

Senate Bill No. 81—Committee on Revenue
and Economic Development

CHAPTER.....

AN ACT relating to tobacco products; revising provisions governing the licensing of persons engaged in the manufacturing, distribution and sale of tobacco products; requiring wholesale dealers of other tobacco products to keep on hand at all times a certain inventory of other tobacco products; establishing procedures to claim a refund for any amount, penalty or interest erroneously paid in connection with taxes on tobacco products; revising provisions governing the possession, transfer and sale of cigarettes and the reports filed by wholesale dealers of cigarettes; revising provisions governing revenue stamps; requiring manufacturers and retail dealers of cigarettes to maintain certain information on file with the Department of Taxation; revising requirements for wholesale dealers of cigarettes and distributors to report certain information to the Department; revising civil penalties imposed for certain violations of law governing tobacco products; revising provisions governing the imposition and payment of the tax on other tobacco products; revising requirements for wholesale dealers and retail dealers of other tobacco products to retain certain records; revising provisions governing changes to the directory of cigarette manufacturers and brand families maintained by the Department; 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. Existing law also provides for the licensing of persons engaged in the manufacture, distribution and sale of cigarettes and other tobacco products, including cigarette manufacturers, wholesale dealers of cigarettes, retail dealers of cigarettes, wholesale dealers of other tobacco products and retail dealers of other tobacco products. Existing law regulates licenses related to cigarettes separately from licenses related to other tobacco products. (Chapter 370 of NRS) **Sections 2-34** of this bill establish uniform provisions for the licensing of persons engaged in the manufacture, distribution and sale of cigarettes and other tobacco products and establish new licenses for logistics companies and warehouse or distribution centers. **Sections 46, 47, 53, 54, 58, 61-65, 67, 69, 71, 75, 79 and 81** of this bill make conforming changes.

Sections 36-45 of this bill establish procedures for a person to claim a refund for any amount, penalty or interest that was erroneously or illegally collected or computed in connection with the taxes on tobacco products.

Existing law requires a wholesale dealer of cigarettes to keep on hand at all times cigarettes of a wholesale value of at least \$10,000. (NRS 370.090) **Section 35**



of this bill requires a wholesale dealer of other tobacco products to keep on hand at all times other tobacco products of a wholesale value of at least \$5,000.

Existing law provides for the collection of tax on cigarettes through the use of revenue stamps. (NRS 370.170) Existing law contemplates the sale of unstamped packages of cigarettes to a wholesale dealer of cigarettes in this State by the manufacturer or by another wholesale dealer. (NRS 370.055) **Section 48** of this bill revises the activities that cause a person to be considered a wholesale dealer of cigarettes and provides that the activities of a wholesale dealer of cigarettes do not include the purchase of unstamped cigarettes from anyone other than the manufacturer.

Existing law requires a person who ships unstamped cigarette packages into this State to a person other than a wholesale dealer to file a notice of that shipment with the Department. (NRS 370.175) **Section 51** of this bill removes this requirement. **Section 51** also authorizes a person engaged in the manufacturing, testing, investigation or research of cigarettes or other tobacco products to possess unstamped cigarette packages.

Existing law requires a retail dealer of cigarettes to ensure that a package of cigarettes has a revenue stamp or metered stamping machine indicia affixed at the time of sale to a consumer. (NRS 370.270) **Section 59** of this bill requires a retail dealer to ensure that the revenue stamp is affixed not later than 5 days after the dealer takes possession of the package of cigarettes.

Existing law authorizes the Department to issue a refund to a manufacturer or wholesale dealer of cigarettes on any revenue stamp tax paid, less any discount previously allowed, upon cigarettes which are destroyed because the cigarettes had become stale. (NRS 370.280) **Section 60** of this bill authorizes the Department to issue a refund for revenue stamp tax paid on cigarettes which are damaged. **Section 60** also requires a wholesale dealer who ceases operations in this State to return unused tribal revenue stamps to the Department not later than 10 days after the wholesale dealer ceases operations in this State.

