

Amendment No. 1036

Senate Amendment to Senate Bill No. 263 First Reprint	(BDR 32-700)
Proposed by: Senate Committee on Finance	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 263 R1 (§ 1.7).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JFD/BJF



Date: 5/30/2019

S.B. No. 263—Revises provisions relating to the regulation and taxation of certain vapor products, alternative nicotine products and tobacco products. (BDR 32-700)



SENATE BILL NO. 263—SENATORS RATTI,
GANSERT, DONDERO LOOP AND PARKS

MARCH 12, 2019

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions relating to the regulation and taxation of certain vapor products, alternative nicotine products and tobacco products. (BDR 32-700)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public health; requiring that certain vapor products and alternative nicotine products be taxed and regulated as other tobacco products; revising provisions related to the areas in which smoking is prohibited; 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 persons under the age of 18 years; providing penalties; making ~~an~~ appropriation; appropriations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Department of Taxation to regulate and collect a tax on cigarettes and other tobacco products. (Chapter 370 of NRS) **Sections 1.7 and 2** of this bill provide that certain alternative nicotine products and vapor products, including electronic cigarettes, cigars, cigarillos, pipes, hookahs, vape pens and similar products or devices and their components, are regulated and taxed as other tobacco products. Because this bill regulates and taxes such vapor products as other tobacco products, wholesale and retail dealers of those vapor products would be required to obtain a license from the Department and wholesale dealers of those vapor products would be required to pay a tax of 30 percent of the wholesale price of those products. (NRS 370.445, 370.450)

The Nevada Clean Indoor Air Act 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 7.1** of this bill defines “smoking” and expressly applies the Nevada Clean Indoor Air Act to the use of an electronic smoking device.

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

21 other form. (NRS 202.2485) **Section 7.3** of this bill extends this definition to include products
 22 containing other substances, the use or inhalation of which simulates smoking, and certain
 23 associated devices and components.

24 Under existing law, a person who sells, distributes or offers to sell cigarettes, cigarette
 25 paper, tobacco of any description, products made or derived from tobacco, vapor products or
 26 alternative nicotine products to a person under the age of 18 years is punished by a criminal
 27 fine of not more than \$500 and a civil penalty of not more than \$500. (NRS 202.2493)
 28 **Sections 1 and 7.5** of this bill: (1) remove the criminal penalties for violating this prohibition
 29 and, instead, authorize the Department to impose a civil penalty on a person who sells,
 30 distributes or offers to sell cigarettes, cigarette paper, tobacco of any description, products
 31 made or derived from tobacco, vapor products and alternative nicotine products to a person
 32 under the age of 18 years; (2) revise the amount of such civil penalties; (3) authorize the
 33 imposition of penalties on a licensee whose employee or agent violates this prohibition; and
 34 (4) establishes the procedure for the issuance of a notice of infraction to a person who violates
 35 this prohibition and the requesting of a hearing before the Department. **Sections 1.3, 7.4 and**
 36 **7.9** make conforming changes related to the removal of criminal penalties and the
 37 authorization for the Department to impose civil penalties.

38 Existing law prohibits a person from knowingly selling or distributing cigarettes, cigarette
 39 paper, tobacco of any description or products made or derived from tobacco to a child under
 40 the age of 18 years through the use of the Internet. Existing law further requires a person who
 41 sells or distributes such products through the use of the Internet to adopt a policy to prevent a
 42 child under the age of 18 years from obtaining such products from the person through the use
 43 of the Internet, which policy is required to include: (1) a method to ensure that the person who
 44 delivers the products to obtain the signature of a person who is over the age of 18 years; (2) a
 45 requirement that the packaging or wrapping of the items when they are shipped is clearly
 46 marked with the words "cigarettes" or the words "tobacco products;" and (3) a requirement to
 47 comply with certain federal law relating to the remote sale of cigarettes and certain tobacco
 48 products. (NRS 202.24935) **Section 7.7** of this bill removes the requirement for such a policy.
 49 Instead, **section 7.7** requires a person who sells or distributes cigarettes, cigarette paper,
 50 tobacco of any description, products made or derived from tobacco, vapor products or
 51 alternative nicotine products through a computer network, telephonic network or other
 52 electronic network to: (1) ensure that the packaging in which the items are shipped is labeled
 53 "cigarettes" or "tobacco products;" and (2) use certain age verification procedures.

