

ASSEMBLY BILL NO. 470—COMMITTEE ON
HEALTH AND HUMAN SERVICES

MARCH 25, 2019

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to public health.
(BDR 15-813)

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 public health; revising provisions relating to the areas in which smoking is prohibited; revising provisions relating to the public policy of this State pertaining to smoking; raising the minimum age of persons to whom cigarettes, cigarette paper, tobacco, products made or derived from tobacco or other tobacco products may be sold; revising certain definitions relating to smoking; making various other changes relating to smoking; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Clean Indoor Air Act, which is currently codified as NRS 202.2483, was proposed by an initiative petition and approved by the voters at the 2006 General Election. The Act generally prohibits smoking tobacco within indoor places of employment, within school buildings and on school property, but allows smoking tobacco in certain areas or establishments. (NRS 202.2483) **Section 1** of this bill: (1) clarifies the definition of "smoking" and expressly includes in the definition the use of an electronic smoking device; (2) prohibits smoking within 25 feet of entrances, operable windows and ventilation systems of enclosed areas where smoking is prohibited; and (3) provides that existing state law must not be construed to restrict a political subdivision of this State other than a county, city or town from adopting and enforcing local smoking control measures that meet or exceed the minimum applicable standards set forth in the Act.

Existing law sets forth the public policy of the State of Nevada relating to smoking. (NRS 202.249) **Section 3** of this bill revises the public policy to authorize an agency, board, commission or political subdivision of this State and the Nevada



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System of Higher Education to impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display or promotion of tobacco, products made or derived from tobacco and other tobacco products than are provided in state law.

Existing law defines and regulates “alternative nicotine products” and “vapor products.” (NRS 202.2485-202.2497, 370.003, 370.054) **Sections 1, 2, 4-9, 11 and 12** of this bill: (1) eliminate references to alternative nicotine products and vapor products; (2) instead define and provide for the regulation of electronic smoking devices and other tobacco products; and (3) make conforming changes.

Existing law prohibits a person from selling, distributing or offering to sell cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products to any person under the age of 18 years. (NRS 202.2493) **Section 6** of this bill raises the age of persons to whom such items may be sold from 18 years of age to 21 years of age.

Section 12 of this bill repeals certain provisions of existing law: (1) which were superseded by the provisions of the Nevada Clean Indoor Air Act; or (2) which defined the terms “alternative nicotine products” and “vapor products.”

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

Section 1. NRS 202.2483 is hereby amended to read as follows:

202.2483 1. Except as otherwise provided in subsection 3, smoking ~~{tobacco}~~ in any form is prohibited within indoor places of employment including, but not limited to, the following:

- (a) Child care facilities;
- (b) Movie theatres;
- (c) Video arcades;
- (d) Government buildings and public places;
- (e) Malls and retail establishments;
- (f) All areas of grocery stores; ~~{and}~~
- (g) All indoor areas within restaurants ~~{ }~~; and
- (h) Within 25 feet of entrances, operable windows and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent smoke from entering such enclosed areas.*

2. Without exception, smoking ~~{tobacco}~~ in any form is prohibited within school buildings and on school property.

3. Smoking ~~{tobacco}~~ is not prohibited in:

- (a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to NRS 463.350;
- (b) Completely enclosed areas with stand-alone bars, taverns and saloons in which patrons under 21 years of age are prohibited from entering;
- (c) Age-restricted stand-alone bars, taverns and saloons;
- (d) Strip clubs or brothels;
- (e) Retail tobacco stores;



(f) The area of a convention facility in which a meeting or trade show is being held, during the time the meeting or trade show is occurring, if the meeting or trade show:

(1) Is not open to the public;

(2) Is being produced or organized by a business relating to tobacco or a professional association for convenience stores; and

(3) Involves the display of tobacco products; and

(g) Private residences, including private residences which may serve as an office workplace, except if used as a child care, an adult day care or a health care facility.

4. A supervisor on duty or employee of an age-restricted stand-alone bar, tavern or saloon or a stand-alone bar, tavern or saloon shall not allow a person who is under 21 years of age to loiter in an age-restricted stand-alone bar, tavern or saloon or an area of a stand-alone bar, tavern or saloon where smoking is allowed pursuant to this section. A person who violates the provisions of this subsection is guilty of a misdemeanor.