Existing law prohibits a wholesale dealer of cigarettes from affixing a revenue stamp or metered stamping machine indicia to packages of cigarettes which: (1) violate or fail to meet certain federal requirements; (2) were not intended for export; or (3) have been altered through the unauthorized addition or removal of certain wording. (NRS 370.385) **Section 68** of this bill prohibits a wholesale dealer or retail dealer from accepting or possessing such packages of cigarettes.

Existing law requires each wholesale dealer of cigarettes to maintain on file with the Department a permanent mailing address and an electronic mail address. (NRS 370.073) **Section 49** of this bill requires a retail dealer of cigarettes and a manufacturer to maintain on file with the Department a permanent mailing address and electronic mail address.

Section 57 of this bill revises and consolidates into one section requirements for a wholesale dealer of cigarettes to make a monthly report to the Department regarding the inventory and activities of the wholesale dealer.

Section 72 of this bill revises the civil penalties which the Department is authorized to impose for the violation of certain provisions governing the manufacture, sale and distribution of cigarettes or other tobacco products.

Existing law imposes a tax upon the purchase or possession of other tobacco products by a customer in this State at a rate of 30 percent of the wholesale price of those products. (NRS 370.450) Under existing law, the tax is required to be collected and paid by the wholesale dealer of other tobacco products after the sale or distribution of such products by the wholesale dealer, and the wholesale dealer is required to submit a report to the Department of the other tobacco products that were sold by the wholesale dealer during the previous month. (NRS 370.450,



370.465) **Section 73** of this bill revises the definition of a “wholesale dealer of other tobacco products” and the definition of “wholesale price” used to calculate the tax owed. **Section 73.3** of this bill revises provisions governing the collection and payment of the tax to require the tax to be imposed: (1) at the time the other tobacco products are first possessed or received by a wholesale dealer who maintains a place of business in this State for sale or disposition in this State; (2) at the time the other tobacco products are sold by a wholesale dealer who does not maintain a place of business in this State to a retail dealer or ultimate consumer in this State; or (3) for other tobacco products manufactured, produced, fabricated, assembled, processed, labeled or finished in this State, at the time the other tobacco products are sold in this State to a wholesale dealer of other tobacco products, a retail dealer or an ultimate consumer. Under **sections 73.3 and 73.7** of this bill, the tax is required to be paid to the Department not later than 20 days after the end of the month in which the tax is imposed. **Sections 82.5 and 84** of this bill provide that the revisions to the provisions governing the imposition and payment of the tax on other tobacco products become effective on January 1, 2020, and apply to any other tobacco products purchased, received or sold by a wholesale dealer before January 1, 2020, if the tax on those products has not been paid before January 1, 2020. Under **section 82.5**, a wholesale dealer is required to remit the tax on those products to the Department at the time the wholesale dealer remits to the Department the taxes due for the January 2020 period.

Existing law requires a wholesale dealer of other tobacco products to obtain itemized invoices for any other tobacco products purchased from a manufacturer or wholesale dealer who is not licensed in this State. (NRS 370.470) **Section 74** of this bill requires a wholesale dealer of other tobacco products to obtain an itemized invoice from every manufacturer or wholesale dealer from whom the wholesale dealer purchases other tobacco products. **Section 74** also requires a retail dealer of other tobacco products to obtain an itemized invoice from each wholesale dealer from whom the retail dealer purchases other tobacco products.

Existing law requires the Department to maintain a directory of all manufacturers of tobacco products who have complied with certain certification requirements and all brand families listed in those certifications. (NRS 370.675) Existing law prohibits the sale of cigarettes not listed in the directory. (NRS 370.695) Under existing law, the Department is required to notify each wholesale dealer of cigarettes when a manufacturer or brand family is added to or removed from the directory. A wholesale dealer is then required to notify each retail dealer who is a customer of the wholesale dealer of any such change. (NRS 370.677) **Section 76** of this bill requires the Department to notify wholesale dealers and retail dealers of cigarettes of any change to the directory including the addition or removal of a style of cigarettes. **Section 76** also removes the authority of the Department to notify wholesale dealers and retail dealers by mailing notice to a physical address and, instead, requires the Department to notify wholesale dealers and retail dealers by electronic mail. Finally, **section 76** requires a wholesale dealer of cigarettes to identify and set aside for sale outside of this State any products from a manufacturer, style or brand family that has been removed from the directory within 20 days after receiving the notice of the removal of the manufacturer or brand family.

