlement Agreement; revising provisions relating to the sale, purchase, delivery, possession and taxation of cigarettes; providing for the issuance and revocation of a license as a stamping agent; establishing the duties and rights of a stamping agent; revising the duties, rights and licensing requirements of manufacturers of tobacco products, and importers, wholesale dealers and retail dealers of cigarettes; providing additional procedures for the statutory enforcement of the Master Settlement Agreement; providing for the assignment to the State and an Indian tribe of certain money placed into a qualified escrow fund by a manufacturer of tobacco products; requiring certain manufacturers of tobacco products to make quarterly escrow deposits into certain qualified escrow funds; providing civil and criminal penalties; and providing other matters properly relating thereto.



* S B 6 7 *

Legislative Counsel's Digest:

On November 23, 1998, leading United States tobacco product manufacturers and the State of Nevada entered into a settlement agreement, entitled the "Master Settlement Agreement," which obligates the manufacturers, in return for a release of past, present and certain future claims against them, to: (1) pay substantial sums to the State; (2) fund a national foundation devoted to the interests of public health; and (3) make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking. In 1999, the Nevada Legislature enacted provisions requiring all manufacturers of tobacco products sold in this State to participate in the Master Settlement Agreement or to place certain money in escrow. (Chapter 370A of NRS) In 2005, the Legislature made a finding that violations of chapter 370A of NRS threatened the integrity of the Master Settlement Agreement, the fiscal soundness of the State and public health, and enacted procedural safeguards to aid in the enforcement of the provisions of chapter 370A of NRS. (NRS 370.600-370.705) This bill generally revises existing, and provides additional, procedures and licensing requirements to aid in the statutory enforcement of the Master Settlement Agreement.

Sections 13, 32, 38, 39, 43, 49, 51-55, 83 and 85 of this bill generally set forth the requirements for licensure as a stamping agent, the rights and duties of a stamping agent, and the grounds and procedures for revoking the license of a stamping agent. **Section 39** requires the Department of Taxation to issue a license as a stamping agent to certain qualified wholesale dealers of cigarettes. **Section 83** requires a foreign wholesale dealer to appoint an agent in this State to receive service of process as a condition of obtaining a license as a stamping agent, and a foreign importer to appoint such an agent as a condition of importing cigarettes into this State. **Sections 32, 38, 43, 49 and 55** provide a stamping agent with the exclusive authority to purchase, possess and affix a revenue stamp to an unstamped cigarette package in this State and require each stamping agent to maintain certain records. **Sections 51, 52, 54 and 85** apply certain reporting requirements to a stamping agent with respect to cigarette packages in its possession or on which it affixed stamps. **Section 53** establishes the grounds for the permanent revocation of the license of a stamping agent, and **section 13** sets forth the requirements for such revocation.

Sections 40, 41, 44-50, 56 and 63 of this bill establish the procedures by which, and the circumstances under which, a stamping agent may obtain and affix revenue stamps to unstamped cigarette packages, pay or account for the taxes owed on those cigarettes or receive certain refunds for taxes paid. **Sections 57 and 58** of this bill revise provisions relating to the exportation and transportation of unstamped cigarette packages from or in this State.

Sections 63, 64, 69 and 70 of this bill provide additional civil and criminal penalties for certain violations of chapter 370 of NRS. **Sections 66-68, 89 and 92** of this bill expand the applicability of certain penalties and enforcement provisions to stamping agents and wholesale dealers.

Section 71 of this bill revises provisions relating to licensure as a wholesale dealer or retail dealer of tobacco products other than cigarettes, and authorizes the Department to refuse to issue or renew, or to suspend or revoke, such a license under certain circumstances.

Section 80 of this bill requires each manufacturer to certify that the manufacturer has submitted to the Attorney General its federal income tax return or, in lieu of its return, a consent form authorizing the Federal Government to provide the return to the Attorney General.

Sections 13, 82, 86 and 91 of this bill require the Department to add to or remove from the directory of manufacturers that it maintains on its Internet website the names of certain manufacturers. **Section 11** of this bill requires each wholesale dealer to maintain certain contact information with the Department, and **section 14**



of this bill provides for the notification of wholesale dealers and retail dealers of cigarettes when a manufacturer or brand family of cigarettes is removed from the directory.

Sections 17 and 18 of this bill authorize a manufacturer of tobacco products to assign to the State or to an Indian tribe certain money deposited into certain escrow funds and the interest earned thereon and further authorizes the Attorney General to petition a court for an order assigning such money and interest to the State if the money and interest is presumed abandoned. **Section 86** requires a manufacturer of tobacco products that makes deposits into an escrow fund in lieu of becoming a party to the Master Settlement Agreement to make such deposits on a quarterly basis beginning on July 1, 2013. **Section 95** of this bill provides certain exceptions to the requirement that a manufacturer of tobacco products deposit money into an escrow fund.

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 18, inclusive, of this act.

Sec. 2. *“Importer” means any person in a state or territory of the United States to whom cigarettes that are manufactured outside the United States are shipped, delivered or consigned for resale.*

Sec. 3. *“License as a manufacturer” means a license issued pursuant to paragraph (a) of subsection 1 of NRS 370.150 that authorizes the holder to conduct business as a manufacturer in this State.*

Sec. 4. *“License as a retail dealer” means a license issued pursuant to paragraph (a) of subsection 1 of NRS 370.150 that authorizes the holder to conduct business as a retail dealer in this State.*

Sec. 5. *“License as a stamping agent” means a license issued pursuant to paragraph (b) of subsection 1 of NRS 370.150 that authorizes the holder to conduct business as a stamping agent in this State.*

Sec. 6. *“License as a wholesale dealer” means a license issued pursuant to paragraph (a) of subsection 1 of NRS 370.150 that authorizes the holder to conduct business as a wholesale dealer in this State.*

Sec. 7. *“Qualified tribal land” means any real property for which legal title is vested in, or held in trust for the benefit of, a tribe or an individual Native American, and which is subject to any applicable federal or state law restricting or prohibiting alienation.*

Sec. 8. *“Shortfall” means the difference between:*



1 1. The full amount of the deposit which a nonparticipating
2 manufacturer is required to place into a qualified escrow fund in a
3 calendar quarter pursuant to NRS 370A.140; and

4 2. The sum of:

5 (a) The portion of the deposit actually placed into the qualified
6 escrow fund by the nonparticipating manufacturer pursuant to
7 NRS 370A.140;

8 (b) The portion of the deposit which is prepaid by the
9 nonparticipating manufacturer pursuant to subsection 3 of NRS
10 370.683; and

11 (c) The amount of the bond posted by the nonparticipating
12 manufacturer for that calendar quarter pursuant to NRS 370.682.

13 Sec. 9. "Stamping agent" means a wholesale dealer that
14 holds a license as a stamping agent.

15 Sec. 10. "Tribe" means a Native American tribe or Native
16 American band which is recognized by federal law or formally
17 acknowledged by the Congress of the United States or this State.

18 Sec. 11. Each wholesale dealer shall:

19 1. For the purpose of receiving any notification from the
20 Department pursuant to this chapter, maintain with the
21 Department:

22 (a) A permanent mailing address; and

23 (b) An electronic mail address.

24 2. Provide written notice to the Department of any change in
25 the information specified in subsection 1 not later than 10 days
26 after the change.

27 Sec. 12. 1. The Department shall list on the Internet
28 website maintained by the Department each stamping agent
29 licensed pursuant to NRS 370.150.

30 2. A manufacturer or importer may rely upon the list
31 maintained pursuant to subsection 1 for the purposes of selling
32 unstamped cigarettes to a stamping agent in this State.

33 Sec. 13. 1. The Department shall, upon determining that it
34 has grounds to revoke a license as a wholesale dealer or a license
35 as a stamping agent pursuant to subsection 1 of NRS 370.250,
36 send notice of the determination to the wholesale dealer or
37 stamping agent. The notice must set forth:

38 (a) The grounds for revoking the license; and

39 (b) The date of revocation.

40 2. The Department may revoke a license as a wholesale
41 dealer or a license as a stamping agent 14 days after providing
42 notice pursuant to subsection 1, unless the wholesale dealer or
43 stamping agent that receives the notice pursuant to subsection 1,
44 not later than 14 days after receiving the notice, provides proof
45 satisfactory to the Department that:



1 (a) If the grounds for revocation are based upon a violation of
2 paragraph (a), (b) or (c) of subsection 1 of NRS 370.250, the
3 wholesale dealer or stamping agent cured the violation and
4 committed the violation unknowingly or unintentionally.

5 (b) If the grounds for revocation are based upon a violation of
6 paragraph (d) or (e) of subsection 1 of NRS 370.250, the
7 wholesale dealer or stamping agent did not violate any provision
8 of this chapter as alleged in the notice.

9 3. If the Department revokes a license as a wholesale dealer
10 or a license as a stamping agent pursuant to subsection 2, the
11 Department shall, as soon as practicable:

12 (a) If the licensee is a manufacturer, remove the manufacturer
13 and the name of each brand family it manufactures from the
14 directory;

15 (b) Publish notice of the revocation on the Internet website
16 maintained by the Department; and

17 (c) Send notice of the revocation to each manufacturer listed
18 in the directory and to each person who holds a license as a
19 wholesale dealer.

20 4. Except as otherwise provided in subsection 3 of section 14
21 of this act, a person shall not, beginning 10 days after a notice of
22 revocation is published by the Department pursuant to subsection
23 3, sell cigarettes to, or purchase cigarettes from, a wholesale
24 dealer or stamping agent whose license as a wholesale dealer or
25 license as a stamping agent is revoked unless:

26 (a) The license is reinstated; or

27 (b) The revocation of the license is stayed or suspended as the
28 result of a hearing or proceeding to review the revocation.

29 5. A wholesale dealer or stamping agent whose license as a
30 wholesale dealer or license as a stamping agent is revoked
31 pursuant to subsection 2 may request a hearing with the
32 Department concerning its determination by submitting a written
33 request for a hearing not later than 30 days after the date of
34 revocation. The Department shall conduct a hearing not later than
35 30 days after receiving the request. The decision of the
36 Department at a hearing conducted pursuant to this subsection is
37 final for the purposes of judicial review.

38 6. A wholesale dealer or stamping agent which requests a
39 hearing pursuant to subsection 5 or challenges the decision of the
40 Department in any court in this State, and which fails to succeed
41 on the merits, shall pay all reasonable costs and attorney's fees of
42 the Department as a result of the hearing or judicial proceeding.

43 7. If the Department determines that a wholesale dealer
44 or stamping agent unknowingly or unintentionally violated
45 a provision of paragraph (a), (b) or (c) of subsection 1 of



1 *NRS 370.250, resulting in the revocation of its license as a*
2 *wholesale dealer or license as a stamping agent, the Department*
3 *may reinstate the license:*

4 *(a) For a first violation, not earlier than 90 days after the date*
5 *of revocation.*

6 *(b) For a second violation, not earlier than 180 days after the*
7 *date of revocation.*

8 *(c) For a third or subsequent violation, not earlier than 1 year*
9 *after the date of revocation.*

10 *8. If the Department determines that a wholesale dealer or*
11 *stamping agent knowingly or intentionally violated a provision of*
12 *paragraph (a), (b) or (c) of subsection 1 of NRS 370.250, or that a*
13 *wholesale dealer or stamping agent violated a provision of*
14 *paragraph (d) or (e) of subsection 1 of NRS 370.250, resulting in*
15 *the revocation of its license as a wholesale dealer or license as a*
16 *stamping agent, the Department may reinstate the license:*

17 *(a) For a first violation, not earlier than 1 year after the date*
18 *of revocation.*

19 *(b) For a second or subsequent violation, not earlier than 3*
20 *years after the date of revocation.*

21 *9. The period for reinstatement of a license as a wholesale*
22 *dealer or a license as a stamping agent prescribed by subsection 7*
23 *or 8 is tolled for any period during which the revocation of the*
24 *license is stayed or suspended as the result of a hearing or judicial*
25 *proceeding concerning the revocation.*

26 *10. If the revocation of a license as a wholesale dealer or a*
27 *license as a stamping agent is stayed or suspended as the result of*
28 *any hearing or proceeding conducted pursuant to this section, the*
29 *Department shall, as soon as practicable:*

30 *(a) Publish notice of the stay or suspension of revocation on*
31 *the Internet website maintained by the Department; and*

32 *(b) Send notice of the stay or suspension of revocation to each*
33 *manufacturer listed in the directory and to each person who holds*
34 *a license as a wholesale dealer.*

35 *11. Any person that sells cigarettes to, or purchases cigarettes*
36 *from, a wholesale dealer or stamping agent after the earlier of:*

37 *(a) Ten days after notice of the stay or suspension of*
38 *revocation is published pursuant to paragraph (a) of subsection*
39 *10; or*

40 *(b) Receiving notice of the stay or suspension of revocation*
41 *pursuant to paragraph (b) of subsection 10,*

42 *↪ is jointly and severally liable for any taxes or escrow payments*
43 *which become due and owing pursuant to this chapter or chapter*
44 *370A of NRS during the period of the stay or suspension.*



12. The Department may provide any notice required by this section by United States mail or electronic mail.

Sec. 14. 1. The Department shall notify each wholesale dealer when a manufacturer or brand family is added to or removed from the directory pursuant to NRS 370.675 by sending a notice to the mailing address or electronic mail address of the wholesale dealer provided to the Department pursuant to section 11 of this act.

2. A wholesale dealer shall, not later than 7 days after receiving a notice pursuant to subsection 1, provide:

(a) A copy of the notice to each retail dealer that is a customer of the wholesale dealer; and

(b) The Department with a list of each retail dealer to which a copy of the notice was provided pursuant to paragraph (a).

3. A retail dealer, not later than 60 days after receiving a copy of a notice pursuant to subsection 2 that a manufacturer or brand family has been removed from the directory pursuant to NRS 370.675, may sell any cigarettes in its possession from the manufacturer or of the brand family. The retail dealer shall turn over possession of any unsold cigarettes to the Department at the end of the 60-day period for destruction pursuant to NRS 370.415.

4. A wholesale dealer shall not purchase cigarettes for resale from a manufacturer, or of a brand family, which has been removed from the directory by the Department, or for which the wholesale dealer receives a notice of removal from the Department, until the manufacturer or brand family is reentered in the directory by the Department.

Sec. 15. 1. An importer is jointly and severally liable for the escrow deposit due pursuant to NRS 370A.140 for each cigarette it imports into this State from or on behalf of a nonparticipating manufacturer.

2. A nonparticipating manufacturer located outside the United States that conducts business in this State shall provide to the Attorney General on a form prescribed by the Attorney General a declaration from each importer that imports the cigarettes of the nonparticipating manufacturer into this State stating that the importer accepts liability pursuant to subsection 1 and consents to the jurisdiction of the courts of this State for the purposes of enforcing this section.

Sec. 16. The State may enter into an agreement with a tribe to enforce, administer or otherwise implement any provision of this chapter or chapter 370A of NRS.