5. If a supervisor on duty or employee of an age-restricted stand-alone bar, tavern or saloon or a stand-alone bar, tavern or saloon violates the provisions of subsection 4, the age-restricted stand-alone bar, tavern or saloon or stand-alone bar, tavern or saloon is liable for a civil penalty of:

(a) For the first offense, \$1,000.

(b) For a second or subsequent offense, \$2,000.

6. In any prosecution or other proceeding for a violation of the provisions of subsection 4 or 5, it is no excuse for a supervisor, employee, age-restricted bar, tavern or saloon, or stand-alone bar, tavern or saloon alleged to have committed the violation to plead that a supervisor or employee believed that the person who was permitted to loiter was 21 years of age or older.

7. In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.

8. Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city, ~~town~~ *or other political subdivision of the State* from adopting and enforcing local ~~tobacco~~ *smoking* control measures that meet or exceed the minimum applicable standards set forth in this section.

9. "No Smoking" signs or the international "No Smoking" symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly



1 stating that smoking is prohibited. All ashtrays and other smoking
2 paraphernalia shall be removed from any area where smoking is
3 prohibited.

4 10. Health authorities, police officers of cities or towns,
5 sheriffs and their deputies shall, within their respective jurisdictions,
6 enforce the provisions of this section and shall issue citations for
7 violations of this section pursuant to NRS 202.2492 and 202.24925.

8 11. No person or employer shall retaliate against an employee,
9 applicant or customer for exercising any rights afforded by, or
10 attempts to prosecute a violation of, this section.

11 12. For the purposes of this section, the following terms have
12 the following definitions:

13 (a) "Age-restricted stand-alone bar, tavern or saloon" means an
14 establishment:

15 (1) Devoted primarily to the sale of alcoholic beverages to be
16 consumed on the premises;

17 (2) In which food service or sales may or may not be
18 incidental food service or sales, in the discretion of the operator of
19 the establishment;

20 (3) In which patrons under 21 years of age are prohibited at
21 all times from entering the premises; and

22 (4) That must be located within:

23 (I) A physically independent building that does not share
24 a common entryway or indoor area with a restaurant, public place or
25 any other indoor workplace where smoking is prohibited by this
26 section; or

27 (II) A completely enclosed area of a larger structure,
28 which may include, without limitation, a strip mall or an airport,
29 provided that indoor windows must remain closed at all times and
30 doors must remain closed when not actively in use.

31 (b) "Casino" means an entity that contains a building or large
32 room devoted to gambling games or wagering on a variety of
33 events. A casino must possess a nonrestricted gaming license as
34 described in NRS 463.0177 and typically uses the word 'casino' as
35 part of its proper name.

36 (c) "Child care facility" has the meaning ascribed to it in
37 NRS 441A.030.

38 (d) "Completely enclosed area" means an area that is enclosed
39 on all sides by any combination of solid walls, windows or doors
40 that extend from the floor to the ceiling.

41 (e) "Government building" means any building or office space
42 owned or occupied by:

43 (1) Any component of the Nevada System of Higher
44 Education and used for any purpose related to the System;

45 (2) The State of Nevada and used for any public purpose; or



(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

(f) "Health authority" has the meaning ascribed to it in NRS 202.2485.

(g) "Incidental food service or sales" means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of NRS 446.870.

(h) "Place of employment" means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies and reception areas.

(i) "Public places" means any enclosed areas to which the public is invited or in which the public is permitted.

(j) "Restaurant" means a business which gives or offers for sale food, with or without alcoholic beverages, to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

(k) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(l) "School building" means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(m) "School property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(n) *"Smoking" means inhaling, exhaling, burning or carrying any liquid or heated cigar, cigarette or pipe or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. The term includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, and the use of any oral smoking device. As used in this paragraph, "electronic smoking device":*

(1) Means any product containing or delivering nicotine, a product made or derived from tobacco or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor or aerosol from the product.

(2) Includes any component part of a product described in subparagraph (1), regardless of whether the component part is sold separately.



(3) *Does not include any product regulated by the United States Food and Drug Administration pursuant to Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.*

(o) "Stand-alone bar, tavern or saloon" means an establishment:

(1) Devoted primarily to the sale of alcoholic beverages to be consumed on the premises;

(2) In which food service or sales may or may not be incidental food service or sales, in the discretion of the operator of the establishment;

(3) In which smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section; and

(4) That must be housed in either:

(I) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this section; or

(II) A completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use.

~~{(o)}~~ (p) "Video arcade" has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345.