Existing law requires each distributor of cigarettes to submit certain information to the Department 20 calendar days after the end of each calendar quarter. (NRS 370.685) **Section 78** of this bill requires this information to be reported on or before the 25th day of each calendar month.

Sections 52-54, 56, 59, 60, 61, 66, 68 and 70 of this bill remove references to metered machine impressions as evidence of payment of the tax on cigarettes.



Section 80 of this bill provides that the Department will not accept bonds, savings certificates, certificates of deposit or investment certificates in lieu of the surety bond required to be filed by wholesale dealers of cigarettes and wholesale dealers of other tobacco products.

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

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

Section 1. Chapter 370 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 to 45, inclusive, of this act.

Sec. 1.3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 1.5 and 1.7 of this act have the meanings ascribed to them in those sections.*

Sec. 1.5. *“Knowingly” means actual knowledge that the facts exist which constitute an act or omission, or such knowledge as an ordinarily prudent person would possess using reasonable care and diligence.*

Sec. 1.7. *“Negligently” means a want of such attention to the nature or probable consequences of an act or omission as an ordinarily prudent person usually exercises in his or her own business.*

Sec. 2. *As used in sections 2 to 34, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 18, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Cigarette” has the meaning ascribed to it in NRS 370.010.*

Sec. 4. *“Cigarette rolling machine” has the meaning ascribed to it in NRS 370.014.*

Sec. 5. *“Cigarette vending machine operator” has the meaning ascribed to it in NRS 370.015.*

Sec. 5.5. *“Commission” means the Nevada Tax Commission.*

Sec. 6. *“Consumer” means any person who comes into possession of cigarettes or other tobacco products in this State as a final user for any purpose other than offering them for sale as a wholesale or retail dealer.*

Sec. 7. *“License” means a license issued pursuant to sections 2 to 34, inclusive, of this act that authorizes the holder of the license to operate a warehouse or distribution center or to conduct business as a manufacturer, a wholesale dealer of cigarettes, a*



wholesale dealer of other tobacco products, a tobacco retail dealer or a logistics company.

Sec. 8. "Licensee" means the holder of a license.

Sec. 9. 1. "Logistics company" means a person who is:

(a) Not licensed as a manufacturer, a wholesale dealer of cigarettes, a wholesale dealer of other tobacco products or a tobacco retail dealer; and

(b) Authorized by a manufacturer, a wholesale dealer of cigarettes or a wholesale dealer of other tobacco products to temporarily store, fulfill orders for and coordinate the transport or delivery of cigarettes or other tobacco products from a facility in this State on behalf of and at the direction of the manufacturer, wholesale dealer of cigarettes or wholesale dealer of other tobacco products.

2. The term does not include a common carrier who undertakes for hire, as a regular business, the transportation of cigarettes or other tobacco products from place to place, and who offers its services to all who choose to employ it and to pay its charges therefor.

Sec. 10. "Manufacturer" has the meaning ascribed to it in NRS 370.0315.

Sec. 11. "Other tobacco product" has the meaning ascribed to it in NRS 370.0318.

Sec. 12. "Place of business" has the meaning ascribed to it in NRS 370.032.

Sec. 13. "Sale" and "to sell" have the meaning ascribed to them in NRS 370.035.

Sec. 14. "Stamp" has the meaning ascribed to it in NRS 370.048.

Sec. 15. "Tobacco retail dealer" has the meaning ascribed to:

1. "Retail dealer" in NRS 370.033; and

2. "Retail dealer" in NRS 370.440.

Sec. 16. "Warehouse or distribution center" means a building in this State which is owned, leased or rented and operated by a manufacturer, wholesale dealer of cigarettes, wholesale dealer of other tobacco products or tobacco retail dealer for the temporary storage of cigarettes or other tobacco products.