Sec. 17. 1. Notwithstanding the provisions of NRS 370A.150, a manufacturer that elects to deposit money into a qualified escrow fund pursuant to paragraph (b) of subsection 1 of



1 *NRS 370A.140 may assign to the State the interest of the*
2 *manufacturer of tobacco products in any money in the qualified*
3 *escrow fund.*

4 *2. An assignment executed pursuant to subsection 1 is*
5 *irrevocable and applies to any money and any interest or other*
6 *appreciation earned on any money:*

7 *(a) Currently in the qualified escrow fund at the time of*
8 *execution of the assignment; and*

9 *(b) Placed in the qualified escrow fund by the manufacturer at*
10 *any time after execution of the assignment.*

11 *3. The parties to a qualified escrow agreement may amend*
12 *the agreement for the purposes of:*

13 *(a) Executing an assignment pursuant to subsection 1; or*

14 *(b) Releasing money from the qualified escrow fund pursuant*
15 *to NRS 370A.150.*

16 *4. An assignment executed pursuant to subsection 1 must be*
17 *in writing and be signed by the assignee and the assignor or by an*
18 *authorized agent or representative of the assignor. An assignment*
19 *in writing which is duly executed becomes enforceable after:*

20 *(a) A copy of the assignment is delivered to the Attorney*
21 *General and the financial institution where the qualified escrow*
22 *fund is maintained; and*

23 *(b) A written opinion is issued by the Attorney General and*
24 *delivered to the Governor, State Treasurer and Director of the*
25 *Legislative Counsel Bureau finding that the assignment will not*
26 *nullify, void or otherwise jeopardize any payment owed to the State*
27 *pursuant to the Master Settlement Agreement.*

28 *5. Notwithstanding the provisions of NRS 370A.150, the*
29 *Attorney General may petition a court of competent jurisdiction*
30 *for an order assigning to the State the principal balance of a*
31 *qualified escrow fund and any interest or other appreciation*
32 *earned thereon if the principal and interest is presumed*
33 *abandoned property pursuant to NRS 120A.500.*

34 *6. Any money received by the State pursuant to this section*
35 *must be deposited and accounted for separately in the State*
36 *General Fund. Except as otherwise provided in subsection 7, any*
37 *money deposited in the State General Fund pursuant to this*
38 *section must be used to pay a judgment or settlement described in*
39 *subsection 1 of NRS 370A.150.*

40 *7. Any money deposited in the State General Fund pursuant*
41 *to this section that would have reverted to a manufacturer*
42 *pursuant to NRS 370A.150 reverts to the State General Fund.*

43 *8. Nothing in this section operates to relieve a manufacturer*
44 *from any obligation or duty imposed pursuant to this chapter or*
45 *chapter 370A of NRS.*



1 **Sec. 18. 1. Notwithstanding the provisions of NRS**
2 **370A.150, a manufacturer that elects to deposit money into a**
3 **qualified escrow fund pursuant to paragraph (b) of subsection 1 of**
4 **NRS 370A.140 may assign to a tribe the interest of the**
5 **manufacturer in money in the qualified escrow fund pursuant to**
6 **an agreement entered into pursuant to this section.**

7 **2. An assignment executed pursuant to this section is**
8 **irrevocable and, except as otherwise provided in paragraph (d) of**
9 **subsection 3, applies to any money and any interest or other**
10 **appreciation earned on any money:**

11 **(a) In the qualified escrow fund at the time of execution of the**
12 **assignment; and**

13 **(b) Placed in the qualified escrow fund by the manufacturer at**
14 **any time after execution of the assignment,**

15 **↪ which is attributable to units sold at retail on or after**
16 **January 1, 2014, on any qualified tribal land of the tribe to any**
17 **person who is not an enrolled member of the tribe.**

18 **3. An assignment executed pursuant to this section must:**

19 **(a) Be executed pursuant to an agreement entered into by the**
20 **State and by the governing body of the tribe;**

21 **(b) Be in writing;**

22 **(c) Be signed by the assignee and the assignor or by an**
23 **authorized agent or representative of the assignor;**

24 **(d) Occur not later than 1 year after the escrow deposit was**
25 **initially made; and**

26 **(e) Be approved by the Attorney General.**

27 **4. The Attorney General may negotiate and enter into, on**
28 **behalf of the State, any agreement authorized by this section.**

29 **5. Nothing in this section operates to relieve a manufacturer**
30 **from any obligation or duty imposed pursuant to this chapter or**
31 **chapter 370A of NRS.**

32 **Sec. 19. NRS 370.001 is hereby amended to read as follows:**

33 **370.001 As used in NRS 370.001 to 370.430, inclusive, and**
34 **sections 2 to 13, inclusive, of this act, and NRS 370.520 to**
35 **370.705, inclusive, and sections 14 to 18, inclusive, of this act,**
36 **unless the context otherwise requires, the words and terms defined**
37 **in NRS 370.005 to 370.055, inclusive, and sections 2 to 10,**
38 **inclusive, of this act and NRS 370.610 to 370.660, inclusive, have**
39 **the meanings ascribed to them in those sections.**

40 **Sec. 20. NRS 370.005 is hereby amended to read as follows:**

41 **370.005 “Basic cost of cigarettes” means the manufacturer’s**
42 **invoice cost of cigarettes by carton to the wholesale dealer in the**
43 **quantity last purchased, less all allowances in an amount not**
44 **exceeding 2.5 percent of the invoice cost of cigarettes by carton,**
45 **plus the full value of any ~~-cigarette-revenue-~~ stamps that are affixed**



1 to the *cigarette* packages , ~~[- packets or containers of cigarettes,]~~ if
2 not included in the invoice cost of cigarettes by carton.

3 **Sec. 21.** NRS 370.010 is hereby amended to read as follows:

4 370.010 "Cigarette" ~~[- means all rolled tobacco or substitutes~~
5 ~~therefor wrapped in paper or any substitute other than tobacco,~~
6 ~~irrespective of size or shape and whether or not the tobacco is~~
7 ~~flavored, adulterated or mixed with any other ingredient.]-~~ *has the*
8 *meaning ascribed to it in NRS 370A.050.*

9 **Sec. 22.** NRS 370.020 is hereby amended to read as follows:

10 370.020 "Consumer" means any person who comes into
11 possession of cigarettes in this State as a final user for any purpose
12 other than offering them for sale as a wholesale *dealer* or retail
13 dealer.

14 **Sec. 23.** NRS 370.025 is hereby amended to read as follows:

15 370.025 "Contraband tobacco products" means any:

16 1. Counterfeit cigarettes;

17 2. Other counterfeit tobacco product; ~~[-or-]~~

18 3. *Cigarettes produced or sold in or into this State by a*
19 *manufacturer, or cigarettes of a brand family, that is not listed in*
20 *the directory;*

21 4. *Cigarettes bearing the stamp of a tribe which are sold or*
22 *offered for sale at a retail location that is not located on any*
23 *qualified tribal land of the tribe; or*

24 5. Cigarettes or other tobacco product:

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

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

32 **Sec. 24.** NRS 370.0285 is hereby amended to read as follows:

33 370.0285 1. "Delivery sale" means any sale of cigarettes,
34 whether the seller is located within or outside of the borders of this
35 State, to a consumer in this State for which:

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

39 (b) The cigarettes are delivered by mail or the use of another
40 delivery service.

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



1 **Sec. 25.** NRS 370.0305 is hereby amended to read as follows:
2 370.0305 "License" means a license issued pursuant to NRS
3 370.001 to 370.430, inclusive, *and sections 2 to 13, inclusive, of*
4 *this act* that authorizes the holder to conduct business as a
5 manufacturer , ~~for a~~ *wholesale dealer, stamping agent* or retail
6 dealer.

7 **Sec. 26.** NRS 370.0315 is hereby amended to read as follows:
8 370.0315 "Manufacturer" means ~~any person who:~~
9 ~~1. Manufactures, fabricates, assembles, processes or labels a~~
10 ~~finished cigarette; or~~
11 ~~2. Imports, whether directly or indirectly, a finished cigarette~~
12 ~~into the United States for sale or distribution in this State.} a~~
13 *manufacturer of tobacco products as defined in NRS 370A.060.*

14 **Sec. 27.** NRS 370.032 is hereby amended to read as follows:
15 370.032 "Place of business" means, for a person engaged in
16 business as:

17 1. A wholesale dealer, any location from which cigarettes are
18 distributed or where cigarettes are warehoused ~~h~~ *or* stored ~~for~~ ;

19 2. *A stamping agent, any location where cigarettes are* affixed
20 with stamps; or

21 ~~2-1~~ 3. A retail dealer, any store, stand, outlet or other location
22 through which cigarettes are distributed or sold to a consumer.

23 **Sec. 28.** NRS 370.048 is hereby amended to read as follows:

24 370.048 "Stamp" means the ~~indicia required to be~~ *Nevada*
25 *cigarette revenue stamp which is affixed by a metered stamping*
26 *machine or any other method approved by the Department and*
27 *which is* placed on a cigarette package ~~that evidences~~ *pursuant to*
28 *NRS 370.170 as evidence of* payment of the taxes on cigarettes
29 imposed pursuant to NRS 370.0751 and 370.165.

30 **Sec. 29.** NRS 370.055 is hereby amended to read as follows:

31 370.055 "Wholesale dealer" means:

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

34 (a) Brings, sends, or causes to be brought or sent into this State
35 any ~~unstamped cigarettes~~ *stamped cigarette packages* purchased
36 from the manufacturer , *a stamping agent* or another wholesale
37 dealer; and

38 (b) Stores, sells or otherwise disposes of those cigarettes within
39 the State.

40 2. ~~Any person who manufactures or produces cigarettes within~~
41 ~~this State and who sells or distributes them within the State.~~

42 ~~3-1~~ Any person, whether located within or outside of the
43 borders of this State, who acquires ~~cigarettes~~ *stamped cigarette*
44 *packages* solely for the purpose of bona fide resale to retail dealers



1 in this State or to other persons in this State for the purpose of resale
2 only.

3 **Sec. 30.** NRS 370.070 is hereby amended to read as follows:

4 370.070 The provisions of NRS 370.001 to 370.430, inclusive,
5 *and sections 2 to 13, inclusive, of this act* do not apply to:

6 1. Common carriers while engaged in interstate commerce
7 which sell or furnish cigarettes on their trains, buses or airplanes;

8 2. A person entering this state with a quantity of cigarettes for
9 household or personal use which is exempt from federal import
10 duty; and

11 3. A duty-free sales enterprise as defined in 19 U.S.C. §
12 1555(b)(8)(D) that:

13 (a) Operates pursuant to the provisions of 19 U.S.C. § 1555(b);
14 and

15 (b) To the extent it sells cigarettes, only sells cigarettes that are
16 duty-free merchandise as defined in 19 U.S.C. § 1555(b)(8)(E).

17 **Sec. 31.** NRS 370.0751 is hereby amended to read as follows:

18 370.0751 1. The governing body of an Indian reservation or
19 Indian colony may impose an excise tax on any cigarettes sold on
20 the reservation or colony.

21 2. If an excise tax is imposed, the governing body may
22 establish procedures for collecting the excise tax from any
23 ~~cigarette~~ *wholesale* dealer authorized to do business on the
24 reservation or colony.

25 **Sec. 32.** NRS 370.080 is hereby amended to read as follows:

26 370.080 1. A person shall not engage in business as a
27 wholesale dealer in ~~the~~ *this* State ~~of Nevada~~ unless ~~that~~ *the*
28 person ~~first secures~~ *holds* a license ~~to engage in that activity from~~
29 ~~the Department.~~ *as a wholesale dealer.*

30 2. A person shall not engage in business as a retail dealer in
31 ~~the~~ *this* State ~~of Nevada~~ unless ~~that~~ *the* person ~~first secures~~
32 *holds* a license ~~to engage in that activity from the Department.~~ *as a*
33 *retail dealer.*

34 3. A manufacturer shall not sell any cigarettes to a wholesale
35 dealer in ~~the~~ *this* State ~~of Nevada~~ unless ~~that~~ *the* manufacturer
36 ~~first secures~~ *holds* a license ~~to engage in that activity from the~~
37 ~~Department.~~ *as a manufacturer.*

38 4. *A person shall not:*

39 (a) *Receive, import into this State or cause to be imported into*
40 *this State any unstamped cigarette packages; or*

41 (b) *Affix a stamp to any cigarette package,*
42 *↪ unless the person is a stamping agent.*

43 5. A separate license is required to engage in each of the
44 activities described in this section.



Sec. 33. NRS 370.090 is hereby amended to read as follows:

370.090 1. Each applicant for *and holder of a* ~~wholesale dealer's~~ license ~~must, and each person licensed as a wholesale dealer~~ *as a wholesale dealer* shall keep on hand at all times cigarettes of a wholesale value of at least \$10,000.

2. The provisions of this section do not apply to any person who was a wholesale dealer on June 30, 1973.

Sec. 34. NRS 370.095 is hereby amended to read as follows:

370.095 ~~1.~~ No license may be issued, maintained or renewed:

~~(a)~~ 1. If the applicant for the license or any combination of persons directly or indirectly owning, in the aggregate, more than 10 percent of the ownership interests in the applicant:

~~(1)~~ (a) Owes \$500 or more in delinquent cigarette taxes;

~~(2)~~ (b) Had ~~a~~ *any* license ~~as a manufacturer or as a wholesale or retail dealer~~ revoked by the Department within the past 2 years;

~~(3)~~ (c) Has been convicted of a crime relating to the sale of stolen or counterfeit cigarettes or stamps or the receipt of stolen cigarettes;

~~(4)~~ (d) Is a manufacturer ~~who~~ *that* has:

~~(1)~~ (1) Imported any cigarettes into the United States in violation of 19 U.S.C. § 1681a; or

~~(2)~~ (2) Imported or manufactured any cigarettes that do not fully comply with the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331 et seq.; or

~~(5)~~ (e) Is a nonparticipating manufacturer ~~who~~ *that* is not in full compliance with *paragraph (b) of* subsection ~~1~~ *1* of NRS 370A.140.

~~(b)~~ 2. Unless the applicant for the license certifies in writing, under penalty of perjury, that the applicant will comply fully with the provisions of chapter 370A of NRS.

~~2. — As used in this section:~~

~~(a) "Manufacturer of tobacco products" has the meaning ascribed to it in NRS 370A.060.~~

~~(b) "Nonparticipating manufacturer" means any manufacturer of tobacco products that is not a participating manufacturer.~~

~~(c) "Participating manufacturer" has the meaning ascribed to it in NRS 370A.080.~~

Sec. 35. NRS 370.110 is hereby amended to read as follows:

370.110 The Department may issue a *license as a* wholesale ~~cigarette dealer's license~~ *dealer* without payment of fees to any applicant who is authorized to do business on an Indian reservation or Indian colony or upon a military or other federal reservation.



