

EMERGENCY REQUEST OF ASSEMBLY MINORITY LEADER

ASSEMBLY BILL NO. 544—ASSEMBLYMEN WHEELER,
KRAMER, HAMBRICK; AND HARDY

JUNE 2, 2019

Referred to Committee on Taxation

SUMMARY—Revises provisions governing the age at which certain tobacco and vapor products may be purchased. (BDR 32-1294)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 pertaining to the sale or distribution of cigarettes, cigarette paper, tobacco, products made or derived from tobacco, vapor products and alternative nicotine products to certain persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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) For the purposes of this prohibition, existing law defines "vapor products" to include only products containing nicotine that produce a vapor from nicotine in a solution or other form. (NRS 202.2485) **Section 2** of this bill extends this definition to include products containing other substances, the use or inhalation of which simulates smoking, and certain associated devices and components. **Sections 3 and 9** of this bill raise the age of persons to whom such items may be sold, distributed or offered from 18 years of age to 21 years of age, with the exception of persons who are active duty servicemembers and who are at least 18 years of age. **Sections 1 and 4-8** of this bill make conforming changes relating to raising the age of persons to whom such items may be sold.

Existing law prohibits a person from knowingly selling or distributing cigarettes, cigarette paper, tobacco of any description or products made or derived from tobacco to a child under the age of 18 years through the use of the Internet. Existing law further requires a person who sells or distributes such products through the use of the Internet to adopt a policy to prevent a child under the age of



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18 years from obtaining such products from the person through the use of the Internet, which policy is required to include: (1) a method to ensure that the person who delivers the products to obtain the signature of a person who is over the age of 18 years; (2) a requirement that the packaging or wrapping of the items when they are shipped is clearly marked with the words "cigarettes" or the words "tobacco products"; and (3) a requirement to comply with certain federal law relating to the remote sale of cigarettes and certain tobacco products. (NRS 202.24935) **Sections 5 and 6** of this bill remove the requirement for such a policy. Instead, **sections 5 and 6** require a person who sells or distributes cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products through a computer network, telephonic network or other electronic network to: (1) ensure that the packaging in which the items are shipped is labeled "cigarettes" or "tobacco products"; and (2) use certain age verification procedures.

Section 10 of this bill provides that this bill becomes effective on July 1, 2021.

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

Section 1. 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 21 years of age or is an active duty servicemember who* is at least 18 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, *except for active duty servicemembers who are at least 18 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.



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(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, *except active duty servicemembers who are at least 18 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.

4. As used in this section "active duty servicemember" has the meaning ascribed to it in NRS 202.2485.

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. *"Active duty servicemember" means a person who is on full-time duty status in the Armed Forces of the United States, including members of the National Guard and Reserve on active duty orders.*

2. "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.

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

~~3~~ 4. "Health authority" means the district health officer in a district, or his or her designee, or, if none, the Chief Medical Officer, or his or her designee.



~~[4-]~~ 5. "Product made or derived from tobacco" 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.

~~[5-]~~ 6. "Vapor product":

(a) Means any noncombustible product containing nicotine *or any other substance* that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of the shape or size thereof, that can be used to produce vapor from nicotine *or any other substance* in a solution or other form ~~[]~~, *the use of which simulates smoking.*

(b) Includes, without limitation:

(1) An electronic cigarette, cigar, cigarillo, ~~[or]~~ pipe, *hookah or vape pen* or a similar product or device; and

(2) ~~[A]~~ *The components of such a product or device, whether or not sold separately, including, without limitation, vapor ~~[cartridge]~~ cartridges or other container of nicotine or any other substance in a solution or other form that is intended to be used with or in an electronic cigarette, cigar, cigarillo, ~~[or]~~ pipe, hookah or vape pen, or a similar product or device ~~[]~~, atomizers, cartomizers, digital displays, clearomizers, tank systems, flavors, programmable software or other similar products or devices. As used in this subparagraph, "component" means a product or device intended primarily or exclusively to be used with or in an electronic cigarette, cigar, cigarillo, pipe, hookah or vape pen, or a similar product or device.*

(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.

Sec. 3. 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 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 products to any ~~[child]~~ *person* under the age of ~~[18]~~ *21* years ~~[]~~,



1 *except an active duty servicemember who is at least 18 years of*
2 *age.* A person who violates this subsection shall be punished by a
3 fine of not more than \$500 and a civil penalty of not more than
4 \$500.