13. Any statute or regulation inconsistent with this section is null and void.

14. The provisions of this section are severable. If any provision of this section or the application thereof is declared by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of the section as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

Sec. 2. NRS 202.2485 is hereby amended to read as follows:

202.2485 As used in NRS 202.2485 to 202.2497, inclusive:

1. ~~["Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved or ingested by any other means. The term does not include:~~

~~—(a) A vapor product;~~

~~—(b) A product made or derived from tobacco; or~~

~~—(c) Any product regulated by the United States Food and Drug Administration under Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.~~



1 ~~—2.]~~ “Distribute” includes furnishing, giving away or providing
2 products made or derived from tobacco or samples thereof at no cost
3 to promote the product, whether or not in combination with a sale.

4 ~~{3-}~~ 2. “Health authority” means the district health officer in a
5 district, or his or her designee, or, if none, the Chief Medical
6 Officer, or his or her designee.

7 ~~{4-}~~ 3. “Product made or derived from tobacco” does not
8 include any product regulated by the United States Food and Drug
9 Administration pursuant to Subchapter V of the Federal Food, Drug,
10 and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

11 ~~{5-}~~ “Vapor product”:

12 ~~—(a) Means any noncombustible product containing nicotine that~~
13 ~~employs a heating element, power source, electronic circuit or other~~
14 ~~electronic, chemical or mechanical means, regardless of the shape or~~
15 ~~size thereof, that can be used to produce vapor from nicotine in a~~
16 ~~solution or other form.~~

17 ~~—(b) Includes, without limitation:~~

18 ~~——(1) An electronic cigarette, cigar, cigarillo or pipe or a~~
19 ~~similar product or device; and~~

20 ~~——(2) A vapor cartridge or other container of nicotine in a~~
21 ~~solution or other form that is intended to be used with or in an~~
22 ~~electronic cigarette, cigar, cigarillo or pipe or a similar product or~~
23 ~~device.~~

24 ~~—(c) Does not include any product regulated by the United States~~
25 ~~Food and Drug Administration pursuant to Subchapter V of the~~
26 ~~Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.]~~

27 **Sec. 3.** NRS 202.249 is hereby amended to read as follows:

28 202.249 1. It is the public policy of the State of Nevada and
29 the purpose of NRS ~~[202.2491, 202.24915]~~ **202.2483** and 202.2492
30 to place restrictions on ~~[the]~~ smoking ~~[of tobacco]~~ in public places
31 to protect human health and safety.

32 2. The quality of air is declared to be affected with the public
33 interest and NRS ~~[202.2491, 202.24915]~~ **202.2483** and 202.2492 are
34 enacted in the exercise of the police power of this state to protect the
35 health, peace, safety and general welfare of its people.

36 3. ~~[Health authorities, police officers of cities or towns, sheriffs~~
37 ~~and their deputies and other peace officers of this state shall, within~~
38 ~~their respective jurisdictions, enforce the provisions of NRS~~
39 ~~202.2491, 202.24915 and 202.2492.]~~ Police officers of cities or
40 towns, sheriffs and their deputies and other peace officers of this
41 state shall, within their respective jurisdictions, enforce the
42 provisions of NRS 202.2493, 202.24935 and 202.2494.

43 4. ~~[Except as otherwise provided in subsection 5, an]~~ **An**
44 agency, board, commission or political subdivision of this state,
45 including, without limitation, any agency, board, commission or



governing body of a local government, ~~[shall not]~~ *may* impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display or promotion of tobacco , ~~[or]~~ products made or derived from tobacco *and other tobacco products* than are provided by NRS ~~[202.2491, 202.24915,]~~ 202.2483, 202.2492, 202.2493, 202.24935 and 202.2494.

5. A school district may, with respect to the property, buildings, facilities and vehicles of the school district, *and the Nevada System of Higher Education may, with respect to the property, buildings, facilities and vehicles of the System,* impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display or promotion of tobacco , ~~[or]~~ products made or derived from tobacco *and other tobacco products* than are provided by NRS ~~[202.2491, 202.24915,]~~ 202.2483, 202.2492, 202.2493, 202.24935 and 202.2494.

Sec. 4. NRS 202.2492 is hereby amended to read as follows:

202.2492 1. A person who violates NRS ~~[202.2491 or 202.24915]~~ 202.2483 is guilty of a misdemeanor.