1 **Sec. 36.** NRS 370.120 is hereby amended to read as follows:

2 370.120 Each ~~{cigarette-dealer's}~~ license *as a wholesale dealer*
3 issued under this chapter ~~{shall}~~ *must* set forth:

4 1. The name of the person to whom ~~{it}~~ *the license* is issued. If
5 the license is issued under a fictitious name, the license ~~{shall}~~ *must*
6 also set forth the name of each of the persons conducting the
7 business under the fictitious name.

8 2. The location, by street and number, of the premises for
9 which the license is issued.

10 **Sec. 37.** NRS 370.130 is hereby amended to read as follows:

11 370.130 Each holder of a ~~{cigarette-dealer's}~~ license *as a*
12 *wholesale dealer* shall:

13 1. Sign the license or cause an authorized representative to sign
14 ~~{it}~~ *the license*.

15 2. Post the license in a conspicuous place ~~{in}~~ *on* the premises
16 for which ~~{it}~~ *the license* was issued.

17 ~~{Licenses}~~ *A license* issued under the provisions of this chapter
18 ~~{are}~~ *is* nontransferable, except that upon prior written notice to the
19 Department , the location of the premises for which ~~{it}~~ *the license*
20 was issued may be changed.

21 **Sec. 38.** NRS 370.140 is hereby amended to read as follows:

22 370.140 1. A current license as a:

23 (a) Manufacturer authorizes the holder thereof to sell ~~{cigarettes}~~
24 *cigarette packages* anywhere within the borders of this State to ~~{a~~
25 ~~wholesale-dealer}~~ :

26 *(1) If the cigarette packages are stamped, any person* who
27 holds a current license ~~{as a wholesale dealer}~~ ; and

28 *(2) If the cigarette packages are unstamped, any person*
29 *who holds a license as a stamping agent.*

30 (b) Wholesale dealer authorizes the holder thereof to:

31 (1) Purchase ~~{cigarettes}~~ *stamped cigarette packages* from
32 any ~~{manufacturer or wholesale-dealer}~~ *person* who holds a current
33 license ~~{or}~~ *as a manufacturer, a license as a wholesale dealer or*
34 *a license as a stamping agent; and*

35 (2) Sell ~~{cigarettes}~~ *stamped cigarette packages* anywhere
36 within the borders of this State to any Indian tribe listed by the
37 Department pursuant to NRS 370.085 or any ~~{wholesale or retail~~
38 ~~dealer}~~ *person* who holds a current license ~~{as a wholesale dealer~~
39 *or a license as a retail dealer.*

40 (c) *Stamping agent authorizes the holder thereof to:*

41 *(1) Purchase stamped cigarette packages from any person*
42 *who holds a license as a manufacturer or a license as a wholesale*
43 *dealer;*

44 *(2) Purchase unstamped cigarette packages pursuant to*
45 *subsection 1 of NRS 370.210; and*



1 (3) *Sell stamped cigarette packages anywhere within the*
2 *borders of this State to any Indian tribe listed by the Department*
3 *pursuant to NRS 370.085 or any person who holds a current*
4 *license as a wholesale dealer or a license as a retail dealer.*

5 (d) Retail dealer authorizes the holder thereof to:

6 (1) Purchase ~~†cigarettes†~~ *stamped cigarette packages* from
7 any ~~†wholesale dealer†~~ *person* who holds a current license ~~†, or†~~ *as a*
8 *wholesale dealer or a license as a stamping agent; and*

9 (2) Sell ~~†cigarettes†~~ *stamped cigarette packages* anywhere
10 within the borders of this State to any consumer.

11 2. ~~†No†~~ *A person who holds a current license as a:*
12 ~~—(a) Manufacturer may†~~ :

13 (a) *Holds a license as a manufacturer shall not* sell cigarettes
14 within the borders of this State to any person other than a ~~†wholesale~~
15 ~~dealer†~~ *person* who holds a ~~†current†~~ license ~~††~~ *as a wholesale*
16 *dealer or a license as a stamping agent.*

17 (b) ~~†Wholesale†~~ *Holds a license as a wholesale dealer or a*
18 *license as a retail dealer* ~~†may†~~ *shall not* purchase cigarettes for sale
19 within the borders of this State or sell cigarettes within the borders
20 of this State except as authorized pursuant to subsection 1.

21 **Sec. 39.** NRS 370.150 is hereby amended to read as follows:

22 370.150 1. *The Department shall issue:*

23 (a) *A license as a manufacturer, a license as a wholesale*
24 *dealer or a license as a retail dealer to any person who:*

25 (1) *Submits a complete application pursuant to NRS*
26 *370.100; and*

27 (2) *Otherwise complies with the applicable provisions of*
28 *this chapter and any regulations adopted by the Department.*

29 (b) *A license as a stamping agent to any wholesale dealer that:*

30 (1) *Holds a license as a wholesale dealer issued pursuant to*
31 *paragraph (a);*

32 (2) *Submits a complete application pursuant to*
33 *NRS 370.100;*

34 (3) *Certifies in writing on a form provided by the*
35 *Department and under penalty of perjury that the wholesale dealer*
36 *will comply with the requirements of NRS 370.235 and 370.683;*

37 (4) *Is registered to do business in this State or has*
38 *appointed an agent for service of process and provided notice*
39 *thereof pursuant to NRS 370.680;*

40 (5) *Purchases a minimum number of stamps each calendar*
41 *quarter as specified by regulations adopted by the Department;*
42 *and*

43 (6) *Otherwise complies with the applicable provisions of*
44 *this chapter and any regulations adopted by the Department.*



2. Each license issued by the Department *pursuant to subsection 1* is valid only for the calendar year for which it is issued, and must be renewed annually.

~~{2-}~~ 3. The Department shall not charge any license fees for *the issuance of a {manufacturer's or retail dealer's} license {* ~~—3-} as a manufacturer, a license as a retail dealer or a license as a stamping agent.~~

4. An annual license fee of \$150 must be charged *and collected* for ~~{each wholesale dealer's}~~ *the issuance of a license {* ~~as a~~ *wholesale dealer.* If such a license is issued at any time during the year other than on January 1, except for the renewal of a delinquent license pursuant to subsection ~~{5-}~~ 6, the ~~{licensee}~~ *wholesale dealer* shall pay a proportionate part of the annual fee for the remainder of the year, but not less than 25 percent of the annual license fee.

~~{4-}~~ 5. The fees for a ~~{wholesale dealer's}~~ license *as a wholesale dealer* are due and payable on January 1 of each year. If the annual license fee is not paid by January 15, the license is cancelled automatically.

~~{5-}~~ 6. A ~~{wholesale dealer's}~~ license *as a wholesale dealer* which is cancelled for nonpayment of the annual license fee may be renewed at any time by the payment of the fee plus a 5 percent penalty thereon.

Sec. 40. NRS 370.155 is hereby amended to read as follows:

370.155 1. Except as otherwise provided in this section, each ~~{licensed wholesale cigarette dealer}~~ *stamping agent* shall furnish a bond executed by the ~~{wholesale cigarette dealer}~~ *stamping agent* as principal, and by a corporation qualified under the laws of this state as surety, payable to the State of Nevada and conditioned upon the payment of all excise taxes required to be precollected by the ~~{wholesale cigarette dealer}~~ *stamping agent* under the provisions of this chapter. Each bond must be in a principal sum equal to the largest amount of tax precollected by the ~~{wholesale cigarette dealer}~~ *stamping agent* in any quarter of the preceding year, or if the information to establish that amount is not available, then in a sum required from a licensee operating under conditions deemed comparable by the Department. No bond may be for less than \$1,000. When cash ~~{for a savings certificate, certificate of deposit or investment certificate}~~ is used, the amount must be rounded up to the next larger integral multiple of \$100.

2. Except as otherwise provided in this section, each ~~{licensed wholesale cigarette dealer}~~ *stamping agent* who wishes to defer payment on the purchase of ~~{revenue}~~ stamps ~~{for metered machine impressions}~~ shall furnish a bond executed by the ~~{wholesale cigarette dealer}~~ *stamping agent* as principal, and by a corporation qualified under the laws of this state as surety, payable to the State



1 of Nevada and conditioned upon the payment of all deferred
2 payments for ~~{revenue}~~ stamps . ~~{and metered machine~~
3 ~~impressions.}~~ Each bond must be in a principal sum equal to the
4 maximum amount of ~~{revenue}~~ stamps ~~{or metered machine~~
5 ~~impressions}~~ which the ~~{wholesale dealer}~~ **stamping agent** may
6 have unpaid at any time. No bond may be for less than \$1,000.
7 When cash ~~{or a savings certificate, certificate of deposit or~~
8 ~~investment certificate}~~ is used, the amount must be rounded up to
9 the next larger integral multiple of \$100.

10 3. In lieu of a bond , a ~~{licensed wholesale cigarette dealer}~~
11 **stamping agent** may deposit with the Department, under such terms
12 as the Department may prescribe, a like amount of lawful money of
13 the United States or any other form of security authorized by NRS
14 100.065. ~~{If security is provided in the form of a savings certificate,~~
15 ~~certificate of deposit or investment certificate, the certificate must~~
16 ~~state that the amount is unavailable for withdrawal except upon~~
17 ~~order of the Department.}~~ The Department shall deposit all cash and
18 bonds of the United States or of the State of Nevada received
19 pursuant to this subsection with the State Treasurer as custodian.

20 4. Upon application and a satisfactory showing, the
21 Department may increase or decrease the amount of a bond required
22 by subsection 1 or 2, based on the amount of excise tax precollected
23 or payments deferred, respectively, by the ~~{wholesale cigarette~~
24 ~~dealer.}~~ **stamping agent**.

25 5. The Department may waive the requirement of the bond
26 required by subsection 1 or 2 ~~{, whenever}~~ if a ~~{licensed wholesale~~
27 ~~cigarette dealer}~~ **stamping agent** has maintained a satisfactory
28 record of payment of excise taxes or deferred payments,
29 respectively, for a period of 5 consecutive years.

30 6. *A stamping agent is not entitled to a refund of any portion*
31 *of money paid as a bond pursuant to this section if the stamping*
32 *agent has failed to file a report required by this chapter or owes*
33 *the Department any payment or penalty pursuant to this chapter.*

34 **Sec. 41.** NRS 370.165 is hereby amended to read as follows:

35 370.165 There is hereby levied a tax upon the purchase or
36 possession of cigarettes , *except for "roll-your-own" tobacco as*
37 *described in NRS 370A.050*, by a consumer in the State of Nevada
38 at the rate of 40 mills per cigarette. The tax may be represented and
39 precollected by ~~{the}~~ affixing ~~{of}~~ a ~~{revenue}~~ stamp or other
40 approved evidence of payment to each **cigarette** package ~~{, packet or~~
41 ~~container}~~ in which cigarettes are sold. The **Department shall**
42 **precollect the** tax ~~{must be precollected by}~~ **from** the ~~{wholesale or~~
43 ~~retail dealer.}~~ **stamping agent**, and **the tax** must be recovered from
44 the consumer by adding the amount of the tax to the selling price.
45 Each person who sells cigarettes at retail shall prominently display



1 on the premises a notice that the tax is included in the selling price
2 and is payable under the provisions of this chapter.

3 **Sec. 42.** NRS 370.170 is hereby amended to read as follows:

4 370.170 Except as otherwise provided in this chapter, it is
5 unlawful for any person to give, sell or offer to give or sell any
6 cigarettes in this state unless there is affixed to each of the *cigarette*
7 packages ~~[-, packets or containers an adhesive]~~ *a Nevada cigarette*
8 revenue stamp ~~[or a similar stamp]~~ *, including a tribal stamp,*
9 *which is issued by the Department and* affixed by a metered
10 stamping machine approved by and registered with the Department
11 *or any other method approved by the Department, and which is* for
12 the amount of the tax on all of the cigarettes contained in the
13 *cigarette* package. ~~[or other container.]~~

14 **Sec. 43.** NRS 370.175 is hereby amended to read as follows:

15 370.175 1. Except as otherwise provided in subsection 2 or a
16 regulation of the Department ~~[-~~

17 ~~-(a) No]~~ *, a person, other than a [wholesale dealer that] stamping*
18 *agent that* receives unstamped cigarette packages directly from a
19 person who holds a ~~[current]~~ permit to engage in business as a
20 manufacturer or importer of cigarettes issued pursuant to 26 U.S.C.
21 § 5713, ~~[may]~~ *shall not* possess an unstamped cigarette package.

22 ~~[(b) Any person who ships unstamped cigarette packages into~~
23 ~~this State other than to a wholesale dealer who holds a current~~
24 ~~license shall first file with the Department a notice of that~~
25 ~~shipment.]~~

26 2. Subsection 1 does not apply to any common ~~[or contract]~~
27 carrier ~~[who]~~ *that* is transporting cigarettes in compliance with the
28 provisions of NRS 370.295.

29 **Sec. 44.** NRS 370.180 is hereby amended to read as follows:

30 370.180 1. The Department shall:

31 (a) Design suitable stamps for the purpose of this chapter which
32 meet the requirements of this section; and

33 (b) From time to time, have as many ~~[revenue]~~ stamps printed as
34 may be required.

35 2. Each stamp must be designed to permit the identification of
36 the ~~[dealer who]~~ *stamping agent that* affixed the stamp to a
37 *cigarette* package. ~~[or other container of cigarettes.]~~ The ~~[dealer]~~
38 *stamping agent* must be identified by a number or other mark on the
39 stamp. The Department shall maintain, for not less than 3 years after
40 the date the stamp is provided to the ~~[dealer]~~ *stamping agent*, a
41 record of the information necessary to identify the ~~[dealer]~~ *stamping*
42 *agent* by examining the stamp. Upon request, the Department shall
43 provide to any person the information maintained pursuant to this
44 subsection.



3. The use of a metered stamping machine approved by and registered with the Department ~~{shall be}~~ *is* subject to such regulations as prescribed by the Department.

Sec. 45. NRS 370.190 is hereby amended to read as follows:

370.190 1. The Department may sell ~~{Nevada-cigarette revenue}~~ stamps to a ~~{licensed-dealer}~~ *stamping agent*. As payment for the stamps, the Department shall deduct from the excise tax collected from the ~~{dealer}~~ *stamping agent* the actual cost incurred by the Department for the stamps and for making the sale.

2. Payment for the ~~{revenue}~~ stamps ~~{or-metered-machine impressions}~~ must be made at the time of purchase unless the ~~{wholesale-dealer}~~ *stamping agent* has been authorized to defer payments by the Department. A ~~{wholesale-dealer}~~ *stamping agent* may apply to the Department for authorization to defer payments for ~~{revenue}~~ stamps ~~{or-metered-machine impressions}~~ at any time.

~~{3. The Department may provide by regulation for payment of the tax by manufacturers without the use of stamps on gifts or samples sent into Nevada when plainly marked "Tax Paid."}~~

Sec. 46. NRS 370.193 is hereby amended to read as follows:

370.193 A ~~{wholesale-dealer}~~ *stamping agent* may apply to the Department to fix the maximum amount of ~~{revenue}~~ stamps ~~{or-metered-machine impressions}~~ which the ~~{wholesale-dealer}~~ *stamping agent* may have unpaid at any time. Upon receipt of the application and the bond or bonds required pursuant to NRS 370.155, the Department shall fix an amount for the ~~{wholesale dealer}~~ *stamping agent*.