Sec. 17. "Wholesale dealer of cigarettes" has the meaning ascribed to "wholesale dealer" in NRS 370.055.

Sec. 18. "Wholesale dealer of other tobacco products" has the meaning ascribed to "wholesale dealer" in NRS 370.440.



Sec. 19. 1. A person shall not engage in business as a wholesale dealer of cigarettes, a wholesale dealer of other tobacco products or a tobacco retail dealer in this State unless that person first secures a license to engage in that activity from the Department.

2. A person shall not engage in business as a cigarette vending machine operator in this State unless that person first secures a license to engage in that activity from the Department.

3. A person shall not engage in business as a logistics company unless that person first secures a license to engage in that activity from the Department.

4. A person shall not operate a warehouse or distribution center unless that person first secures a license to engage in that activity from the Department.

5. A manufacturer shall not:

(a) Sell any cigarettes to a wholesale dealer of cigarettes in this State;

(b) Temporarily store, fulfill orders for or coordinate the transport or delivery of cigarettes by using a logistics company; or

(c) Operate or permit any person other than the manufacturer to operate a cigarette rolling machine for the purpose of producing, filling, rolling, dispensing or otherwise manufacturing cigarettes,

↳ unless that manufacturer first secures a license to engage in that activity from the Department.

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

7. A person may be licensed as a wholesale dealer of cigarettes, a wholesale dealer of other tobacco products, a tobacco retail dealer and as an operator of a warehouse or distribution center.

Sec. 20. The Department shall create and maintain on its Internet website and otherwise make available for public inspection a list of all:

1. Currently valid licenses and the identity of the licensees holding those licenses; and

2. Indian tribes on whose reservations or colonies cigarettes or other tobacco products are sold and, pursuant to NRS 370.515, from which the Department does not collect the tax imposed by this chapter on such cigarettes or other tobacco products sold on the reservations or colonies.

↳ The Department shall update the list at least once each month.



Sec. 21. 1. No license may be issued, maintained or renewed if:

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

(1) Is delinquent in the payment of any tax, penalty or fee administered by the Department;

(2) Is delinquent in any return that is required to be filed with the Department;

(3) Had a license revoked or had an equivalent license revoked in another jurisdiction within the past 2 years;

(4) Has been convicted of a crime relating to the manufacture, distribution or sale of cigarettes or other tobacco products or a crime relating to the avoidance or evasion of taxes;

(5) Is a manufacturer who has:

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

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

(6) Is a nonparticipating manufacturer who is not in full compliance with subsection 2 of NRS 370A.140.

(b) Except as otherwise provided in this paragraph, the issuance of the license would result in the applicant conducting operations in the same physical location as another licensee. This paragraph does not apply to a licensee if:

(1) The licensee is licensed or is applying to be licensed as:

(I) A wholesale dealer of cigarettes or a wholesale dealer of other tobacco products; and

(II) A tobacco retail dealer;

(2) The licensee would conduct operations under both licenses at the same location; and

(3) Each licensee has the same ownership.

(c) The issuance would result in the applicant conducting operations from a residential address, storage facility, mailbox or post office box.

2. As used in this section:

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

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

Sec. 22. An application for a license must:



1. Be made to the Department on forms prescribed by the Department.

2. Include the name and address of the applicant. If the applicant is a firm, association or partnership, the application must include the name and address of each of its members. If the applicant is a corporation, the application must include the names and addresses of the president, vice president, secretary and managing officer or officers.

3. Specify the location, by street and number, of the principal place of business of the applicant. In addition to specifying the principal place of business of the applicant pursuant to this subsection, an application for a license as a cigarette vending machine operator must list all cigarette vending machine locations for which the license is sought.

4. Specify the location, by street and number, of any place used by the applicant to distribute, ship, affix stamps to, warehouse or store cigarettes or other tobacco products and for which the license is sought.

5. Specify any other information the Department may require to carry out the provisions of this chapter.

6. Except as otherwise provided in NRS 370.001 to 370.430, inclusive, and sections 2 to 34, inclusive, of this act, if the application is for a license as a wholesale dealer of cigarettes, be accompanied by the license fee required by section 28 of this act.