2. In each health district, the district health officer shall, and, for areas of this state which are not within a health district, the Chief Medical Officer shall, designate one or more of his or her employees to prepare, sign and serve written citations on persons accused of violating NRS ~~[202.2491 or 202.24915,]~~ 202.2483. Such an employee:

(a) May exercise the authority to prepare, sign and serve those citations only within the geographical jurisdiction of the district or Chief Medical Officer by which he or she is employed; and

(b) Shall comply with the provisions of NRS 171.1773.

Sec. 5. NRS 202.24925 is hereby amended to read as follows:

202.24925 1. In addition to any criminal penalty, a person who violates NRS ~~[202.2491 or 202.24915]~~ 202.2483 is liable for a civil penalty of \$100 for each violation.

2. A health authority within whose jurisdiction a violation of NRS ~~[202.2491 or 202.24915]~~ 202.2483 is committed shall:

(a) Collect the civil penalty, and may commence a civil proceeding for that purpose; and

(b) Deposit any money collected pursuant to this section with the State Treasurer for credit to the Account for Health Education for Minors, which is hereby created in the State General Fund.

3. The Superintendent of Public Instruction:

(a) Shall administer the Account for Health Education for Minors; and

(b) May, with the advice of the Chief Medical Officer, expend money in the Account only for programs of education for minors regarding human health.



4. The interest and income earned on the money in the Account for Health Education for Minors, after deducting any applicable charges, must be credited to the Account.

5. All claims against the Account for Health Education for Minors must be paid as other claims against the State are paid.

Sec. 6. NRS 202.2493 is hereby amended to read as follows:

202.2493 1. A person shall not sell, distribute or offer to sell cigarettes, any smokeless product made or derived from tobacco or any ~~alternative nicotine~~ *other tobacco* product in any form other than in an unopened package which originated with the manufacturer and bears any health warning required by federal law. A person who violates this subsection shall be punished by a fine of \$100 and a civil penalty of \$100. As used in this subsection, "smokeless product made or derived from tobacco" means any product that consists of cut, ground, powdered or leaf tobacco and is intended to be placed in the oral or nasal cavity.

2. Except as otherwise provided in subsections 3, 4 and 5, it is unlawful for any person to sell, distribute or offer to sell cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, ~~vapor products or alternative nicotine~~ *or other tobacco* products to any ~~child~~ *person* under the age of ~~18~~ *21* years. A person who violates this subsection shall be punished by a fine of not more than \$500 and a civil penalty of not more than \$500.

3. A person shall be deemed to be in compliance with the provisions of subsection 2 if, before the person sells, distributes or offers to sell to another, cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, ~~vapor products or alternative nicotine~~ *or other tobacco* products, the person:

(a) Demands that the other person present a valid driver's license, permanent resident card, tribal identification card or other written or documentary evidence which shows that the other person is ~~18~~ *21* years of age or older;

(b) Is presented a valid driver's license, permanent resident card, tribal identification card or other written or documentary evidence which shows that the other person is ~~18~~ *21* years of age or older; and

(c) Reasonably relies upon the driver's license, permanent resident card, tribal identification card or written or documentary evidence presented by the other person.

4. The employer of a ~~child~~ *person* who is under ~~18~~ *21* years of age may, for the purpose of allowing the ~~child~~ *person* to handle or transport tobacco, products made or derived from tobacco, ~~vapor products or alternative nicotine~~ *or other tobacco* products, in the course of the ~~child's~~ *person's* lawful employment, provide



tobacco, products made or derived from tobacco, ~~[vapor products or alternative nicotine]~~ or other tobacco products to the ~~[child.]~~ person.

5. With respect to any sale made by an employee of a retail establishment, the owner of the retail establishment shall be deemed to be in compliance with the provisions of subsection 2 if the owner:

(a) Had no actual knowledge of the sale; and

(b) Establishes and carries out a continuing program of training for employees which is reasonably designed to prevent violations of subsection 2.

6. The owner of a retail establishment shall, whenever any product made or derived from tobacco ~~[, vapor product or alternative nicotine]~~ or other tobacco product is being sold or offered for sale at the establishment, display prominently at the point of sale:

(a) A notice indicating that:

(1) The sale of cigarettes ~~[,]~~ and other tobacco products ~~[, vapor products and alternative nicotine products]~~ to ~~[minors]~~ persons under the age of 21 is prohibited by law; and

(2) The retailer may ask for proof of age to comply with this prohibition; and

(b) At least one sign that complies with the requirements of NRS 442.340.