Sec. 47. NRS 370.195 is hereby amended to read as follows:

370.195 1. The amount owing for ~~{revenue}~~ stamps ~~{and-metered-machine impressions}~~ for which payment was deferred in any calendar month is due on or before the 25th day of the following calendar month. Payment must be made by a remittance payable to the Department.

2. Upon request of the ~~{wholesale-dealer}~~ *stamping agent* for good cause shown, the Department may grant an extension of the due date of any deferred payment for a period not exceeding 5 days.

3. The Department may suspend without prior notice the privilege to defer payment for the purchase of ~~{revenue}~~ stamps ~~{and-metered-machine impressions}~~ or may reduce the maximum amount of ~~{revenue}~~ stamps ~~{or-metered-machine impressions}~~ which the ~~{wholesale-dealer}~~ *stamping agent* may have unpaid at any time if:

(a) The ~~{wholesale-dealer}~~ *stamping agent* fails to pay for stamps ~~{or-impressions-at-the-times-required-by}~~ *pursuant to* subsection 1;



(b) The bond or bonds required pursuant to NRS 370.155 are cancelled or become void, impaired or unenforceable for any reason; or

(c) The Department determines that any deferred payments are in jeopardy of not being paid.

Sec. 48. NRS 370.200 is hereby amended to read as follows:

370.200 1. The Department is authorized to appoint the sheriff of any county and officers of incorporated cities to act as its agents in the sale of ~~{Nevada-cigarette-revenue}~~ stamps.

2. The sheriff and city officers shall:

(a) Serve as such agent without additional compensation; and

(b) On or before the last day of the month following the month in which the sale of ~~{cigarette}~~ stamps occurred, make a return of all receipts collected from sales of ~~{cigarette-revenue}~~ stamps to the Department, accompanied by a remittance payable to the order of the Department.

Sec. 49. NRS 370.210 is hereby amended to read as follows:

370.210 1. A ~~{wholesale-dealer}~~ *stamping agent may purchase unstamped cigarette packages for resale in this State and affix a stamp to each cigarette package if:*

(a) The manufacturer and brand family of the cigarettes are listed in the directory at the time of sale, purchase or affixation;

(b) The manufacturer or importer of the cigarettes holds a permit to engage in business as a manufacturer or importer of cigarettes pursuant to 26 U.S.C. § 5713; and

(c) The stamping agent is the manufacturer or importer of the cigarettes, or purchased the cigarettes directly from the manufacturer or importer of the cigarettes.

2. A *stamping agent* whose stamping facilities are located within the borders of this State shall affix stamps to all ~~{applicable}~~ *unstamped* cigarette packages *purchased pursuant to subsection 1 and* received at ~~{those}~~ *its* stamping facilities ~~{within}~~ *not later than* 20 days after receipt.

3. A ~~{wholesale-dealer}~~ *stamping agent* may set aside, without affixing stamps, only that part of the stock of the ~~{wholesale-dealer}~~ *stamping agent* that is identified for sale or distribution outside of the borders of this State. A ~~{wholesale-dealer}~~ *stamping agent* must identify any stock to be set aside pursuant to this subsection ~~{within}~~ *not later than* 20 days after the receipt of that stock.

~~{2. A wholesale dealer may affix stamps only to cigarette packages that the wholesale dealer has received directly from a person who holds a current permit to engage in business as a manufacturer or importer of cigarettes issued pursuant to 26 U.S.C. § 5713.}~~



1 ~~—3.1~~ 4. If a ~~{wholesale-dealer}~~ **stamping agent** maintains stocks
2 of unstamped cigarette packages ~~{as-authorized}~~ pursuant to
3 subsection ~~{1.1}~~ 3, those unstamped cigarette packages must be stored
4 separately from stamped cigarette packages and must not be
5 transferred by the ~~{wholesale-dealer}~~ **stamping agent** to another
6 facility of the ~~{wholesale-dealer}~~ **stamping agent** within the borders
7 of this State or to any other person within the borders of this State.

8 ~~{4.1}~~ 5. A ~~{person}~~ **stamping agent** shall not affix stamps to any
9 cigarette packages except upon the premises described in ~~{the}~~ **its**
10 **application for a** license ~~{of}~~ as a ~~{wholesale-dealer}~~ **stamping**
11 **agent** or upon other premises where authorized by regulation.

12 **6. Each stamping agent shall maintain a record of all stamps**
13 **purchased and affixed pursuant to subsection 2 for a period of not**
14 **less than 3 years after purchase and affixation. The Department**
15 **may inspect the record at any time during normal business hours**
16 **with or without notice.**

17 **Sec. 50.** NRS 370.220 is hereby amended to read as follows:

18 370.220 In the sale of any ~~{cigarette-revenue}~~ stamps ~~{or-any~~
19 ~~metered-machine-settings}~~ to a ~~{licensed-cigarette-dealer,}~~ **stamping**
20 **agent**, the Department and its agents shall allow the purchaser a
21 discount of 0.25 percent against the amount of excise tax otherwise
22 due for the services rendered in affixing ~~{cigarette-revenue}~~ stamps
23 ~~{or-metered-machine-impressions}~~ to the cigarette packages.

24 **Sec. 51.** NRS 370.235 is hereby amended to read as follows:

25 370.235 1. The Department may adopt regulations
26 establishing:

27 (a) Reporting requirements for manufacturers , ~~{and}~~ wholesale
28 dealers ~~{;}~~ **and stamping agents**; and

29 (b) Procedures for the electronic submission of reports
30 required pursuant to any reporting requirements established under
31 paragraph (a).

32 2. Any regulations adopted pursuant to subsection 1 relating to
33 reporting requirements for manufacturers ~~{must}~~ **may** provide for
34 submission to the Department periodic reports of:

35 (a) The quantity of cigarette packages that were distributed or
36 shipped to another manufacturer or to a wholesale dealer within the
37 borders of this State during the reporting period, and the name and
38 address of each person to whom those products were distributed or
39 shipped;

40 (b) The quantity of cigarette packages that were distributed or
41 shipped to another facility of the same manufacturer within the
42 borders of this State during the reporting period; and

43 (c) The quantity of cigarette packages that were distributed or
44 shipped within the borders of this State to Indian tribes or
45 instrumentalities of the Federal Government during the reporting



1 period, and the name and address of each person to whom those
2 products were distributed or shipped.

3 3. Any regulations adopted pursuant to subsection 1 relating to
4 reporting requirements for wholesale dealers ~~must~~ **may** provide for
5 submission to the Department periodic reports of:

6 (a) The inventory of stamped ~~and unstamped~~ cigarette
7 packages held by the wholesale dealer for sale or distribution within
8 the borders of this State on hand at the beginning of the reporting
9 period;

10 (b) The inventory of cigarette packages held by the wholesale
11 dealer for sale or distribution outside of the borders of this State on
12 hand at the beginning of the reporting period;

13 (c) The quantity of stamped cigarette packages held for sale or
14 distribution within the borders of this State that were received by the
15 wholesale dealer from another person during the reporting period,
16 and the name and address of each person from whom those products
17 were received;

18 (d) The quantity of cigarette packages held for sale or
19 distribution outside of the borders of this State that were received by
20 the wholesale dealer from another person during the reporting
21 period, and the name and address of each person from whom those
22 products were received;

23 ~~(e) The quantity of cigarette packages to which Nevada stamps~~
24 ~~were affixed that were distributed or shipped to another wholesale~~
25 ~~dealer or to a retail dealer within the borders of this State during the~~
26 ~~reporting period, and the name and address of each person to whom~~
27 ~~those products were distributed or shipped;~~

28 ~~—(f) The quantity of cigarette packages to which Nevada stamps~~
29 ~~were affixed that were distributed or shipped to another facility of~~
30 ~~the same wholesale dealer within the borders of this State during the~~
31 ~~reporting period;~~

32 ~~—(g)~~ The quantity of stamped cigarette packages that were
33 distributed or shipped within the borders of this State to Indian
34 tribes or instrumentalities of the Federal Government during the
35 reporting period, and the name and address of each person to whom
36 those products were distributed or shipped;

37 ~~(h)~~ **(f)** The quantity of cigarette packages held for distribution
38 outside of the borders of this State that were distributed or shipped
39 outside of the borders of this State during the reporting period;

40 ~~(i)~~ **(g)** The inventory of stamped ~~and unstamped~~ cigarette
41 packages held for sale or distribution within the borders of this State
42 on hand at the end of the reporting period; **and**

43 ~~(j)~~ **(h)** The inventory of cigarette packages held for sale or
44 distribution outside of the borders of this State on hand at the end of
45 the reporting period. **†**



1 ~~(k)~~ 4. Any regulations adopted pursuant to subsection 1
2 relating to reporting requirements for stamping agents may
3 provide for submission to the Department of periodic reports of:

4 (a) The inventory of stamped and unstamped cigarette
5 packages held by the stamping agent for sale or distribution within
6 the borders of this State on hand at the beginning of the reporting
7 period;

8 (b) The inventory of cigarette packages held by the stamping
9 agent for sale or distribution outside of the borders of this State on
10 hand at the beginning of the reporting period;

11 (c) The quantity of stamped and unstamped cigarette packages
12 held for sale or distribution within the borders of this State that
13 were received by the stamping agent from another person during
14 the reporting period, and the name and address of each person
15 from whom those products were received;

16 (d) The quantity of cigarette packages held for sale or
17 distribution outside of the borders of this State that were received
18 by the stamping agent from another person during the reporting
19 period, and the name and address of each person from whom
20 those products were received;

21 (e) The quantity of cigarette packages to which stamps were
22 affixed that were distributed or shipped to another wholesale
23 dealer or to a retail dealer within the borders of this State during
24 the reporting period, and the name and address of each person to
25 whom those products were distributed or shipped;

26 (f) The quantity of cigarette packages to which stamps were
27 affixed that were distributed or shipped to another facility of the
28 same stamping agent within the borders of this State during the
29 reporting period;

30 (g) The quantity of stamped cigarette packages that were
31 distributed or shipped within the borders of this State to Indian
32 tribes or instrumentalities of the Federal Government during the
33 reporting period, and the name and address of each person to
34 whom those products were distributed or shipped;

35 (h) The quantity of cigarette packages held for distribution
36 outside of the borders of this State that were distributed or shipped
37 outside of the borders of this State during the reporting period;

38 (i) The inventory of stamped and unstamped cigarette
39 packages held for sale or distribution within the borders of this
40 State on hand at the end of the reporting period;

41 (j) The inventory of cigarette packages held for sale or
42 distribution outside of the borders of this State on hand at the end
43 of the reporting period;

44 (k) The number of each type of stamp on hand at the beginning
45 of the reporting period;



(l) The number of each type of stamp purchased or received during the reporting period;

(m) The number of each type of stamp applied during the reporting period; and

(n) The number of each type of stamp on hand at the end of the reporting period.

~~14~~ 5. Any reports required by regulations adopted pursuant to subsection 1 must be:

(a) Submitted on forms ~~provided~~ *or in a format as required* by the Department; and

(b) Provided separately for each of the facilities operated by the manufacturer, ~~or~~ wholesale dealer ~~or~~ *stamping agent*.

~~15~~ 6. In each report required by regulations adopted pursuant to subsection 1, the information required must be itemized so as to disclose clearly:

(a) The quantities of stamped and unstamped ~~cigarettes~~ *cigarette packages* to which the report applies; and

(b) The brand ~~and style~~ *family* of cigarettes to which the report applies.

~~16~~ 7. The reporting period for any reports required by regulations adopted pursuant to subsection 1 must be for a duration of not less than 1 month and not more than 3 months.

Sec. 52. NRS 370.240 is hereby amended to read as follows:

370.240 1. Each ~~dealer~~ *stamping agent* authorized to purchase or affix ~~cigarette revenue~~ stamps shall report to the Department:

(a) The inventory of all cigarettes in the possession or control of the ~~dealer~~ *stamping agent* at the close of business on the last day of each month.

(b) The total value of all ~~cigarette revenue~~ stamps affixed by the ~~dealer~~ *stamping agent* upon cigarette packages sold in or shipped into the State by the ~~dealer~~ *stamping agent* during the preceding month.

2. The report must be made by the 25th day of the month following shipments upon forms to be provided by the Department.

3. The ~~dealer~~ *stamping agent* may be allowed 5 additional days to file the report, if the ~~dealer~~ *stamping agent* makes prior written application to the Department and the Department finds good cause for *the* extension.

4. If, during the preceding month, the ~~dealer~~ *stamping agent* affixed ~~cigarette revenue~~ stamps upon cigarette packages imported into the United States, the ~~dealer~~ *stamping agent* shall, *upon the request of the Department*, file with the report a copy of each certificate submitted pursuant to 19 U.S.C. § 1681a(c) with regard to the cigarette packages.



1 **Sec. 53.** NRS 370.250 is hereby amended to read as follows:

2 370.250 1. ~~If any dealer in cigarettes upon which a~~
3 ~~precollected or advance tax is required to be paid fails to file any~~
4 ~~report required pursuant to NRS 370.240 with the Department or its~~
5 ~~agents on or before the date due, the Department may suspend the~~
6 ~~license of the dealer until the report is received and found to be~~
7 ~~correct.~~ *The Department may permanently revoke a license as a*
8 *wholesale dealer or a license as a stamping agent pursuant to*
9 *section 13 of this act if the licensee:*

10 *(a) Fails to file or files an incomplete or inaccurate report or*
11 *certification required by this chapter;*

12 *(b) Fails to pay any tax owed upon cigarettes required by this*
13 *chapter;*

14 *(c) Fails to cure any shortfall for which the stamping agent or*
15 *wholesale dealer is liable pursuant to NRS 370.683;*

16 *(d) Sells in this State, purchases or possesses any cigarettes or*
17 *cigarette packages in violation of any provision of this chapter; or*

18 *(e) Imports into or exports from this State any cigarettes or*
19 *cigarette packages in violation of any provision of this chapter.*

20 2. ~~The~~ *Except as otherwise provided in subsection 1 or 3,*
21 *the* Department may temporarily suspend or permanently revoke the
22 license of any licensee for violating, or causing or permitting to be
23 violated, any of the provisions of NRS 370.001 to 370.430,
24 inclusive, *and sections 2 to 13, inclusive, of this act* or any
25 regulations adopted for the administration or enforcement of any of
26 those provisions.

27 3. The Department shall permanently revoke the license of any
28 licensee convicted of any felony pursuant to NRS 370.405.

29 **Sec. 54.** NRS 370.257 is hereby amended to read as follows:

30 370.257 1. Each manufacturer, wholesale dealer, *stamping*
31 *agent* and retail dealer shall provide to the Executive Director and
32 his or her designees and to the Secretary or his or her designee, upon
33 request, access to all the reports and records required by NRS
34 370.001 to 370.430, inclusive ~~H~~, *and sections 2 to 13, inclusive, of*
35 *this act.* The Department at its sole discretion may share the records
36 and reports required by those sections with law enforcement
37 officials of the Federal Government, this State, other states, Indian
38 tribes or international authorities.