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

10 (a) Demands that the other person present a valid driver's
11 license, permanent resident card, tribal identification card or other
12 written or documentary evidence which shows that the other person
13 is ~~18~~ 21 years of age or older ~~;~~ *or is an active duty*
14 *servicemember who is at least 18 years of age;*

15 (b) Is presented a valid driver's license, permanent resident card,
16 tribal identification card or other written or documentary evidence
17 which shows that the other person is ~~18~~ 21 years of age or older ~~;~~
18 *or is an active duty servicemember who is at least 18 years of age;*
19 and

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

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

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

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

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

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

41 (a) A notice indicating that:

42 (1) The sale of cigarettes, other tobacco products, vapor
43 products and alternative nicotine products to ~~minors~~ *persons*
44 *under 21 years of age, except active duty servicemembers who are*
45 *at least 18 years of age,* 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.

9. As used in this section, "active duty servicemember" has the meaning ascribed to it in NRS 202.2485.

Sec. 4. 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 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 products to any child under the age of 18 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 products, the person:~~



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

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

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

11 ~~—4. The employer of a child who is under 18 years of age may,~~
12 ~~for the purpose of allowing the child to handle or transport tobacco,~~
13 ~~products made or derived from tobacco, vapor products or~~
14 ~~alternative nicotine products, in the course of the child's lawful~~
15 ~~employment, provide tobacco, products made or derived from~~
16 ~~tobacco, vapor products or alternative nicotine products to the child.~~

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

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

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

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

28 (a) A notice indicating that:

29 (1) The sale of cigarettes, other tobacco products, vapor
30 products and alternative nicotine products to ~~[minors]~~ *persons*
31 *under 21 years of age, except active duty servicemembers who are*
32 *at least 18 years of age,* is prohibited by law; and

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

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

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

39 ~~[7.]~~ **3.** It is unlawful for any retailer to sell cigarettes through
40 the use of any type of display:

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

43 (b) From which cigarettes are readily accessible to a customer
44 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. 5. 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 , *vapor products or alternative nicotine products* to a ~~{child}~~ *person* under the age of ~~{18}~~ *21* years , *except an active duty servicemember who is at least 18 years of age*, through the use of ~~{the Internet.}~~ *a computer network, telephonic network or other electronic network.*

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

3. Every person who sells or distributes cigarettes, cigarette paper, tobacco of any description , ~~{or}~~ products made or derived from tobacco , *vapor products or alternative nicotine products* through the use of ~~{the Internet}~~ *a computer network, telephonic network or electronic network* shall ~~{adopt a policy to prevent a child under the age of 18 years from obtaining cigarettes, cigarette paper, tobacco of any description or products made or derived from tobacco from the person through the use of the Internet. The policy must include, without limitation, a method for ensuring} :~~

(a) *Ensure* that ~~{the person who delivers such items obtains the signature of a person who is over the age of 18 years when delivering the items, that}~~ the packaging or wrapping of the items when they are shipped is clearly marked with the word "cigarettes" or , *if the items being shipped are not cigarettes*, the words "tobacco products ." ~~{, and that the person complies with the provisions of 15 U.S.C. § 376. A person who fails to adopt a policy pursuant to this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.}~~

(b) *Perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the person during the ordering process that establishes that the person is at least 21 years of age, or is an active duty servicemember who is at least 18 years of age, and use a method of mail, shipping or delivery that requires the signature of a person who is at least 21*



years of age or is an active duty servicemember who is at least 18 years of age before the items are released to the purchaser, unless the person:

(1) Requires the customer to:

(I) Create an online profile or account with personal information, including, without limitation, a name, address, social security number and a valid phone number, that is verified through publicly available records; or

(II) Upload a copy of a government-issued identification card that includes a photograph of the customer; and

(2) Sends the package containing the items to the name and address of the customer who ordered the items.