7. Be accompanied by a certified copy of the certificate required by NRS 602.010 or any renewal certificate required by NRS 602.035.

Sec. 23. 1. Except as otherwise provided in subsection 2, a licensee shall not operate from any location other than the location listed on the face of the license of the licensee. A person who is licensed as a cigarette vending machine operator shall provide the Department with an updated list of all cigarette vending machines maintained by that person whenever there is a change or addition to the list.

2. Upon application by a licensee other than a manufacturer, the Department may issue a temporary license authorizing the licensee to operate at a convention or trade show. A licensee who has been issued a temporary license may operate pursuant to that license only on the specific dates of the convention or trade show for which the temporary license was issued.

Sec. 24. The Department may issue a license without payment of fees to any applicant who is authorized to do business



on an Indian reservation or Indian colony or upon a military or other federal reservation.

Sec. 25. Each license must set forth:

1. The name of the person to whom it is issued. If the license is issued under a fictitious name, the license must also set forth the name of each of the persons conducting the business under the fictitious name.

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

Sec. 26. Each holder of a license shall:

1. Sign the license or cause an authorized representative to sign it.

2. Post the license in a conspicuous place in the premises for which it was issued.

↪ Licenses issued under the provisions of this chapter are nontransferable, except that upon prior written notice to the Department the location of the premises for which it was issued may be changed.

Sec. 27. A current license as a:

1. Manufacturer authorizes the holder thereof to:

(a) Sell cigarettes from the premises for which the license was issued to a licensed wholesale dealer of cigarettes in this State;

(b) Ship cigarettes to a licensed logistics company; and

(c) Temporarily store, fulfill orders for or coordinate the transport or delivery of cigarettes by using a licensed warehouse or distribution center.

2. Wholesale dealer of cigarettes authorizes the holder thereof to:

(a) Purchase unstamped cigarettes from any manufacturer who holds a current license;

(b) Purchase stamped cigarettes from a licensed wholesale dealer of cigarettes;

(c) Sell stamped cigarettes from the premises for which the license was issued to any Indian tribe or colony listed by the Department pursuant to section 20 of this act, to any licensed wholesale dealer of cigarettes or to any licensed tobacco retail dealer; and

(d) Temporarily store and fulfill orders for stamped cigarettes at a licensed warehouse or distribution center or through a licensed logistics company.

3. Wholesale dealer of other tobacco products authorizes the holder thereof to:



(a) Purchase other tobacco products from any manufacturer of other tobacco products or wholesale dealer of other tobacco products;

(b) Sell other tobacco products from the premises for which the license was issued to any Indian tribe or colony listed by the Department pursuant to section 20 of this act, to any wholesale dealer of other tobacco products who holds a current license or to any tobacco retail dealer who holds a current license; and

(c) Temporarily store and fulfill orders for other tobacco products at a licensed warehouse or distribution center or through a licensed logistics company.

4. Tobacco retail dealer authorizes the holder thereof to:

(a) Purchase stamped cigarettes from any wholesale dealer of cigarettes who holds a current license;

(b) Sell cigarettes from the premises for which the license was issued to any consumer in this State;

(c) Purchase other tobacco products from a wholesale dealer of other tobacco products who holds a current license;

(d) Sell other tobacco products to any consumer in this State; and

(e) Temporarily store and fulfill orders for cigarettes or other tobacco products at a licensed warehouse or distribution center.

5. Cigarette vending machine operator authorizes the holder thereof to sell Nevada stamped cigarettes by means of coin-operated machines within the borders of this State.

Sec. 28. 1. Each license issued by the Department is valid only for the calendar year for which it is issued, and must be renewed annually.

2. The Department shall not charge any license fees to operate a warehouse or distribution center or for a license as a manufacturer, wholesale dealer of other tobacco products, tobacco retail dealer or logistics company.

3. An annual license fee of \$150 must be charged for each license as a wholesale dealer of cigarettes. If such a license is issued at any time during the year other than on January 1, except for the renewal of a delinquent license pursuant to subsection 5, the licensee shall pay a proportionate part of the annual fee for the remainder of the year, but not less than 25 percent of the annual license fee.