39 2. Except as otherwise provided in this subsection, the reports
40 submitted by licensees pursuant to NRS 370.001 to 370.430,
41 inclusive, *and sections 2 to 13, inclusive, of this act* are public
42 records. Unless otherwise directed or ordered by a court of
43 competent jurisdiction, any information contained in those reports
44 about quantities of cigarettes by brand must not be released to



1 anyone other than persons permitted access to those reports pursuant
2 to subsection 1.

3 3. The Department may audit the records of each
4 *manufacturer, wholesale dealer, stamping agent and retail dealer*
5 to determine whether the manufacturer, wholesale dealer, *stamping*
6 *agent* or retail dealer has complied with the provisions of NRS
7 370.001 to 370.430, inclusive ~~§~~, *and sections 2 to 13, inclusive, of*
8 *this act.*

9 **Sec. 55.** NRS 370.270 is hereby amended to read as follows:

10 370.270 1. Every retail dealer making a sale to a customer
11 shall, at the time of sale, see that each *cigarette* package ~~is, packet or~~
12 ~~container~~ has ~~the Nevada cigarette revenue~~ a stamp ~~for metered~~
13 ~~stamping machine indicia~~ properly affixed.

14 2. Every cigarette vending machine operator placing cigarettes
15 in his or her ~~coin-operated~~ cigarette vending machines for sale to
16 the ultimate consumers shall at the time of placing them in the
17 machine see that each *cigarette* package ~~is, packet or container~~ has
18 ~~the Nevada cigarette revenue~~ a stamp ~~for metered stamping~~
19 ~~machine indicia~~ properly affixed.

20 3. No unstamped *cigarette* packages ~~is, packets or containers of~~
21 ~~cigarettes~~ may lawfully be accepted or held in the possession of any
22 person, except as authorized by law or regulation. For the purposes
23 of this subsection, "held in possession" means:

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

25 (b) In the constructive possession of the person when cigarettes
26 are being transported or held for the person or for his or her
27 designee by another person. Constructive possession is deemed to
28 occur at the location of the cigarettes being transported or held.

29 4. Any ~~cigarettes~~ *unstamped cigarette packages* found in the
30 possession of any person ~~except a person authorized by law or~~
31 ~~regulation to possess them, which do not bear indicia of Nevada~~
32 ~~excise tax stamping~~ *other than a stamping agent* must be seized
33 by the Department or any of its agents, and ~~caused to be~~ stamped
34 by a ~~licensed cigarette dealer~~ *stamping agent*, or confiscated and
35 sold by the Department or its agents to the highest bidder among the
36 ~~licensed wholesale dealers~~ *stamping agents* in this State after due
37 notice to all ~~licensed Nevada wholesale dealers~~ *stamping agents*
38 has been given by mail *or electronic mail* to the addresses contained
39 in the Department's records. If there is no bidder, or in the opinion
40 of the Department the quantity of the cigarettes is insufficient, or for
41 any other reason such disposition would be impractical, the
42 cigarettes must be destroyed or disposed of as the Department may
43 see fit. The proceeds of all sales must be classed as revenues derived
44 under the provisions of NRS 370.001 to 370.430, inclusive ~~§~~, *and*
45 *sections 2 to 13, inclusive, of this act.*



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

Sec. 56. NRS 370.280 is hereby amended to read as follows:

370.280 1. Upon proof satisfactory to the Department, refunds ~~shall~~ *must* be allowed for the face value of ~~the cigarette revenue~~ *any stamp for which the tax has been* paid, less any discount previously allowed, upon cigarettes that are sold to:

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

(b) Veterans' hospitals for distribution or sale to service personnel with disabilities or ex-service personnel with disabilities 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 cigarette tax imposed under this chapter; 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 cigarette tax imposed under this chapter.

2. Upon proof satisfactory to the Department, refunds ~~shall~~ *must* be allowed to ~~cigarette dealers, or to manufacturers or their representatives,~~ *a stamping agent* for the face value of ~~the cigarette revenue~~ *any stamp for which the tax has been* paid, less any discount previously allowed, upon cigarettes destroyed because the cigarettes had become stale. Applications for refunds ~~shall~~ *must* be submitted ~~in~~ *for* an amount of not less than \$15 and ~~shall~~ *must* be accompanied by an affidavit of the applicant setting forth:

(a) The number of ~~packages of~~ cigarettes destroyed for which refund is claimed;

(b) The date or dates on which the cigarettes were destroyed and the place where destroyed;

(c) That the cigarettes were actually destroyed because they had become stale;

(d) By whom the cigarettes were destroyed; and

(e) Other information which the Department may require.

3. Upon proof satisfactory to the Department, refunds may be allowed to ~~licensed wholesale cigarette dealers,~~ *a stamping agent* for the face value of ~~the cigarette metered machine~~ *any stamp affixed by a metered stamping machine for which the tax has been* paid, less any discount previously allowed, upon:



(a) The balance of unused stamps on the descending register of a ~~cigarette meter~~ *metered stamping* machine destroyed by fire, if the cigarette meter counting positions can be determined by the manufacturer of the ~~meter~~ *metered* stamping machine;

(b) ~~Cigarettes~~ *Cigarette packages* which were stamped on their carton covers because ~~of~~ *the metered* stamping machine ~~failure~~ *failed* to open the carton and stamp the cigarette ~~packs;~~ *packages;* or

(c) ~~Cigarettes~~ *Cigarette packages* which were not stamped but were registered on the *metered stamping* machine as being stamped because of *the* failure of the meter counters.

4. *Upon proof satisfactory to the Department, refunds may be allowed to a stamping agent for the face value of any stamp for which the tax has been paid, less any discounts previously allowed, if the stamping agent is unable to use stamps previously purchased and the stamping agent returns the unused stamps to the Department.*

5. Any refund ~~shall~~ *must* be paid as other claims against the State are paid.

Sec. 57. NRS 370.290 is hereby amended to read as follows:

370.290 1. ~~A wholesale dealer~~ *Except as otherwise provided in subsection 2, a stamping agent shall not export cigarettes cigarette packages to any destination outside this State unless they bear the cigarette packages:*

(a) *Bear* revenue stamps in accordance with NRS 370.165, 370.170 and 370.180 ~~to any out of state destination other than~~ ;
and

(b) *Are transported* by a licensed common ~~or contract~~ carrier.

2. ~~No cigarette revenue~~ *A stamping agent is not required to pay any stamp tax is required* on , *or otherwise affix a stamp to,* any ~~cigarettes~~ *cigarette package* exported from Nevada by ~~a wholesale dealer~~ *the stamping agent* to a person authorized by the state of destination to possess *an* untaxed or unstamped ~~cigarettes~~ *cigarette package*. Each ~~wholesale dealer~~ *stamping agent* may set aside such portion of its stock of cigarettes ~~as~~ *which* is not intended to be sold or given away in this state . ~~and it will not be necessary to affix Nevada cigarette revenue stamps or metered machine impressions;~~

3. ~~Every wholesale dealer~~ *Each stamping agent* shall, at the time of shipping or delivering any unstamped ~~cigarettes~~ *cigarette package* to a ~~point~~ *destination* outside ~~of~~ this state, make a duplicate invoice and transmit ~~such~~ *the* duplicate invoice to the Department, at Carson City, not later than the 15th day of the following month.



4. ~~{Within}~~ *Not later than* 30 days after ~~{any wholesale dealer}~~
a stamping agent ships any unstamped ~~{cigarettes}~~ *cigarette*
package to ~~{any}~~ *a* destination outside ~~{Nevada,}~~ *this State*, the
~~{dealer}~~ *stamping agent* shall send to the state of destination a
written notice of the fact of ~~{such}~~ *the* shipment and whatever other
information is required by ~~{such}~~ *that* state.

5. If a ~~{wholesale dealer}~~ *stamping agent* fails to comply with
the requirements of this section, the Department may suspend or
revoke its license ~~{for permit,}~~ as *a stamping agent* ~~{provided in~~
~~subsection 2 of}~~ *pursuant to* NRS 370.250.

Sec. 58. NRS 370.301 is hereby amended to read as follows:

370.301 1. If any unstamped ~~{cigarettes}~~ *cigarette packages*
are consigned to or purchased by any person in this State, ~~{such}~~ *the*
purchaser or consignee must be a ~~{person authorized by this chapter~~
~~to possess unstamped cigarettes,}~~ *stamping agent*.

2. If invoices or delivery tickets for unstamped ~~{cigarettes}~~
cigarette packages are lacking, if the name or address of the
consignee or purchaser is falsified or if the purchaser or consignee is
not ~~{authorized by this chapter to possess unstamped cigarettes,}~~ *a*
stamping agent, the cigarettes transported are subject to seizure and
sale under the provisions of NRS 370.270.

3. Transportation of cigarettes through this State from a point
outside this State to a point in some other state is not a violation of
this section if the person transporting the cigarettes has in his or her
possession adequate invoices or delivery tickets which give the true
name and address of the out-of-state seller or consignor and the out-
of-state purchaser or consignee.

4. In any case where the Department, its duly authorized agent
or any peace officer of the State has knowledge or reasonable
grounds to believe that any vehicle is transporting cigarettes in
violation of this chapter, the Department, agent or peace officer may
stop the vehicle and inspect it for contraband cigarettes.

Sec. 59. NRS 370.315 is hereby amended to read as follows:

370.315 1. *Except as otherwise provided in subsection 2, a*
person shall not sell a cigarette package in this State which
contains fewer than or more than 20 cigarettes.

2. A manufacturer ~~{of cigarettes who}~~ *that* wishes to sell
~~{cigarettes in}~~ *cigarette* packages ~~{that}~~ *which* contain ~~{other}~~ *more*
than 20 cigarettes ~~{must so}~~ *shall* notify, *and must receive approval*
from, the Department not less than 90 days before the manufacturer
~~{may sell those}~~ *sells such cigarette* packages ~~{of cigarettes}~~ in this
state.



Sec. 60. NRS 370.350 is hereby amended to read as follows:

370.350 1. Except as otherwise provided in subsection 3, a tax is hereby levied and imposed upon the use of cigarettes in this state.

2. The amount of the use tax is 40 mills per cigarette.

3. The use tax does not apply where:

(a) ~~{Nevada cigarette revenue stamps}~~ *Stamps* have been affixed to cigarette packages as required by law.

(b) Tax exemption is provided for in this chapter.

Sec. 61. NRS 370.379 is hereby amended to read as follows:

370.379 1. ~~{The}~~ *Except as otherwise provided in NRS 370.250, the* Department may suspend or revoke ~~{the}~~ *a* license ~~{of}~~ *as* a retail *dealer* or *a license as* a wholesale dealer ~~{who}~~ *if the licensee* violates ~~{the provisions}~~ *any provision* of NRS 370.371 to 370.379, inclusive, or any regulation adopted thereunder, after notice to the licensee and a hearing as prescribed by the Department.

2. The Department, upon a finding that the licensee has failed to comply with any provision of NRS 370.371 to 370.379, inclusive, or any regulation adopted by the Executive Director, shall, in the case of a first offender, suspend the license of the licensee for not less than 5 nor more than 20 consecutive business days. If the Department finds the offender has been guilty of willful and persistent violations, ~~{it}~~ *the Department* may suspend for not more than 6 months or revoke the ~~{person's}~~ license.

3. Except as otherwise provided in NRS 370.698 ~~{and}~~ *section 13 of this act*, a person whose license has been revoked may apply to the Department at the end of 1 year for a reinstatement of the license. The Department may reinstate the license if the Department determines that the licensee will comply with the provisions of this chapter and the regulations adopted by the Department.

4. A person whose license has been suspended or revoked shall not sell cigarettes or permit cigarettes to be sold during the period of suspension or revocation on ~~{the}~~ *any* premises occupied *or controlled* by the person. ~~{for upon other premises controlled by the person.}~~ The expiration, transfer, surrender, continuance, renewal or extension of a license issued pursuant to this chapter does not bar or abate any disciplinary proceedings or action.

Sec. 62. NRS 370.380 is hereby amended to read as follows:

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

(a) To alter, forge or counterfeit any license ~~{}~~ *or* stamp ~~{cigarette tax meter impression}~~ provided for in this chapter;

(b) To have in his or her possession any forged, counterfeited, spurious or altered license ~~{}~~ *or* stamp, ~~{cigarette tax meter}~~



1 ~~impression;~~ with the intent to use ~~the same;~~ *it*, knowing or having
2 reasonable grounds to believe ~~the same;~~ *it* to be ~~such;~~ *forged,*
3 *counterfeited, spurious or altered;*

4 (c) To have in his or her possession one or more ~~cigarette~~
5 stamps ~~for cigarette tax meter impressions~~ which he or she knows
6 have been removed from the *cigarette packages or* pieces of
7 *cigarette* packages ~~for packages of cigarettes~~ to which they were
8 affixed;

9 (d) To affix to any *cigarette package or* piece of a *cigarette*
10 package ~~for package of cigarettes~~ a stamp ~~for cigarette tax meter~~
11 ~~impression~~ which he or she knows has been removed from any
12 other *cigarette package or* piece of a *cigarette* package ; ~~for~~
13 ~~package of cigarettes;~~ or

14 (e) To have in his or her possession for the purpose of sale
15 ~~cigarettes~~ *a cigarette package* which ~~do~~ *does* not bear ~~indicia of~~
16 ~~the State of Nevada excise tax stamping. Presence~~ *a stamp. The*
17 *presence* of ~~the cigarettes~~ *an unstamped cigarette package* in a
18 cigarette vending machine is prima facie evidence of the ~~purpose~~
19 *intent* to sell ~~it~~ *the cigarette package.*

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

23 **Sec. 63.** NRS 370.385 is hereby amended to read as follows:

24 370.385 1. A ~~wholesale or retail dealer~~ *stamping agent*
25 shall not affix a ~~Nevada cigarette revenue~~ stamp ~~for a metered~~
26 ~~machine impression upon~~ *to a cigarette* package ~~carton, packet or~~
27 ~~other container of cigarettes~~ which:

28 (a) Does not meet the requirements of the Federal Cigarette
29 Labeling and Advertising Act, 15 U.S.C. §§ 1331 et seq., for the
30 placement of labels, warnings or any other information required by
31 that Act to be placed upon a ~~container of cigarettes~~ *cigarette*
32 *package* sold within the United States;

33 (b) Is labeled as “for export only,” “U.S. tax exempt,” “for use
34 outside the U.S.” or with similar wording indicating that the
35 manufacturer did not intend for the product to be sold in the United
36 States;

37 (c) Has been altered by the unauthorized addition or removal of
38 wording, labels or warnings described in paragraph (a) or (b);

39 (d) Has been exported from the United States after January 1,
40 2000, and imported into the United States in violation of 26 U.S.C.
41 § 5754;

42 (e) Has been imported into the United States in violation of 19
43 U.S.C. § 1681a;



(f) Was manufactured, packaged or imported by a person who has not complied with 15 U.S.C. § 1335a with regard to the cigarettes;

(g) Violates a federal trademark or copyright law; or

(h) Violates any other federal statute or regulation or with respect to which any federal statute or regulation has been violated.