Sec. 6. 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 , ~~for~~ products made or derived from tobacco *vapor products or alternative nicotine products* to a ~~child~~ person under the age of ~~18~~ 21 years , *except an active duty servicemember who is at least 18 years of age*, through the use of ~~the Internet.~~ *a computer network, telephonic network or other electronic network.*

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 not more than \$500. Any money recovered pursuant to this section as a civil penalty must be deposited in the same manner as money is deposited pursuant to subsection ~~8~~ 9 of ~~NRS 202.2493.~~ *section 1 of Senate Bill No. 263 of this session.*

3. Every person who sells or distributes cigarettes, cigarette paper, tobacco of any description , ~~for~~ products made or derived from tobacco , *vapor products or alternative nicotine products* through the use of ~~the Internet~~ *a computer network, telephonic network or electronic network* shall ~~adopt a policy to prevent a child under the age of 18 years from obtaining cigarettes, cigarette paper, tobacco of any description or products made or derived from tobacco from the person through the use of the Internet. The policy must include, without limitation, a method for ensuring~~ :

(a) *Ensure* that ~~the person who delivers such items obtains the signature of a person who is over the age of 18 years when delivering the items, that~~ the packaging or wrapping of the items when they are shipped is clearly marked with the word “cigarettes” or , *if the items being shipped are not cigarettes*, the words “tobacco products .” ~~and that the person complies with the provisions of 15 U.S.C. § 376. A person who fails to adopt a policy pursuant to this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.~~



(b) Perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the person during the ordering process that establishes that the person is at least 21 years of age, or is an active duty servicemember who is at least 18 years of age, and use a method of mail, shipping or delivery that requires the signature of a person who is at least 21 years of age or is an active duty servicemember who is at least 18 years of age before the items are released to the purchaser, unless the person:

(1) Requires the customer to:

(I) Create an online profile or account with personal information, including, without limitation, a name, address, social security number and a valid phone number, that is verified through publicly available records; or

(II) Upload a copy of a government-issued identification card that includes a photograph of the customer; and

(2) Sends the package containing the items to the name and address of the customer who ordered the items.

Sec. 7. NRS 202.2496 is hereby amended to read as follows:

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

(a) Any sheriff's department;

(b) Any police department; or

(c) Any other person who will, in the opinion of the Attorney General, perform the inspection in a fair and impartial manner.

2. If the inspector desires to enlist the assistance of a ~~child~~ *person* under the age of ~~18~~ *21* for such an inspection, the inspector shall obtain the written consent of the child's parent for such assistance.

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

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

(a) Refrain from altering or attempting to alter the ~~child's~~ *person's* appearance to make the ~~child~~ *person* appear to be ~~18 years of age or older.~~ *of sufficient age to purchase tobacco,*



1 *products made or derived from tobacco, vapor products and*
2 *alternative nicotine products.*

3 (b) Photograph the ~~child~~ *person* immediately before the
4 inspection is to occur and retain any photographs taken of the ~~child~~
5 *person* pursuant to this paragraph.

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

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

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

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

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

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

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

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

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

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

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

39 202.2496 1. As necessary to comply with any applicable
40 federal law, the Attorney General shall conduct random,
41 unannounced inspections at locations where tobacco, products made
42 or derived from tobacco, vapor products and alternative nicotine
43 products are sold, distributed or offered for sale to inspect for and
44 enforce compliance with NRS 202.2493 and 202.2494 ~~and~~ *and*
45 *section 1 of Senate Bill No. 263 of this session*, as applicable. For



1 assistance in conducting any such inspection, the Attorney General
2 may contract with:

- 3 (a) Any sheriff's department;
- 4 (b) Any police department; or
- 5 (c) Any other person who will, in the opinion of the Attorney
6 General, perform the inspection in a fair and impartial manner.

7 2. If the inspector desires to enlist the assistance of a ~~[child]~~
8 *person* under the age of ~~[+8]~~ *21* for such an inspection, the inspector
9 shall obtain the written consent of the child's parent for such
10 assistance.

11 3. A ~~[child]~~ *person* assisting in an inspection pursuant to this
12 section shall, if questioned about his or her age, state his or her true
13 age. ~~[and that he or she is under 18 years of age.]~~

14 4. If a ~~[child]~~ *person* is assisting in an inspection pursuant to
15 this section, the person supervising the inspection shall:

16 (a) Refrain from altering or attempting to alter the ~~[child's]~~
17 *person's* appearance to make the ~~[child]~~ *person* appear to be ~~[+8]~~
18 ~~years of age or older.]~~ *of sufficient age to purchase tobacco,*
19 *products made or derived from tobacco, vapor products and*
20 *alternative nicotine products.*

21 (b) Photograph the ~~[child]~~ *person* immediately before the
22 inspection is to occur and retain any photographs taken of the ~~[child]~~
23 *person* pursuant to this paragraph.