4. The fees for a license as a wholesale dealer of cigarettes are due and payable on January 1 of each year. If the annual license fee is not paid by January 15, the license is cancelled automatically.



5. A license as a wholesale dealer of cigarettes which is cancelled for nonpayment of the annual license fee may be renewed at any time by the payment of the fee plus a 5 percent penalty thereon.

Sec. 29. 1. Except as otherwise provided in this section, each licensed wholesale dealer of cigarettes and licensed wholesale dealer of other tobacco products shall furnish a bond executed by the wholesale dealer as principal, and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada and conditioned upon the payment of all excise taxes required to be precollected by the wholesale dealer under the provisions of this chapter. Each bond must be in a principal sum equal to:

(a) For a wholesale dealer of cigarettes, the largest amount of tax precollected by the wholesale dealer in any quarter of the preceding year; or

(b) For a wholesale dealer of other tobacco products, the largest amount of tax paid by the wholesale dealer in any quarter of the preceding year.

↪ If the information to establish that amount is not available, then in a sum required from a licensee operating under conditions deemed comparable by the Department. No bond may be for less than \$1,000. When cash is used, the amount must be rounded up to the next larger integral multiple of \$100.

2. Except as otherwise provided in this section, each licensed wholesale dealer of cigarettes who wishes to defer payment on the purchase of revenue stamps shall furnish a bond executed by the wholesale dealer of cigarettes as principal, and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada and conditioned upon the payment of all deferred payments for revenue stamps. Each bond must be in a principal sum equal to the maximum amount of revenue stamps which the wholesale dealer of cigarettes may have unpaid at any time. No bond may be for less than \$1,000. When cash is used, the amount must be rounded up to the next larger integral multiple of \$100.

3. Upon application and a satisfactory showing, the Department may increase or decrease the amount of a bond required by subsection 1 or 2, based on the record of taxes remitted by the wholesale dealer of cigarettes or wholesale dealer of other tobacco products.

4. The Department may waive the requirement of the bond required by subsection 1 or 2, whenever a licensed wholesale dealer of cigarettes or wholesale dealer of other tobacco products



has maintained a satisfactory record of payment of excise taxes or deferred payments, respectively, for a period of 5 consecutive years.

5. A wholesale dealer of cigarettes and a wholesale dealer of other tobacco products are not entitled to a refund of any portion of money paid as a bond pursuant to this section if the wholesale dealer of cigarettes or wholesale dealer of other tobacco products has failed to file a report required by this chapter or owes the Department any fee, payment or penalty.

Sec. 30. *1. Except as otherwise provided in subsection 2, a licensee shall retain for not less than 5 years all receipts, invoices, records, inventory records and financial statements necessary to substantiate information submitted by the licensee to the Department in any report or return required pursuant to this chapter.*

2. If a licensee fails to submit a return or report which is required by this chapter, the licensee shall retain for not less than 8 years all receipts, invoices, records, inventory records and financial statements necessary to substantiate any information which the licensee was required to include in the report or return which the licensee failed to submit.

3. Upon request, a licensee shall provide access to and permit the Department to inspect, examine, photocopy and audit all receipts, invoices, records, inventory records and financial statements retained by the licensee pursuant to subsections 1 and 2 and all records and financial statements relating to the gross income of the licensee.

4. Upon request, a licensee shall provide verification of his or her gross income and any other matters affecting the enforcement of the provisions of this chapter.

5. The Department may demand access to and inspect, examine, photocopy and audit all receipts, invoices, records, inventory records and financial statements of any affiliate of a licensee who the Department knows or reasonably believes is involved in the financing, operation or management of the licensee. The inspection, examination, photocopying or audit may take place on the premises of the affiliate or another location, as practicable.

6. The Executive Director or any person authorized in writing by the Executive Director may issue a subpoena to compel the attendance of witnesses at a hearing held by the Department or to compel the production of records.