54 **Section 14.5** of this bill makes an appropriation to the Department of Health and Human
 55 Services for programs to control and prevent the use of tobacco in the amount of \$2.5 million
 56 for Fiscal Year 2019-2020 and \$2.5 million for Fiscal Year 2020-2021. **Section 14.7 of this**
 57 **bill makes an appropriation to the Department of Taxation to carry out the duties**
 58 **imposed by this bill on the Department of Taxation.**

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

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

3 *1. Except as otherwise provided in subsections 2 and 3, a person shall not*
 4 *sell, distribute or offer to sell cigarettes, cigarette paper or other tobacco products*
 5 *to any child under the age of 18 years.*

6 *2. A person shall be deemed to be in compliance with the provisions of*
 7 *subsection 1 if, before the person sells, distributes or offers to sell to another,*
 8 *cigarettes, cigarette paper or other tobacco products, the person:*

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

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

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

7 3. The employer of a child who is under 18 years of age may, for the
8 purpose of allowing the child to handle or transport cigarettes, cigarette paper or
9 other tobacco products, in the course of the child's lawful employment, provide
10 cigarettes, cigarette paper or other tobacco products to the child.

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

12 (a) For the first violation within a 24-month period, \$100.

13 (b) For the second violation within a 24-month period, \$250.

14 (c) For the third and any subsequent violation within a 24-month period,
15 \$500.

16 5. If an employee or agent of a licensee has violated this section:

17 (a) For the first and second violation within a 24-month period at the same
18 premises, the licensee must be issued a warning.

19 (b) For the third violation within a 24-month period at the same premises,
20 the licensee is liable for a civil penalty of \$500.

21 (c) For the fourth violation within a 24-month period at the same premises,
22 the licensee is liable for a civil penalty of \$1,250.

23 (d) For the fifth and any subsequent violation within a 24-month period at
24 the same premises, the licensee is liable for a civil penalty of \$2,500.

25 6. A peace officer or any person performing an inspection pursuant to NRS
26 202.2496 may issue a notice of infraction for a violation of this section. A notice
27 of infraction must be issued on a form prescribed by the Department and must
28 contain:

29 (a) The location at which the violation occurred;

30 (b) The date and time of the violation;

31 (c) The name of the establishment at which the violation occurred;

32 (d) The signature of the person who issued the notice of infraction;

33 (e) A copy of the section which allegedly is being violated;

34 (f) Information advising the person to whom the notice of infraction is issued
35 of the manner in which, and the time within which, the person must submit an
36 answer to the notice of infraction; and

37 (g) Such other pertinent information as the peace officer or person
38 performing the inspection pursuant to NRS 202.2496 determines is necessary.

39 7. A notice of infraction issued pursuant to subsection 6 or a facsimile
40 thereof must be filed with the Department and retained by the Department and is
41 deemed to be a public record of matters which are observed pursuant to a duty
42 imposed by law and is prima facie evidence of the facts alleged in the notice.

43 8. A person to whom a notice of infraction is issued pursuant to subsection
44 6 shall respond to the notice by:

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

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

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

4 **10. As used in this section, “licensee” means a person who holds a license**
5 **issued by the Department pursuant to this chapter.**

6 **Sec. 1.3.** NRS 370.001 is hereby amended to read as follows:

7 370.001 As used in NRS 370.001 to 370.430, inclusive, and 370.505 to
8 370.530, inclusive, **and section 1 of this act**, unless the context otherwise requires,
9 the words and terms defined in NRS 370.003 to 370.055, inclusive, have the
10 meanings ascribed to them in those sections.