2. A wholesale ~~for~~ *dealer*, retail dealer *or stamping agent* shall not:

(a) ~~Affix Nevada cigarette revenue stamps or metered machine impressions on;~~

~~—(b)—~~ Sell or distribute in this state; or

~~(c)~~ (b) Possess in this state with the intent to sell or distribute in this state,

↪ cigarettes manufactured for export outside the United States.

3. The Department may impose a penalty on a wholesale ~~for~~ *dealer*, retail dealer ~~who~~ *or stamping agent that* violates subsection 1 or 2 as follows:

(a) For the first violation, a penalty of \$5,000.

(b) For each subsequent violation, a penalty of \$10,000.

4. Notwithstanding any other provision of law, the Department shall seize and destroy cigarettes upon which a ~~revenue~~ stamp ~~for metered machine impression~~ was placed in violation of subsection 1 or 2.

5. As used in this section, “cigarettes manufactured for export outside the United States” means cigarettes contained in a *cigarette* package ~~for carton~~ which indicates that the cigarettes are tax exempt and for use outside the United States.

Sec. 64. NRS 370.390 is hereby amended to read as follows:

370.390 Except as otherwise provided in NRS 370.380 and 370.382, any person violating any of the provisions of NRS 370.080 to 370.315, inclusive, *and sections 11 and 13 of this act* is guilty of a gross misdemeanor.

Sec. 65. NRS 370.400 is hereby amended to read as follows:

370.400 Any person who:

1. Willfully fails, neglects or refuses to make any report required by NRS ~~370.350 or~~ 370.360, or required by rules and regulations lawfully promulgated under the provisions of NRS ~~370.350 or~~ 370.360; or

2. Knowingly makes any false statement in any such report,
↪ is guilty of a misdemeanor.

Sec. 66. 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,



1 without a warrant during normal business hours and with a warrant
2 at any other time:

3 1. The facilities and records of any manufacturer, wholesale
4 dealer, *stamping agent* or retail dealer; and

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

8 **Sec. 67.** NRS 370.415 is hereby amended to read as follows:

9 370.415 1. The Department, its agents, sheriffs within their
10 respective counties and all other peace officers of the State of
11 Nevada shall seize any counterfeit stamps and any contraband
12 tobacco products and machinery used to manufacture contraband
13 tobacco products, found or located in the State of Nevada.

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

19 3. After consultation with the Department, the sheriff or other
20 peace officer shall transmit the contraband tobacco products to the
21 Department if:

22 (a) The contraband tobacco products consist of cigarettes and:

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

27 (2) The Department approves the transmission of the
28 cigarettes; or

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

32 4. Upon the receipt of any:

33 (a) Cigarettes pursuant to subsection 3, the Department shall
34 dispose of the cigarettes as provided in subsection 4 of NRS
35 370.270; or

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

38 (1) Sell the other tobacco products to the highest bidder
39 among the ~~licensed~~ *holders of a license as a* wholesale ~~dealers~~
40 *dealer* in this State after due notice to all ~~licensed Nevada~~
41 ~~wholesale dealers~~ *such licensees* has been given by mail to the
42 addresses contained in the Department's records; or

43 (2) If there is no bidder, or in the opinion of the Department
44 the quantity of the other tobacco products is insufficient, or for any



1 other reason such disposition would be impractical, destroy or
2 dispose of the other tobacco products as the Department may see fit.

3 ➔ The proceeds of all sales pursuant to this paragraph must be
4 classed as revenues derived under the provisions of NRS 370.440 to
5 370.503, inclusive.

6 5. The sheriff or other peace officer who seizes any stamps,
7 contraband tobacco products or machinery pursuant to this section
8 shall:

9 (a) Destroy the stamps and machinery; and

10 (b) If he or she does not transmit the contraband tobacco
11 products to the Department, destroy the contraband tobacco
12 products.

13 **Sec. 68.** NRS 370.419 is hereby amended to read as follows:

14 370.419 All fixtures, equipment and other materials and
15 personal property on the premises of any wholesale *dealer,*
16 *stamping agent* or retail dealer who, with intent to defraud the State:

17 1. Fails to keep or make any record, return, report or inventory
18 required pursuant to NRS 370.080 to 370.327, inclusive;

19 2. Keeps or makes any false or fraudulent record, return, report
20 or inventory required pursuant to NRS 370.080 to 370.327,
21 inclusive;

22 3. Refuses to pay any tax imposed pursuant to NRS 370.080 to
23 370.327, inclusive; or

24 4. Attempts in any manner to evade or defeat the requirements
25 of NRS 370.080 to 370.327, inclusive,

26 ➔ is subject to forfeiture pursuant to NRS 179.1156 to 179.119,
27 inclusive.

28 **Sec. 69.** NRS 370.425 is hereby amended to read as follows:

29 370.425 In addition to any other penalty authorized by law:

30 1. The Department may:

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

33 (1) Omits, neglects or refuses to:

34 (I) Comply with any duty imposed upon him or her
35 pursuant to the provisions of NRS 370.080 to 370.315, inclusive ~~†~~,
36 *and sections 11 and 13 of this act*; or

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

39 (2) Does anything prohibited by the provisions of NRS
40 370.080 to 370.315, inclusive ~~†~~, *and sections 11 and 13 of this*
41 *act.*

42 (b) Impose on each person who violates any of the provisions of
43 NRS 370.321, 370.323 or 370.327 a civil penalty of:

44 (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 370.327, 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. 70. NRS 370.430 is hereby amended to read as follows:

370.430 Any ~~{dealer who}~~ *stamping agent that* exports ~~{cigarettes}~~ *cigarette packages* which do not bear ~~{revenue}~~ stamps ~~{from Nevada}~~ to a person in another state who is not authorized by that state to possess unstamped ~~{cigarettes}~~ *cigarette packages* is guilty of a gross misdemeanor.

Sec. 71. NRS 370.445 is hereby amended to read as follows:

370.445 1. *The Department shall issue a license as a wholesale dealer or a license as a retail dealer to a person who submits a complete application on a form prescribed by the Department and who is otherwise in compliance with the applicable provisions of this chapter and any regulations adopted by the Department. The Department shall not charge any fees for issuing a license pursuant to this subsection.*

2. Except as otherwise provided in subsection ~~{2.}~~ 3, a person shall not engage in the business of a wholesale dealer or retail dealer in this State unless the person first obtains a license as a wholesale dealer or *a license as a retail dealer* from the Department ~~{}~~ *pursuant to subsection 1.* A person may ~~{be licensed}~~ *concurrently hold a license* as a wholesale dealer and *a license* as a retail dealer.

~~{2.}~~ 3. 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 the person ~~{is licensed}~~ *holds a license* as a retail ~~{cigarette}~~ dealer *issued* pursuant to ~~{this chapter.}~~
~~—3.—~~ *NRS 370.150 authorizing the holder to purchase and sell cigarettes to consumers in this State.*

4. *The Department may refuse to issue or renew, or may suspend or revoke, a license issued pursuant to this section for any violation of the provisions of NRS 370.440 to 370.503, inclusive.*

5. *The Department may adopt regulations prescribing the form and contents of an application for, or which are otherwise necessary for the issuance of, a license pursuant to this section.*

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

Sec. 72. 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 products made from tobacco, other than cigarettes ~~{}~~ *but including “roll-your-own” tobacco as described in NRS 370A.050,* by a customer



1 in this State a tax of 30 percent of the wholesale price of those
2 products.

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

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

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

9 (c) Acquired free of charge at a trade show, convention or other
10 exhibition or public event in this State, and which do not have
11 significant value as determined by the Department by regulation.

12 3. This tax must be collected and paid by the wholesale dealer
13 to the Department, in accordance with the provisions of NRS
14 370.465, after the sale or distribution of those products by the
15 wholesale dealer. The wholesale dealer is entitled to retain 0.25
16 percent of the taxes collected to cover the costs of collecting and
17 administering the taxes if the taxes are paid in accordance with the
18 provisions of NRS 370.465.

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

22 **Sec. 73.** NRS 370.465 is hereby amended to read as follows:

23 370.465 1. A wholesale dealer shall, not later than 20 days
24 after the end of each month, submit to the Department a report on a
25 form prescribed by the Department setting forth each sale of
26 products made from tobacco, other than cigarettes ~~†~~ **but including**
27 **"roll-your-own" tobacco**, that the wholesale dealer made during the
28 previous month.

29 2. Each report submitted pursuant to this section on or after
30 August 20, 2001, must be accompanied by the tax owed pursuant to
31 NRS 370.450 for products made from tobacco, other than cigarettes
32 ~~†~~ **but including "roll-your-own" tobacco**, that were sold by the
33 wholesale dealer during the previous month.

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

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

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

38 (c) For a third or subsequent violation within 7 years, revocation
39 of ~~the~~ **its** license ~~of the~~ **as a** wholesale dealer.

40 **Sec. 74.** NRS 370.505 is hereby amended to read as follows:

41 370.505 1. A retail dealer shall pay a wholesale dealer for all
42 cigarettes and other tobacco products purchased from the wholesale
43 dealer:

44 (a) If the cigarettes or other tobacco products were delivered to
45 the retail dealer on or after the 1st day of the month but before the



1 16th day of the month, on or before the 29th day of the same month;
2 and

3 (b) If the cigarettes or other tobacco products were delivered to
4 the retail dealer on or after the 16th day of the month but before the
5 1st day of the next month, on or before the 14th day of the next
6 month.

7 2. A wholesale dealer shall not extend credit or otherwise
8 allow a retail dealer to violate ~~the provisions~~ *any provision* of
9 subsection 1.

10 3. The Department may impose a penalty on a wholesale dealer
11 who violates the provisions of subsection 2 as follows:

12 (a) For the first violation, a penalty of \$500.

13 (b) For a second or subsequent violation, if paragraph (c) does
14 not apply, a penalty of \$1,000.

15 (c) For a third or subsequent violation within any 12-month
16 period, a penalty of \$5,000 or suspension or revocation of ~~the~~ *its*
17 license ~~of the~~ *as a* wholesale dealer, or both.

18 4. Pursuant to a written complaint or upon its own motion, the
19 Department shall investigate an alleged violation of subsection 2.
20 The Department shall give notice to the alleged violator and conduct
21 a hearing, if warranted by the investigation. The Department may
22 assess a penalty pursuant to subsection 3 ~~if~~ *if the Department*
23 determines that the wholesale dealer violated the provisions of
24 subsection 2.

25 **Sec. 75.** NRS 370.510 is hereby amended to read as follows

26 370.510 The Department may make all necessary regulations
27 for the administration and enforcement of this chapter, including:

28 1. Necessary regulations for the keeping of records to ensure
29 compliance with this chapter by persons dealing in both taxable and
30 exempt cigarettes.

31 2. ~~Regulations authorizing persons other than dealers to~~
32 ~~possess unstamped cigarettes.~~

33 ~~3.~~ Regulations relating to the licensing of *manufacturers,*
34 wholesale dealers, *stamping agents* and retail dealers.

35 **Sec. 76.** NRS 370.520 is hereby amended to read as follows:

36 370.520 Nothing in this chapter shall operate to abridge the
37 rights of any ~~Indian~~ *Native American*, individual or tribe, or to
38 infringe upon the sovereignty of any ~~Indian~~ tribe, organized under
39 the Indian Reorganization Act, 25 U.S.C. §§ 476 et seq.

40 **Sec. 77.** NRS 370.600 is hereby amended to read as follows:

41 370.600 The Legislature finds that:

42 1. Violations of the provisions of chapter 370A of NRS
43 threaten the integrity of the Master Settlement Agreement, the fiscal
44 soundness of the State and public health.



2. The enactment of the procedural enhancements set forth in NRS 370.600 to 370.705, inclusive, *and sections 14 to 18, inclusive, of this act* will aid in the enforcement of the provisions of chapter 370A of NRS and thereby safeguard the Master Settlement Agreement, the fiscal soundness of the State and public health.

Sec. 78. NRS 370.610 is hereby amended to read as follows:

370.610 "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, ~~but not limited to,~~ *without limitation*, "menthol," ~~["lights,"]~~ "kings" and "100s," and includes any brand name, whether or not occurring alone or in conjunction with any other word, any trademark, logo, symbol, motto, selling message or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

Sec. 79. NRS 370.640 is hereby amended to read as follows:

370.640 "Nonparticipating manufacturer" means any manufacturer ~~{of tobacco products}~~ that is not a participating manufacturer.

Sec. 80. NRS 370.665 is hereby amended to read as follows:

370.665 1. A manufacturer ~~{of tobacco products}~~ whose cigarettes are sold in this State, whether or not directly or through a distributor, retailer, *importer* or similar intermediary or intermediaries, shall, not later than April 30 of each year, execute and deliver to the Attorney General and the Department, on a form provided by the Department, a certification which certifies under penalty of perjury that, as of the date of that certification, the manufacturer ~~{of tobacco products}~~ is: ~~{either:}~~

(a) A participating manufacturer; or

(b) In full compliance with *paragraph (b) of* subsection ~~{2}~~ *1* of NRS 370A.140, including any quarterly installment payments required pursuant to NRS 370.690.

2. Except as otherwise provided in NRS 370.670:

(a) A participating manufacturer shall include in its certification *delivered* pursuant to this section a list of its brand families. The participating manufacturer shall update that list at least 30 calendar days before it adds to or modifies its brand families by executing and delivering a supplemental certification to the Attorney General and the Department.

(b) A nonparticipating manufacturer shall, in its certification *delivered* pursuant to this section:

(1) Include:

(I) A list of all of its brand families and the number of units sold for each brand family that were sold in the State during the preceding calendar year; ~~{and}~~



(II) A list of all of its brand families that have been sold in the State at any time during the current calendar year;

(III) The current mailing address of the nonparticipating manufacturer; and

(IV) A valid electronic mail address of the nonparticipating manufacturer;

(2) Indicate ~~by an asterisk~~ any brand family sold in the State during the preceding calendar year that is no longer being sold in the State as of the date of the certification; and

(3) Identify, by name and address ~~any~~:

(I) Any other manufacturer of those brand families in the preceding or current calendar year ~~that~~; and

(II) Each importer or wholesale dealer that sells or offers for sale in this State any brand family of the nonparticipating manufacturer.

➔ A nonparticipating manufacturer shall update the information required by this paragraph at least 30 calendar days before it adds to or modifies its brand families *or sells or distributes cigarettes in this State through a new importer or wholesale dealer* by executing and delivering a supplemental certification to the Attorney General and the Department.