Sec. 31. *This chapter does not prohibit any county, city or town in the State of Nevada from requiring licenses before a person engages in business as a wholesale dealer of cigarettes, a wholesale dealer of other tobacco products or a tobacco retail dealer.*

Sec. 32. 1. *After notice to the licensee and a hearing as prescribed by the Department, the Department may suspend or revoke the license of a licensee who:*

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

(b) Fails to pay any tax owed upon cigarettes or other tobacco products required by this chapter;

(c) Is licensed as a wholesale dealer of cigarettes and fails to cure any shortfall for which the wholesale dealer of cigarettes is liable pursuant to NRS 370.683;

(d) Sells in this State, purchases or possesses any cigarettes, cigarette packages or other tobacco products in violation of any provision of this chapter;

(e) Imports into or exports from this State any cigarettes, cigarette packages or other tobacco products in violation of any provision of this chapter; or

(f) Otherwise violates, or causes or permits to be violated, the provisions of this chapter or any regulation adopted thereunder.

2. *Except as otherwise provided by subsection 4, the Department, upon a finding that the licensee has knowingly or negligently failed to comply with any provision of this chapter or any regulation adopted by the Commission, may:*

(a) Impose on the licensee a civil penalty pursuant to NRS 370.425;

(b) In the case of a first violation of a provision of this chapter or any regulation adopted by the Commission, suspend the license of the licensee for not more than 60 consecutive calendar days;

(c) In the case of a second or subsequent violation of the same provision of this chapter or any regulation adopted by the Commission, suspend the license of the licensee for not more than 180 consecutive calendar days or permanently revoke the license of the licensee; or

(d) Take any combination of the actions authorized by paragraphs (a), (b) and (c).

3. *A person whose license has been suspended or revoked shall not purchase or sell cigarettes or other tobacco products or*



permit cigarettes or other tobacco products to be sold during the period of suspension or revocation:

(a) On the premises in this State occupied or controlled by the person; or

(b) From any premises located outside this State if the cigarettes or other tobacco products are purchased or sold for distribution in this State.

4. The expiration, transfer, surrender, continuance, renewal or extension of a license issued pursuant to this chapter does not bar or abate any disciplinary proceedings or action.

5. The Department shall permanently revoke the license of any licensee who knowingly or negligently:

(a) Sells or otherwise disposes of cigarettes or other tobacco products that are in the constructive possession of the Department; or

(b) Is convicted of any felony relating to the manufacture, distribution or sale of cigarettes or other tobacco products.

6. In determining the penalty to be imposed on a licensee for a violation of paragraph (a) of subsection 1, the Department shall consider:

(a) The documented reporting and discipline record of the licensee with the Department from the immediately preceding 24 months;

(b) The timeliness of the licensee in correcting any inaccurate information included in a report or certification required by this chapter;

(c) The efforts of the licensee to provide an explanation of the reason for any inaccurate information included in a report or certification required by this chapter or the basis for the omission of information from such a report or certification;

(d) If a report or certification is inaccurate because of a variance between the inventory of cigarettes provided in the report or certification and the actual inventory of cigarettes, the quantity of the variance, the materiality of the variance and the extent to which the licensee accounts for the variance by brand or by whether tax has been paid on the cigarettes;

(e) Any remedial measures initiated by the licensee to prevent future violations of a similar nature; and

(f) Any other mitigating factors offered by the licensee or aggravating or mitigating factors identified by the Department.

7. For the purposes of this section, a report or certification required by this chapter is:



(a) Inaccurate if the report or certification does not correctly record factual information or there is a discrepancy in the information included in the report and the factual information.

(b) Incomplete if the report or certification does not include all necessary or responsive information.

Sec. 33. The Department shall adopt regulations establishing a procedure for the suspension and revocation of any license issued pursuant to sections 2 to 34, inclusive, of this act. In adopting the regulations required by this section, the Department shall consider the effect of any suspension or revocation of a license on the inventory of cigarettes or other tobacco products that are in the stream of distribution at the time of suspension or revocation.

Sec. 34. The provisions of sections 2 to 34, inclusive, of this act do not apply to:

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

2. A person entering this State with a quantity of cigarettes or other tobacco products for household or personal use which is exempt from federal import duty; and

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

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

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

Sec. 35. Each person licensed as a wholesale dealer of other tobacco products shall keep on hand at all times other tobacco products of a wholesale value of at least \$5,000.