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

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

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

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

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

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

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

6. No civil or criminal action based upon an alleged violation of NRS 202.2493 or 202.2494 **or section 1 of Senate Bill No. 263 of this session** 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. Section 1 of Senate Bill No. 263 of this session is hereby amended to read as follows:

Section 1. Chapter 370 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections 2 and 3, a person shall not sell, distribute or offer to sell cigarettes, cigarette paper or other tobacco products to any ~~child~~ **person** under the age of ~~18~~ **21** years ~~;~~ **, except an active duty servicemember who is at least 18 years of age.**

2. A person shall be deemed to be in compliance with the provisions of subsection 1 if, before the person sells, distributes or offers to sell to another, cigarettes, cigarette paper 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 ~~;~~ **, or is an active duty servicemember who is at least 18 years of age;**

(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 ~~;~~ **, or is an active duty servicemember who is at least 18 years of age;** and

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

3. 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 cigarettes, cigarette paper or other tobacco products, in the course of the ~~child's~~ **person's** lawful employment, provide cigarettes, cigarette paper or other tobacco products to the ~~child~~ **person**.

4. A person who violates this section is liable for a civil penalty of:



- (a) For the first violation within a 24-month period, \$100.
- (b) For the second violation within a 24-month period, \$250.
- (c) For the third and any subsequent violation within a 24-month period, \$500.
5. If an employee or agent of a licensee has violated this section:
- (a) For the first and second violation within a 24-month period at the same premises, the licensee must be issued a warning.
- (b) For the third violation within a 24-month period at the same premises, the licensee is liable for a civil penalty of \$500.
- (c) For the fourth violation within a 24-month period at the same premises, the licensee is liable for a civil penalty of \$1,250.
- (d) For the fifth and any subsequent violation within a 24-month period at the same premises, the licensee is liable for a civil penalty of \$2,500.
6. A peace officer or any person performing an inspection pursuant to NRS 202.2496 may issue a notice of infraction for a violation of this section. A notice of infraction must be issued on a form prescribed by the Department and must contain:
- (a) The location at which the violation occurred;
- (b) The date and time of the violation;
- (c) The name of the establishment at which the violation occurred;
- (d) The signature of the person who issued the notice of infraction;
- (e) A copy of the section which allegedly is being violated;
- (f) Information advising the person to whom the notice of infraction is issued of the manner in which, and the time within which, the person must submit an answer to the notice of infraction; and
- (g) Such other pertinent information as the peace officer or person performing the inspection pursuant to NRS 202.2496 determines is necessary.
7. A notice of infraction issued pursuant to subsection 6 or a facsimile thereof must be filed with the Department and retained by the Department and is deemed to be a public record of matters which are observed pursuant to a duty imposed by law and is prima facie evidence of the facts alleged in the notice.



8. A person to whom a notice of infraction is issued pursuant to subsection 6 shall respond to the notice by:

(a) Admitting the violation stated in the notice and paying to the Department the applicable civil penalty set forth in subsection 4 or 5.

(b) Denying liability for the infraction by notifying the Department and requesting a hearing in the manner indicated on the notice of infraction. Upon receipt of a request for a hearing pursuant to this paragraph, the Department shall provide the person submitting the request an opportunity for a hearing pursuant to chapter 233B of NRS.

9. Any money collected by the Department from a civil penalty pursuant to this section must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2493 and 202.2494.

10. As used in this section ~~["licensee"]~~:

(a) *"Active duty servicemember" has the meaning ascribed to it in NRS 202.2485.*

(b) *"Licensee"* means a person who holds a license issued by the Department pursuant to this chapter.

Sec. 10. 1. Sections 1 and 2 of this act become effective on July 1, 2021.

2. Sections 4, 6, 8 and 9 of this act become effective on July 1, 2021, if and only if Senate Bill No. 263 of this session becomes effective.

3. Sections 3, 5 and 7 of this act become effective on July 1, 2021, if and only if Senate Bill No. 263 of this session does not become effective.