11 **Sec. 1.7.** NRS 370.0318 is hereby amended to read as follows:

12 370.0318 “Other tobacco product” means any tobacco of any description ~~[or]~~
13 **, any vapor product, any alternative nicotine product or** any product made from
14 tobacco, other than cigarettes. ~~[, alternative nicotine products and vapor products.]~~

15 **Sec. 2.** NRS 370.054 is hereby amended to read as follows:

16 370.054 “Vapor product”:

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

22 2. Includes, without limitation:

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

25 (b) ~~[A]~~ **The components of such a product or device, whether or not sold**
26 **separately, including, without limitation,** vapor ~~[eartridge]~~ **cartridges** or other
27 container of nicotine **or any other substance** in a solution or other form that is
28 intended to be used with or in an electronic cigarette, cigar, cigarillo, ~~[,]~~ pipe,
29 **hookah, or vape pen**, or a similar product or device ~~[,]~~ **atomizers, cartomizers,**
30 **digital displays, clearomizers, tank systems, flavors, programmable software or**
31 **other similar products or devices. As used in this paragraph, “component” means**
32 **a product intended primarily or exclusively to be used with or in an electronic**
33 **cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or**
34 **device.**

35 3. Does not include any product ~~[regulated]~~ :

36 (a) **Regulated** by the United States Food and Drug Administration pursuant to
37 subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et
38 seq.

39 (b) **Subject to the excise tax on marijuana or marijuana products pursuant to**
40 **NRS 372A.200 to 372A.380, inclusive.**

41 (c) **Purchased by a person who holds a current, valid registration certificate**
42 **to operate a medical marijuana establishment pursuant to chapter 453A of NRS.**

43 **Sec. 3.** (Deleted by amendment.)

44 **Sec. 4.** (Deleted by amendment.)

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

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

47 **Sec. 7.** (Deleted by amendment.)

48 **Sec. 7.1.** NRS 202.2483 is hereby amended to read as follows:

49 202.2483 1. Except as otherwise provided in subsection 3, smoking
50 ~~[tobacco]~~ in any form is prohibited within indoor places of employment including,
51 but not limited to, the following:

52 (a) Child care facilities;

53 (b) Movie theatres;

- 1 (c) Video arcades;
- 2 (d) Government buildings and public places;
- 3 (e) Malls and retail establishments;
- 4 (f) All areas of grocery stores; and
- 5 (g) All indoor areas within restaurants.

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

8 3. Smoking ~~tobacco~~ is not prohibited in:

9 (a) Areas within casinos where loitering by minors is already prohibited by
10 state law pursuant to NRS 463.350;

11 (b) Completely enclosed areas with stand-alone bars, taverns and saloons in
12 which patrons under 21 years of age are prohibited from entering;

13 (c) Age-restricted stand-alone bars, taverns and saloons;

14 (d) Strip clubs or brothels;

15 (e) Retail tobacco stores;

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

19 (1) Is not open to the public;

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

22 (3) Involves the display of tobacco products; and

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

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

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

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

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

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

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

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

51 9. "No Smoking" signs or the international "No Smoking" symbol shall be
52 clearly and conspicuously posted in every public place and place of employment
53 where smoking is prohibited by this section. Each public place and place of

1 employment where smoking is prohibited shall post, at every entrance, a
2 conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other
3 smoking paraphernalia shall be removed from any area where smoking is
4 prohibited.

5 10. Health authorities, police officers of cities or towns, sheriffs and their
6 deputies shall, within their respective jurisdictions, enforce the provisions of this
7 section and shall issue citations for violations of this section pursuant to NRS
8 202.2492 and 202.24925.