➡ A person who violates this subsection shall be punished by a fine of not more than \$100.

7. It is unlawful for any retailer to sell cigarettes through the use of any type of display:

(a) Which contains cigarettes and is located in any area to which customers are allowed access; and

(b) From which cigarettes are readily accessible to a customer without the assistance of the retailer,

➡ except a vending machine used in compliance with NRS 202.2494. A person who violates this subsection shall be punished by a fine of not more than \$500.

8. Any money recovered pursuant to this section as a civil penalty must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2494.

Sec. 7. NRS 202.24935 is hereby amended to read as follows:

202.24935 1. It is unlawful for a person to knowingly sell or distribute cigarettes, cigarette paper, tobacco of any description or products made or derived from tobacco to a ~~[child]~~ person under the age of ~~[18]~~ 21 years through the use of the Internet.

2. A person who violates the provisions of subsection 1 shall be punished by a fine of not more than \$500 and a civil penalty of



1 not more than \$500. Any money recovered pursuant to this section
2 as a civil penalty must be deposited in the same manner as money is
3 deposited pursuant to subsection 8 of NRS 202.2493.

4 3. Every person who sells or distributes cigarettes, cigarette
5 paper, tobacco of any description or products made or derived from
6 tobacco through the use of the Internet shall adopt a policy to
7 prevent a ~~{child}~~ **person** under the age of ~~{18}~~ **21** years from
8 obtaining cigarettes, cigarette paper, tobacco of any description or
9 products made or derived from tobacco from the person through the
10 use of the Internet. The policy must include, without limitation, a
11 method for ensuring that the person who delivers such items obtains
12 the signature of a person who is over the age of ~~{18}~~ **21** years when
13 delivering the items, that the packaging or wrapping of the items
14 when they are shipped is clearly marked with the word "cigarettes"
15 or the words "tobacco products," and that the person complies with
16 the provisions of 15 U.S.C. § 376. A person who fails to adopt a
17 policy pursuant to this subsection is guilty of a misdemeanor and
18 shall be punished by a fine of not more than \$500.

19 **Sec. 8.** NRS 202.2496 is hereby amended to read as follows:

20 202.2496 1. As necessary to comply with any applicable
21 federal law, the Attorney General shall conduct random,
22 unannounced inspections at locations where tobacco, products made
23 or derived from tobacco ~~[, vapor products and alternative nicotine]~~
24 **and other tobacco** products are sold, distributed or offered for sale
25 to inspect for and enforce compliance with NRS 202.2493 and
26 202.2494, as applicable. For assistance in conducting any such
27 inspection, the Attorney General may contract with:

28 (a) Any sheriff's department;
29 (b) Any police department; or
30 (c) Any other person who will, in the opinion of the Attorney
31 General, perform the inspection in a fair and impartial manner.

32 2. If the inspector desires to enlist the assistance of a child
33 under the age of 18 for such an inspection, the inspector shall obtain
34 the written consent of the child's parent for such assistance.

35 3. A ~~{child}~~ **person** assisting in an inspection pursuant to this
36 section shall, if questioned about his or her age, state his or her true
37 age and that he or she is under ~~{18}~~ **21** years of age.

38 4. If a ~~{child}~~ **person** is assisting in an inspection pursuant to
39 this section, the person supervising the inspection shall:

40 (a) Refrain from altering or attempting to alter the ~~{child's}~~
41 **person's** appearance to make the ~~{child}~~ **person** appear to be ~~{18}~~ **21**
42 years of age or older.

43 (b) Photograph the ~~{child}~~ **person** immediately before the
44 inspection is to occur and retain any photographs taken of the ~~{child}~~
45 **person** pursuant to this paragraph.



5. The person supervising an inspection using the assistance of a ~~[child]~~ *person* shall, within a reasonable time after the inspection is completed:

(a) Inform a representative of the business establishment from which the ~~[child]~~ *person* attempted to purchase tobacco, products made or derived from tobacco ~~[, vapor products or alternative nicotine]~~ *or other tobacco* products that an inspection has been performed and the results of that inspection.