3. In addition to the requirements of subsection 2, the certification of a nonparticipating manufacturer *delivered* pursuant to this section must certify:

(a) That the nonparticipating manufacturer is registered to do business in the State or has appointed an agent for service of process and provided notice thereof as required by NRS 370.680;

(b) That the nonparticipating manufacturer has:

(1) Established and continues to maintain a qualified escrow fund; and

(2) Executed a qualified escrow agreement governing the qualified escrow fund that has been reviewed and approved by the Attorney General;

(c) That the nonparticipating manufacturer is in full compliance with chapter 370A of NRS and any regulations adopted pursuant thereto;

(d) The name, address and telephone number of the financial institution where the nonparticipating manufacturer has established the qualified escrow fund required pursuant to chapter 370A of NRS and any regulations adopted pursuant thereto;

(e) The account number of that qualified escrow fund and any subaccount number for this State;

(f) The amount the nonparticipating manufacturer placed in that qualified escrow fund for cigarettes sold in the State during the preceding calendar year, the date and amount of each such deposit,



1 and such evidence or verification as may be deemed necessary by
2 the Department to confirm the information required by this
3 paragraph; ~~and~~

4 (g) The amount and date of any withdrawal or transfer of money
5 the nonparticipating manufacturer made at any time from that
6 qualified escrow fund or from any other qualified escrow fund into
7 which it ever made escrow payments pursuant to chapter 370A of
8 NRS and any regulations adopted pursuant thereto ~~and~~; *and*

9 *(h) That the nonparticipating manufacturer has submitted to*
10 *the Department:*

11 *(1) The federal income tax return of the manufacturer to*
12 *the Attorney General; or*

13 *(2) A request or consent to the United States Department of*
14 *the Treasury pursuant to 26 U.S.C. § 6103(c) authorizing the*
15 *Alcohol and Tobacco Tax and Trade Bureau of the Department,*
16 *or in the case of a foreign manufacturer, the Bureau of Customs*
17 *and Border Protection of the United States Department of*
18 *Homeland Security, to disclose the federal income tax return of*
19 *the manufacturer to the Attorney General.*

20 **Sec. 81.** NRS 370.670 is hereby amended to read as follows:

21 370.670 A manufacturer : ~~of tobacco products;~~

22 1. Shall not include a brand family in its certification pursuant
23 to NRS 370.665 unless, if the manufacturer is:

24 (a) A participating manufacturer, the manufacturer affirms that
25 the brand family ~~is to~~ *shall* be deemed ~~to be~~ its cigarettes for the
26 purposes of calculating its payments under the Master Settlement
27 Agreement for the relevant year, in the volume and shares
28 determined pursuant to the Master Settlement Agreement; or

29 (b) A nonparticipating manufacturer, the manufacturer affirms
30 that the brand family ~~is to~~ *shall* be deemed ~~to be~~ its cigarettes for
31 the purposes of chapter 370A of NRS.

32 ➤ This subsection must not be construed as limiting or otherwise
33 affecting the right of the State to maintain that a brand family
34 constitutes cigarettes of a different manufacturer ~~of tobacco~~
35 ~~products~~ for the purposes of calculating payments under the Master
36 Settlement Agreement or for the purposes of chapter 370A of NRS.

37 2. Shall maintain all invoices and documentation of sales, and
38 any other information relied upon by the manufacturer for its
39 certification *delivered* pursuant to NRS 370.665, for at least 5 years,
40 unless the manufacturer is otherwise required by law to maintain
41 them for a greater period.

42 **Sec. 82.** NRS 370.675 is hereby amended to read as follows:

43 370.675 1. The Department shall create and maintain on its
44 Internet website and otherwise make available for public inspection
45 a directory that lists, except as otherwise provided in NRS 370.600



1 to 370.705, inclusive, *and sections 14 to 18, inclusive, of this act,*
2 *and subsection 3 of section 13 of this act,* all manufacturers ~~of~~
3 ~~tobacco products~~ that have provided current and accurate
4 certifications conforming to the requirements of NRS 370.600 to
5 370.705, inclusive, *and sections 14 to 18, inclusive, of this act* and
6 all brand families that are listed in those certifications.

7 2. The Department ~~+~~

8 ~~—(a) Shall~~ *shall* not include or retain in the directory the name or
9 brand families of any nonparticipating manufacturer that has failed
10 to ~~provide~~ :

11 (a) *Provide* the required certification or whose certification the
12 Department determines is not in compliance with NRS 370.600 to
13 370.705, inclusive, *and sections 14 to 18, inclusive, of this act,*
14 unless the Department has determined that the violation has been
15 cured to its satisfaction ; ~~+~~

16 (b) ~~+~~ ~~Shall not include or retain in the directory a manufacturer of~~
17 ~~tobacco products or brand family if the Department concludes, for a~~
18 ~~nonparticipating manufacturer, that:~~

19 ~~—(1) Any~~ *Deposit into a qualified escrow fund the full*
20 *amount of any* escrow payment required pursuant to chapter 370A
21 of NRS for any period *or* for any brand family, whether or not listed
22 by the nonparticipating manufacturer ~~+~~ ~~has not been fully paid into~~
23 ~~a qualified escrow fund governed by a qualified escrow agreement~~
24 ~~which has been approved by the Attorney General; or~~

25 ~~—(2) Any~~ ; *or*

26 (c) *Satisfy any* outstanding final judgment ~~+~~ *against the*
27 *manufacturer or brand family,* including any interest thereon, for a
28 violation of chapter 370A of NRS . ~~+~~ ~~has not been fully satisfied for~~
29 ~~that manufacturer or brand family.~~

30 ~~—2.~~ 3. The Department shall update the directory as necessary
31 to correct mistakes and to add or remove a manufacturer ~~of tobacco~~
32 ~~products~~ or brand family ~~to keep the directory in conformity with~~
33 ~~the requirements of~~ *pursuant to* NRS 370.600 to 370.705, inclusive
34 ~~+~~

35 ~~—3.~~ *, and sections 14 to 18, inclusive, of this act, and subsection*
36 *3 of section 13 of this act.*

37 4. Any determination of the Department not to include in or to
38 remove from the directory ~~+~~ *any* manufacturer ~~of tobacco~~
39 ~~products~~ or brand family *pursuant to this section* is a final decision
40 for the purposes of judicial review.

41 **Sec. 83.** NRS 370.680 is hereby amended to read as follows:

42 370.680 1. Any nonresident or foreign nonparticipating
43 manufacturer , *importer or wholesale dealer* that has not registered
44 to do business in the State as a foreign corporation or other business
45 entity must, as a condition precedent ~~to having~~ :



1 (a) *For a nonparticipating manufacturer, to having* its brand
2 families included or retained in the directory ~~††~~;

3 (b) *For an importer, to importing cigarettes into this State; or*

4 (c) *For a wholesale dealer, to obtaining a license as a*
5 *stamping agent,*

6 ↪ appoint and continually engage without interruption the services
7 of an agent in this State to act as its agent for the service of process
8 on whom all process, in any action or proceeding against it
9 concerning or arising out of the enforcement of this chapter ~~††~~ *or*
10 *chapter 370A of NRS*, may be served in any manner authorized by
11 law. ~~†Such service†~~

12 2. *Service upon an agent pursuant to this section* constitutes
13 legal and valid service of process on the nonparticipating
14 manufacturer ~~††~~ , *importer or wholesale dealer*. The
15 nonparticipating manufacturer , *importer or wholesale dealer* shall
16 provide the name, address, phone number and proof of the
17 appointment and availability of such agent to, and to the satisfaction
18 of, the Attorney General and the Department.

19 ~~†2†~~ 3. A nonparticipating manufacturer , *importer or*
20 *wholesale dealer* shall provide notice to the Attorney General and
21 the Department at least 30 calendar days before the termination of
22 the authority of an agent appointed pursuant to this section and shall
23 provide proof to the satisfaction of the Attorney General and the
24 Department of the appointment of a new agent not less than 5
25 calendar days before the termination of appointment of an existing
26 agent. If an agent terminates his or her appointment as an agent, the
27 nonparticipating manufacturer , *importer or wholesale dealer* shall
28 notify the Attorney General and the Department of that termination
29 within 5 calendar days and include with that notification proof to the
30 satisfaction of the Attorney General and the Department of the
31 appointment of a new agent.

32 ~~†3†~~ 4. Any nonparticipating manufacturer ~~†whose†~~ , *importer*
33 *or wholesale dealer which sells or purchases* cigarettes ~~†are sold†~~ in
34 , *or imports cigarettes into*, this State and ~~†who†~~ *which* has not
35 appointed and engaged an agent as required by this section shall be
36 deemed to have appointed the Secretary of State as an agent and
37 may be proceeded against in courts of this State by service of
38 process upon the Secretary of State, except that the appointment of
39 the Secretary of State as an agent does not satisfy the condition
40 precedent for having the brand families of the nonparticipating
41 manufacturer included or retained in the directory ~~††~~ , *for importing*
42 *cigarettes into this State or for obtaining a license as a stamping*
43 *agent.*

44 Sec. 84. NRS 370.683 is hereby amended to read as follows:

370.683 1. Except as otherwise provided in subsection 5:



(a) A wholesale dealer is liable for escrow deposits required pursuant to this chapter and chapter 370A of NRS if:

(1) The wholesale dealer receives notice from the Attorney General or the Department that there is a shortfall in a qualified escrow fund with respect to cigarettes of a nonparticipating manufacturer that were ~~stamped~~ sold or distributed by the wholesale dealer; and

(2) The shortfall is not cured by the wholesale dealer or nonparticipating manufacturer within 90 calendar days after the wholesale dealer receives that notice.

➤ The liability of the wholesale dealer for the escrow deposits must be calculated pursuant to paragraph (b).

(b) If there is a shortfall in the qualified escrow fund of a nonparticipating manufacturer for a calendar quarter, each wholesale dealer that sold or distributed cigarettes of that nonparticipating manufacturer during that calendar quarter shall deposit into an escrow account designated by the Attorney General an amount equal to the shortfall multiplied by a fraction, the numerator of which is the number of cigarettes of that nonparticipating manufacturer that were sold in or into this State by the wholesale dealer during that calendar quarter, and the denominator of which is the total number of cigarettes of that nonparticipating manufacturer that were sold or distributed by all wholesale dealers in or into this State during that calendar quarter. In making the calculation, any cigarettes of the nonparticipating manufacturer that were sold or distributed in or into this State by a wholesale dealer during the calendar quarter in which the wholesale dealer collected and deposited the required escrow deposit amount on or before the due date for deposits for that quarter must be excluded from both the numerator and the denominator of the fraction.

2. To the extent that a wholesale dealer makes any payment with respect to a shortfall pursuant to this section, the wholesale dealer has a claim against the nonparticipating manufacturer for the amount of the payment.

3. A wholesale dealer may require a nonparticipating manufacturer, as a condition of the agreement of the wholesale dealer to purchase the cigarettes of the nonparticipating manufacturer, to:

(a) Prepay the escrow deposit amount of the nonparticipating manufacturer into the escrow account designated in the certification of the nonparticipating manufacturer filed with the Attorney General pursuant to NRS 370.665; and

(b) Require the escrow agent to provide to the wholesale dealer and the Attorney General proof of that prepayment.



4. Upon the request of a wholesale dealer who requires a nonparticipating manufacturer to comply with the provisions of paragraphs (a) and (b) of subsection 3, the Attorney General shall provide to the wholesale dealer a written verification of whether the nonparticipating manufacturer has made the escrow deposits required from the nonparticipating manufacturer pursuant to this chapter and chapter 370A of NRS for a calendar quarter.

5. If a wholesale dealer requires a nonparticipating manufacturer to comply with the provisions of paragraph (a) of subsection 3 and receives a written verification from the Attorney General that the nonparticipating manufacturer has made the escrow deposits required from the nonparticipating manufacturer pursuant to this chapter and chapter 370A of NRS for a calendar quarter:

(a) The wholesale dealer is not liable for any of those escrow deposits required for that calendar quarter;

(b) The provisions of subsection 1 do not apply to the wholesale dealer with respect to any cigarettes of the nonparticipating manufacturer that were sold or distributed in or into this State during that calendar quarter; and

(c) The cigarettes of the nonparticipating manufacturer that were sold or distributed in or into this State by the wholesale dealer during that calendar quarter must be excluded entirely from the calculations required by subsection 1.

Sec. 85. NRS 370.685 is hereby amended to read as follows:

370.685 1. Not later than 20 calendar days after the end of each calendar quarter, and more frequently if so directed by the Department, each ~~{distributor}~~ *stamping agent* shall submit such information as the Department requires to facilitate compliance with the provisions of NRS 370.600 to 370.705, inclusive, *and sections 14 to 18, inclusive, of this act*, including, without limitation, a list by brand family of the total number of ~~{cigarettes}~~ *cigarette packages* or, in the case of "roll-your-own" tobacco, the equivalent unit count, for which the ~~{distributor}~~ *stamping agent* affixed stamps during the previous calendar quarter or otherwise paid the tax due for those cigarettes. ~~{The distributor}~~

2. *Each wholesale dealer and stamping agent* shall maintain for at least 5 years, and make available to the Department, all invoices and documentation of sales of all cigarettes of nonparticipating manufacturers and any other information relied upon in reporting to the Department.

~~{2-}~~ 3. The Department may disclose to the Attorney General any information received pursuant to NRS 370.600 to 370.705, inclusive, *and sections 14 to 18, inclusive, of this act* and requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of NRS 370.600 to 370.705,



1 inclusive ~~H~~, and sections 14 to 18, inclusive, of this act. The
2 Department and Attorney General shall share with each other the
3 information received pursuant to the provisions of NRS 370.600 to
4 370.705, inclusive, and sections 14 to 18, inclusive, of this act and
5 may share such information with other federal, state or local
6 agencies only for purposes of enforcement of those provisions, the
7 provisions of chapter 370A of NRS or the corresponding laws of
8 other states.

9 ~~13.1~~ 4. The Department may require at any time from a
10 nonparticipating manufacturer proof, from the financial institution
11 in which that manufacturer has established a qualified escrow fund
12 for the purpose of compliance with chapter 370A of NRS, of the
13 amount of money in that fund, exclusive of interest, the amount and
14 date of each deposit to that fund, and the amount and date of each
15 withdrawal from that fund.

16 ~~14.1~~ 5. In addition to the information otherwise required to be
17 submitted pursuant to NRS 370.600 to 370.705, inclusive, and
18 sections 14 to 18, inclusive, of this act, the Department may require
19 a ~~istributor~~ wholesale dealer or manufacturer ~~of tobacco~~
20 ~~products~~ to submit any additional information ~~including, without~~
21 ~~limitation, samples of the packaging or labeling of each brand~~
22 ~~family,~~ or documentation as is necessary to enable the Department
23 to determine whether a manufacturer ~~of tobacco products~~ is or will
24 remain in compliance with the provisions of ~~NRS 370.600 to~~
25 ~~370.705, inclusive.~~

26 ~~5. Every distributor shall provide to the Department and update~~
27 ~~as necessary an electronic mail address for receiving any~~
28 ~~notifications required to carry out NRS 370.600 to 370.705,~~
29 ~~inclusive.~~ this chapter and chapter 370A of NRS.