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

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

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

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

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

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

21 (4) That must be located within:

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

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

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

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

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

37 (e) "Government building" means any building or office space owned or
38 occupied by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 ***(3) Does not include any product regulated by the United States Food***
27 ***and Drug Administration pursuant to Subchapter V of the Federal Food, Drug,***
28 ***and Cosmetic Act, 21 U.S.C. §§ 352 et seq.***

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

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

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

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

36 (4) That must be housed in either:

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

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

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

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

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

51 **Sec. 7.3.** NRS 202.2485 is hereby amended to read as follows:

52 202.2485 As used in NRS 202.2485 to 202.2497, inclusive:

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

4 (a) A vapor product;

5 (b) A product made or derived from tobacco; or

6 (c) Any product regulated by the United States Food and Drug Administration
7 under Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§
8 351 et seq.

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

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

14 4. "Product made or derived from tobacco" does not include any product
15 regulated by the United States Food and Drug Administration pursuant to
16 Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et
17 seq.

18 5. "Vapor product":

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

24 (b) Includes, without limitation:

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

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

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

40 **Sec. 7.4.** NRS 202.249 is hereby amended to read as follows:

41 202.249 1. It is the public policy of the State of Nevada and the purpose of
42 NRS 202.2491, 202.24915 and 202.2492 to place restrictions on the smoking of
43 tobacco in public places to protect human health and safety.

44 2. The quality of air is declared to be affected with the public interest and
45 NRS 202.2491, 202.24915 and 202.2492 are enacted in the exercise of the police
46 power of this state to protect the health, peace, safety and general welfare of its
47 people.

48 3. Health authorities, police officers of cities or towns, sheriffs and their
49 deputies and other peace officers of this state shall, within their respective
50 jurisdictions, enforce the provisions of NRS 202.2491, 202.24915 and 202.2492.
51 Police officers of cities or towns, sheriffs and their deputies and other peace officers
52 of this state shall, within their respective jurisdictions, enforce the provisions of
53 NRS 202.2493, 202.24935 and 202.2494 ~~[]~~ *and section 1 of this act.*

1 4. Except as otherwise provided in subsection 5, an agency, board,
2 commission or political subdivision of this state, including, without limitation, any
3 agency, board, commission or governing body of a local government, shall not
4 impose more stringent restrictions on the smoking, use, sale, distribution,
5 marketing, display or promotion of tobacco or products made or derived from
6 tobacco than are provided by NRS 202.2491, 202.24915, 202.2492, 202.2493,
7 202.24935 and 202.2494 ~~and section 1 of this act.~~

8 5. A school district may, with respect to the property, buildings, facilities and
9 vehicles of the school district, impose more stringent restrictions on the smoking,
10 use, sale, distribution, marketing, display or promotion of tobacco or products made
11 or derived from tobacco than are provided by NRS 202.2491, 202.24915, 202.2492,
12 202.2493, 202.24935 and 202.2494 ~~and section 1 of this act.~~

13 **Sec. 7.5.** NRS 202.2493 is hereby amended to read as follows:

14 202.2493 1. A person shall not sell, distribute or offer to sell cigarettes, any
15 smokeless product made or derived from tobacco or any alternative nicotine
16 product in any form other than in an unopened package which originated with the
17 manufacturer and bears any health warning required by federal law. A person who
18 violates this subsection shall be punished by a fine of \$100 and a civil penalty of
19 \$100. As used in this subsection, "smokeless product made or derived from
20 tobacco" means any product that consists of cut, ground, powdered or leaf tobacco
21 and is intended to be placed in the oral or nasal cavity.

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

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

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

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

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

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

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

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

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

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

4 (a) A notice indicating that:

5 (1) The sale of cigarettes, other tobacco products, vapor products and
6 alternative nicotine products to minors is prohibited by law; and

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

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

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

12 ~~[7.]~~ 3. It is unlawful for any retailer to sell cigarettes through the use of any
13 type of display:

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

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

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

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

23 **Sec. 7.7.** NRS 202.24935 is hereby amended to read as follows:

24 202.24935 1. It is unlawful for a person to knowingly sell or distribute
25 cigarettes, cigarette paper, tobacco of any description, ~~[or]~~ products made or
26 derived from tobacco, *vapor products or alternative nicotine products* to a child
27 under the age of 18 years through the use of ~~[the Internet.]~~ *a computer network,
28 telephonic network or other electronic network.*