(b) Prepare a report regarding the inspection. The report must include the following information:

(1) The name of the person who supervised the inspection and that person's position;

(2) The age and date of birth of the ~~[child]~~ *person* who assisted in the inspection;

(3) The name and position of the person from whom the ~~[child]~~ *person* attempted to purchase tobacco, products made or derived from tobacco ~~[, vapor products or alternative nicotine]~~ *or other tobacco* products;

(4) The name and address of the establishment at which the ~~[child]~~ *person* attempted to purchase tobacco, products made or derived from tobacco ~~[, vapor products or alternative nicotine]~~ *or other tobacco* products;

(5) The date and time of the inspection; and

(6) The result of the inspection, including whether the inspection resulted in the sale, distribution or offering for sale of tobacco, products made or derived from tobacco ~~[, vapor products or alternative nicotine]~~ *or other tobacco* products to the ~~[child.]~~ *person.*

6. No civil or criminal action based upon an alleged violation of NRS 202.2493 or 202.2494 may be brought as a result of an inspection for compliance in which the assistance of a ~~[child]~~ *person* has been enlisted unless the inspection has been conducted in accordance with the provisions of this section.

Sec. 9. NRS 370.0318 is hereby amended to read as follows:

370.0318 "Other tobacco product" means any tobacco of any description or any product made from tobacco, other than cigarettes, ~~[alternative nicotine products and vapor products.]~~ *or that contains nicotine, which is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, without limitation, a cigar, pipe tobacco, chewing tobacco, snuff or snus. The term:*

1. Includes an electronic smoking device and any component or accessory used in the consumption of a tobacco product, such as a filter, a pipe, rolling papers and any substance used in an



electronic smoking device, whether or not the substance contains nicotine. As used in this subsection, "electronic smoking device":

(a) Means any product containing or delivering nicotine, a product made or derived from tobacco or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor or aerosol from the product.

(b) Includes any component part of a product described in paragraph (a), regardless of whether the component part is sold separately.

(c) Does not include any product regulated by the United States Food and Drug Administration pursuant to Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

2. Does not include drugs, devices or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

Sec. 10. NRS 370.323 is hereby amended to read as follows:

370.323 1. A person shall not cause the mailing or shipment of cigarettes in connection with an order for a delivery sale unless the person accepting the order first:

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

(1) Reliable confirmation that the purchaser is at least ~~18~~ 21 years of age; and

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

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

(II) Confirms that the prospective purchaser understands that signing another person's name to such certification is illegal and that sales of cigarettes to ~~children~~ persons under ~~18~~ 21 years of age are illegal under the laws of this State; and

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

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

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



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

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

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

(a) A prominent and clearly legible statement that the sale of cigarettes to ~~children~~ **persons** under ~~18~~ **21** years of age is illegal;

(b) A prominent and clearly legible statement that the sale of cigarettes is restricted to persons who provide verifiable proof of age in accordance with this section; and

(c) A prominent and clearly legible statement that sales of cigarettes are taxable under this chapter, and an explanation of how the tax has been or is to be paid with respect to the delivery sale.

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

Sec. 11. NRS 370.440 is hereby amended to read as follows:

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

1. ~~["Alternative nicotine product" has the meaning ascribed to it in NRS 370.003.~~

~~—2.]~~ "Other tobacco product" has the meaning ascribed to it in NRS 370.0318.

~~[3.]~~ 2. "Retail dealer" means any person who is engaged in selling other tobacco products.

~~[4.]~~ 3. "Sale" means any transfer, exchange, barter, gift, offer for sale, or distribution for consideration of other tobacco products.

~~[5.]~~ 4. "Ultimate consumer" means a person who purchases one or more other tobacco products for his or her household or personal use and not for resale.

~~[6.]~~ 5. "Wholesale dealer" means any person who:

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

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

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

~~[7.]~~ 6. "Wholesale price" means:



(a) Except as otherwise provided in paragraph (b), the established price for which other tobacco products are sold to a wholesale dealer before any discount or other reduction is made.

(b) For other tobacco products sold to a retail dealer or an ultimate consumer by a wholesale dealer described in paragraph (b) of subsection ~~6.~~ 5, the established price for which the other tobacco product is sold to the retail dealer or ultimate consumer before any discount or other reduction is made.

Sec. 12. NRS 202.2491, 202.24915, 370.003 and 370.054 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

202.2491 Smoking tobacco: Unlawful in certain public places; posting signs; designation of areas for smoking.

202.24915 Smoking tobacco: Allowed under certain circumstances in certain stores that are principally devoted to sale of food for human consumption off premises.

370.003 “Alternative nicotine product” defined.

370.054 “Vapor product” defined.