30 Sec. 86. NRS 370.690 is hereby amended to read as follows:

31 370.690 1. ~~To promote compliance with the provisions of~~
32 ~~NRS 370A.140, the Department may adopt regulations requiring~~
33 *Beginning July 1, 2013,* a manufacturer ~~of tobacco products to~~
34 ~~make the~~ that makes escrow deposits as required by *subsection 2*
35 *of* NRS 370A.140 shall make deposits in quarterly installments
36 during ~~the~~ each year in which ~~the sales covered by those~~ deposits
37 are ~~made.~~ The Department may require the production of
38 information sufficient to enable the Department to determine the
39 adequacy of the amount of each quarterly installment owed.

40 2. *A quarterly escrow deposit made pursuant to subsection 1*
41 *must be deposited not later than 30 days after the first day of the*
42 *calendar quarter following the calendar quarter for which the*
43 *deposit is owed.*

44 3. *The Department shall, as soon as practicable, remove from*
45 *the directory the name of any nonparticipating manufacturer and*



1 *its brand families if the nonparticipating manufacturer fails to*
2 *make a quarterly escrow deposit required by subsection 1.*

3 *4. Each failure to make a quarterly escrow deposit constitutes*
4 *a separate violation of this section.*

5 *5. The Department may adopt such regulations as it deems*
6 *necessary to carry out the provisions of NRS 370.600 to 370.705,*
7 *inclusive ~~H~~, and sections 14 to 18, inclusive, of this act.*

8 **Sec. 87.** NRS 370.693 is hereby amended to read as follows:

9 370.693 1. Except as otherwise provided in subsection 2, the
10 Attorney General may apply for any available grant and may accept
11 any gift, grant or donation to assist in carrying out his or her duties
12 pursuant to NRS 370.600 to 370.705, inclusive ~~H~~, and sections 14
13 *to 18, inclusive, of this act.*

14 2. The Attorney General shall not accept any gift, grant or
15 donation from any manufacturer . ~~{of tobacco products or any other~~
16 ~~manufacturer, as that term is defined in NRS 370.0315.}~~

17 3. Any money received by the Attorney General pursuant to
18 this section must be deposited in the Account for Tobacco
19 Enforcement.

20 **Sec. 88.** NRS 370.695 is hereby amended to read as follows:

21 370.695 1. It is unlawful for any person to:

22 (a) Affix a stamp to a *cigarette* package ~~{or other container of~~
23 ~~cigarettes}~~ of a manufacturer ~~{of tobacco products}~~ or brand family
24 which is not included in the directory; or

25 (b) Sell, or offer or possess for sale, in this State cigarettes of a
26 manufacturer ~~{of tobacco products}~~ or brand family not included in
27 the directory.

28 2. A person who violates any provision of subsection 1 is
29 guilty of a gross misdemeanor.

30 3. In addition to any other penalty authorized by law, the
31 Department may impose on each person who violates any provision
32 of subsection 1 a civil penalty for each such violation of not more
33 than \$5,000 or 500 percent of the retail value of the cigarettes
34 involved in the violation, whichever is greater.

35 4. Any violation of subsection 1 constitutes a deceptive trade
36 practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

37 5. For the purposes of this section, each stamp affixed to *a*
38 *cigarette package* and each sale or offer to sell cigarettes in
39 violation of subsection 1 constitutes a separate violation.

40 **Sec. 89.** NRS 370.696 is hereby amended to read as follows:

41 370.696 1. In addition to or in lieu of any other penalty or
42 remedy provided by law, the Attorney General may seek a civil
43 penalty in an amount not to exceed \$1,000 per day for the failure of
44 a wholesale dealer *or stamping agent* timely or accurately to
45 comply with any provision of this chapter or chapter 370A of NRS.



1 ~~{The}~~ A license ~~{of the}~~ as a wholesale dealer or stamping agent
2 may be suspended or revoked if the wholesale dealer or stamping
3 agent fails to pay such a civil penalty ~~{within}~~ not later than 30
4 days after it is imposed.

5 2. In addition to or in lieu of any other penalty or remedy
6 provided by law, the Attorney General may seek a civil penalty in
7 an amount not to exceed \$1,000 per day for the failure of a
8 nonparticipating manufacturer timely or accurately to comply with
9 any provision of this chapter or chapter 370A of NRS. A
10 nonparticipating manufacturer and the brand families of a
11 nonparticipating manufacturer may be denied listing in the directory
12 or removed from the directory if the nonparticipating manufacturer
13 fails to pay such a civil penalty ~~{within}~~ not later than 30 days after
14 it is imposed.

15 3. Any civil penalty collected pursuant to this section must be
16 deposited in the Account for Tobacco Enforcement.

17 **Sec. 90.** NRS 370.697 is hereby amended to read as follows:

18 370.697 In addition to or in lieu of any other penalty or remedy
19 provided by law, the Attorney General may seek a civil penalty in
20 an amount not to exceed \$20,000 against any wholesale dealer or
21 nonparticipating manufacturer that makes a certification pursuant to
22 this chapter or chapter 370A of NRS which asserts the truth of any
23 material matter that the wholesale dealer or nonparticipating
24 manufacturer knows to be false or inaccurate. Any civil penalty
25 collected pursuant to this section must be deposited in the Account
26 for Tobacco Enforcement. If such a civil penalty is not paid within
27 30 days after it is imposed against:

28 1. A wholesale dealer, ~~{the}~~ its license ~~{of the}~~ as a wholesale
29 dealer may be suspended or revoked.

30 2. A nonparticipating manufacturer, the nonparticipating
31 manufacturer and the brand families of the nonparticipating
32 manufacturer may be denied listing in the directory or removed
33 from the directory.

34 **Sec. 91.** NRS 370.698 is hereby amended to read as follows:

35 370.698 1. ~~{The}~~ A license ~~{of}~~ as a wholesale dealer may be
36 suspended or revoked if a similar license of the wholesale dealer is
37 suspended or revoked in any other state based on an act or omission
38 that would, if the act or omission had occurred in this State, be
39 grounds for the suspension or revocation of the license ~~{of the}~~ as a
40 wholesale dealer pursuant to ~~{NRS 370.379,}~~ this chapter, unless
41 the wholesale dealer demonstrates that the suspension or revocation
42 of its license in the other state was effected without due process. A
43 license as a wholesale dealer ~~{whose license}~~ that is suspended or
44 revoked in this State pursuant to this subsection is eligible for
45 reinstatement upon the earlier of the date on which the violation in



1 the other state is cured or the date on which the *similar* license of
2 the wholesale dealer is reinstated in the other state.

3 2. A nonparticipating manufacturer and its brand families may
4 be denied listing in the directory or removed from the directory for
5 any of the following reasons:

6 (a) The nonparticipating manufacturer is removed from the
7 directory of another state based on an act or omission that would, if
8 the act or omission had occurred in this State, be grounds for the
9 removal of the nonparticipating manufacturer from the directory of
10 this State pursuant to NRS 370.675, unless the nonparticipating
11 manufacturer demonstrates that its removal from the directory of the
12 other state was effected without due process. A nonparticipating
13 manufacturer that is removed from the directory of this State
14 pursuant to this paragraph is eligible for reinstatement to the
15 directory upon the earlier of the date on which the violation in the
16 other state is cured or the date on which the nonparticipating
17 manufacturer is reinstated to the directory of the other state.

18 (b) The nonparticipating manufacturer is convicted of any crime
19 relating to the manufacture, sale or distribution of tobacco products
20 in this State or another state.

21 (c) The nonparticipating manufacturer fails to report the
22 existence or result, including any conviction, of any investigation of
23 the nonparticipating manufacturer which is known to the
24 nonparticipating manufacturer regarding the commission of any
25 crime relating to the manufacture, sale or distribution of tobacco
26 products in this State or another state.

27 (d) The nonparticipating manufacturer fails to report any
28 investigation of the nonparticipating manufacturer which is known
29 to the nonparticipating manufacturer regarding any violation of the
30 laws of any other state based on an act or omission that would, if the
31 act or omission had occurred in this State, be grounds for the
32 removal of the nonparticipating manufacturer from the directory of
33 this State pursuant to NRS 370.675.

34 (e) The nonparticipating manufacturer knowingly makes a false,
35 material statement in any report, filing or other communication
36 provided to this State pursuant to this chapter or chapter 370A of
37 NRS.

38 *(f) The nonparticipating manufacturer has a shortfall or fails*
39 *to make an escrow deposit that is due in another state or territory*
40 *of the United States, has been given reasonable notice of the*
41 *shortfall or failure, and has failed to cure the shortfall or make*
42 *the deposit within 30 days after receiving notice of the shortfall or*
43 *failure.*

44 3. The provisions of NRS 233B.121 to 233B.150, inclusive,
45 apply to:



(a) The suspension or revocation of ~~the~~ a license ~~left~~ as a wholesale dealer pursuant to subsection 1; and

(b) The removal of a nonparticipating manufacturer and its brand families from the directory pursuant to subsection 2.

Sec. 92. NRS 370.700 is hereby amended to read as follows:

370.700 1. The Attorney General, on behalf of the Department, may bring an action in the district court of this State to:

(a) Enjoin any threatened or actual violation of the provisions of NRS 370.600 to 370.705, inclusive, *and sections 14 to 18, inclusive, of this act*, by a ~~distributor~~ *wholesale dealer, stamping agent* or manufacturer and to compel the ~~distributor~~ *wholesale dealer, stamping agent* or manufacturer to comply with those provisions; or

(b) Enforce any of the provisions of NRS 370.600 to 370.705, inclusive ~~+~~, *and sections 14 to 18, inclusive, of this act*.

2. In any action brought by the State to enforce the provisions of NRS 370.600 to 370.705, inclusive, *and sections 14 to 18, inclusive, of this act*, the State is entitled to recover any costs of investigation, expert witness fees, costs of the action and reasonable attorney's fees.

3. If a court determines that a person has violated any provision of NRS 370.600 to 370.705, inclusive, *and sections 14 to 18, inclusive, of this act*, the court shall order any profits, gain, gross receipts or other benefit from the violation to be disgorged and paid to the State Treasurer for deposit in the State General Fund.

4. The remedies and penalties provided in NRS 370.600 to 370.705, inclusive, *and sections 14 to 18, inclusive, of this act* are cumulative to each other and to the remedies and penalties available under any other law of this State.

Sec. 93. Chapter 370A of NRS is hereby amended by adding thereto a new section to read as follows:

Any provision of this chapter or chapter 370 of NRS, or any amendment thereto, that causes any provision of this chapter or chapter 370 of NRS to fail to operate as a qualifying statute pursuant to the Master Settlement Agreement is void.

Sec. 94. NRS 370A.120 is hereby amended to read as follows:

370A.120 "Units sold" means, with respect to a particular manufacturer of tobacco products for a particular year, the number of individual cigarettes *which are* sold in this state by the manufacturer directly or through a distributor, retailer or similar intermediary or intermediaries during that year, ~~as measured by excise taxes collected by the State on~~ *and which are sold in* packs ~~+~~ or containers ~~of "roll your own" tobacco,~~ bearing ~~the excise~~ *a Nevada cigarette revenue* stamp ~~of this state,~~ *that is issued by the Department pursuant to chapter 370 of NRS.*



The term includes "roll-your-own" tobacco as described in NRS 370A.050, for which excise tax is due pursuant to chapter 370 of NRS.

Sec. 95. NRS 370A.140 is hereby amended to read as follows:

370A.140 **1.** A manufacturer of tobacco products that sells cigarettes to consumers in this state, directly or through a distributor, retailer or similar intermediary or intermediaries, after May 24, 1999, shall ~~do one of the following:~~

~~1. :~~

(a) Become a participating manufacturer and generally perform its financial obligations under the Master Settlement Agreement; or

~~2. Deposit~~

(b) *Except as otherwise provided in subsection 2, deposit* into a qualified escrow fund ~~on or before~~, *not later than* April 15 of the year following the year ~~in question,~~ *for which the deposits are owed*, the following amounts as such amounts are adjusted for inflation:

~~(a)~~ **(1)** For the year 1999, \$0.0094241 for each unit sold after May 24, 1999;

~~(b)~~ **(2)** For the year 2000, \$0.0104712 for each unit sold;

~~(c)~~ **(3)** For each of the years 2001 and 2002, \$0.0136125 for each unit sold;

~~(d)~~ **(4)** For each of the years 2003 through 2006, \$0.0167539 for each unit sold; and

~~(e)~~ **(5)** For ~~each of~~ the year 2007 and each year thereafter, \$0.0188482 for each unit sold.

2. *A manufacturer of tobacco products is not required to make an escrow deposit pursuant to paragraph (b) of subsection 1 if the unit sold for which the deposit is owed is sold, directly or through a distributor, retailer or similar intermediary or intermediaries:*

(a) *On a federal installation in a transaction that is exempt from taxation by a state pursuant to federal law; or*

(b) *On any qualified tribal land of a tribe to an enrolled member of the tribe.*

3. *The Department may adopt regulations to carry out the provisions of this section.*

Sec. 96. NRS 370A.150 is hereby amended to read as follows:

370A.150 ~~1A)~~ *Except as otherwise provided in sections 17 and 18 of this act, a* manufacturer of tobacco products that deposits money into escrow pursuant to *paragraph (b) of* subsection ~~1~~ **1** of NRS 370A.140 shall receive the interest or other appreciation on the deposit as earned. The principal of the deposit may be released from escrow only under the following circumstances:



1 1. To pay a judgment or settlement on a released claim brought
2 against that manufacturer by this State or by a releasing party
3 located or residing in this State. Money may be released from
4 escrow under this subsection only in the order in which it was
5 deposited into escrow and only to the extent and at the time
6 necessary to make payments required under the judgment or
7 settlement.

8 2. To the extent that the manufacturer establishes that the
9 amount it was required to deposit into escrow on account of units
10 sold in the State in a particular year was greater than the Master
11 Settlement Agreement payments, as determined pursuant to section
12 IX(i) of that Agreement including after final determination of all
13 adjustments, that such manufacturer would have been required to
14 make on account of such units sold if the manufacturer had been a
15 participating manufacturer, the excess must be released from escrow
16 and revert to the manufacturer.

17 3. To the extent not released from escrow under subsection 1 or
18 2, deposits must be released from escrow and revert to the
19 manufacturer 25 years after the date on which they were deposited.

20 **Sec. 97.** NRS 370.310, 370.605, 370.615, 370.625, 370.630
21 and 370.655 are hereby repealed.

22 **Sec. 98.** This act becomes effective on July 1, 2013.

LEADLINES OF REPEALED SECTIONS

370.310 Sale or distribution of tax-free cigarettes by vending machine prohibited.

370.605 Definitions.

370.615 "Cigarette" defined.

370.625 "Distributor" defined.

370.630 "Manufacturer of tobacco products" defined.

370.655 "Stamp" defined.