29 2. A person who violates the provisions of subsection 1 shall be punished by a
30 fine of not more than \$500 and a civil penalty of not more than \$500. Any money
31 recovered pursuant to this section as a civil penalty must be deposited in the same
32 manner as money is deposited pursuant to subsection ~~[8]~~ 9 of ~~[NRS 202.2493.]~~
33 *section 1 of this act.*

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

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

49 (b) *Perform an age verification through an independent, third-party age
50 verification service that compares information available from public records to
51 the personal information entered by the person during the ordering process that
52 establishes that the person is over the age of 18 years and use a method of mail,*

1 *shipping or delivery that requires the signature of a person over the age of 18*
2 *years before the items are released to the purchaser, unless the person:*

3 *(1) Requires the customer to:*

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

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

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

11 **Sec. 7.9.** NRS 202.2496 is hereby amended to read as follows:

12 202.2496 1. As necessary to comply with any applicable federal law, the
13 Attorney General shall conduct random, unannounced inspections at locations
14 where tobacco, products made or derived from tobacco, vapor products and
15 alternative nicotine products are sold, distributed or offered for sale to inspect for
16 and enforce compliance with NRS 202.2493 and 202.2494 ~~and~~ **and section 1 of this**
17 **act**, as applicable. For assistance in conducting any such inspection, the Attorney
18 General may contract with:

19 (a) Any sheriff's department;

20 (b) Any police department; or

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

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

26 3. A child assisting in an inspection pursuant to this section shall, if
27 questioned about his or her age, state his or her true age and that he or she is under
28 18 years of age.

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

31 (a) Refrain from altering or attempting to alter the child's appearance to make
32 the child appear to be 18 years of age or older.

33 (b) Photograph the child immediately before the inspection is to occur and
34 retain any photographs taken of the child pursuant to this paragraph.

35 5. The person supervising an inspection using the assistance of a child shall,
36 within a reasonable time after the inspection is completed:

37 (a) Inform a representative of the business establishment from which the child
38 attempted to purchase tobacco, products made or derived from tobacco, vapor
39 products or alternative nicotine products that an inspection has been performed and
40 the results of that inspection.

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

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

45 (2) The age and date of birth of the child who assisted in the inspection;

46 (3) The name and position of the person from whom the child attempted to
47 purchase tobacco, products made or derived from tobacco, vapor products or
48 alternative nicotine products;

49 (4) The name and address of the establishment at which the child attempted
50 to purchase tobacco, products made or derived from tobacco, vapor products or
51 alternative nicotine products;

52 (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.

6. No *administrative*, civil or criminal action based upon an alleged violation of NRS 202.2493 or 202.2494 *or section 1 of this act* may be brought as a result of an inspection for compliance in which the assistance of a child has been enlisted unless the inspection has been conducted in accordance with the provisions of this section.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 14.5. 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services for programs to control and prevent the use of tobacco the following sums:

For Fiscal Year 2019-2020 \$2,500,000

For Fiscal Year 2020-2021 \$2,500,000

2. Any remaining balance of the appropriation made by subsection 1 for Fiscal Year 2019-2020 must be added to the money appropriated for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the appropriation made by subsection 1 for Fiscal Year 2020-2021, including any such money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2021, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2021.

Sec. 14.7. 1. There is hereby appropriated from the State General Fund to the Department of Taxation to carry out the duties imposed on the Department pursuant to the provisions of this act the following sums:

For Fiscal Year 2019-2020..... \$513,684

For Fiscal Year 2020-2021..... \$445,175

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2020, and September 17, 2021, respectively, by either the entity to which the appropriation is made or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, respectively.

Sec. 15. 1. This section and ~~section~~ sections 14.5 and 14.7 of this act become effective on July 1, 2019.

2. Sections 1 to 2, inclusive, and 7.1 to 7.9, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and

1 performing any other preparatory administrative tasks that are necessary to carry
2 out the provisions of this act, and on January 1, 2020, for all other purposes.