Sec. 36. If the Department determines that any amount, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and certify to the State Board of Examiners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Examiners, the excess amount collected or paid must, after being credited against any amount then due from the person in accordance with NRS 360.236, be refunded to the person, or his or her successors, administrators or executors.



Sec. 37. 1. *Except as otherwise provided in NRS 360.235 and 360.395:*

(a) No refund may be allowed unless a claim for it is filed with the Department within 3 years after the close of the period for which the tax was due.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Department within that period, or unless the credit relates to a period for which a waiver is given pursuant to NRS 360.355.

2. Every claim for a credit or refund must be in writing and must state the specific grounds upon which the claim is founded.

3. Failure to file a claim within the time prescribed in this chapter constitutes a waiver of any demand against the State on account of overpayment.

4. Within 30 days after disallowing any claim in whole or in part, the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

Sec. 38. 1. *Except as otherwise provided in this section, NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of any amount of the taxes imposed by this chapter at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.*

2. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, it may not allow any interest on the overpayment.

Sec. 39. 1. *No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection under this chapter of any tax or any amount of tax required to be collected.*

2. No suit or proceeding may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed.

Sec. 40. 1. *Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by the Nevada Tax Commission, the claimant may bring an action against the Department on the grounds set forth in the claim in a court of competent jurisdiction in Carson City, the county of this State where the claimant resides or maintains his or her principal place of business or a county in which any relevant proceedings were*



conducted by the Department, for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

2. Failure to bring an action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayments.

Sec. 41. 1. If the Department fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with a hearing officer within 45 days after the last day of the 6-month period. If the claimant is aggrieved by the decision of the hearing officer on appeal, the claimant may, pursuant to the provisions of NRS 360.245, appeal the decision to the Nevada Tax Commission. If the claimant is aggrieved by the decision of the Commission on appeal, the claimant may file a petition for judicial review pursuant to NRS 233B.130.

2. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited on any amount of tax due from the plaintiff pursuant to this chapter.

3. The balance of the judgment must be refunded to the plaintiff.

Sec. 42. In any judgment, interest must be allowed at the rate of 3 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Department.

Sec. 43. A judgment may not be rendered in favor of the plaintiff in any action brought against the Department to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

Sec. 44. 1. The Department may recover any refund or part of it which is erroneously made and any credit or part of it which is erroneously allowed in an action brought in a court of competent jurisdiction in Carson City or Clark County in the name of the State of Nevada.

2. The action must be tried in Carson City or Clark County unless the court with the consent of the Attorney General orders a change of place of trial.

3. The Attorney General shall prosecute the action, and the provisions of NRS, the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure relating to service of



summons, pleadings, proofs, trials and appeals are applicable to the proceedings.

Sec. 45. 1. *If any amount in excess of \$25 has been illegally determined, either by the person filing the return or by the Department, the Department shall certify this fact to the State Board of Examiners, and the latter shall authorize the cancellation of the amount upon the records of the Department.*

2. *If an amount not exceeding \$25 has been illegally determined, either by the person filing a return or by the Department, the Department, without certifying this fact to the State Board of Examiners, shall authorize the cancellation of the amount upon the records of the Department.*

Sec. 46. NRS 370.0305 is hereby amended to read as follows:

370.0305 "License" means a license issued pursuant to ~~NRS 370.001 to 370.430, inclusive,~~ *sections 2 to 34, inclusive, of this act* that authorizes the holder to conduct business as a manufacturer, ~~for~~ a wholesale *dealer* or *a tobacco* retail dealer.

Sec. 47. NRS 370.035 is hereby amended to read as follows:

370.035 "Sale" or "to sell" includes any of the following ~~;~~ , *except when performed by a licensed logistics company or by the operator of a licensed warehouse or distribution center:*

1. To exchange, barter, possess or traffic in;
2. To solicit or receive an order for;
3. To keep or expose for sale;
4. To deliver for value;
5. To peddle;
6. To possess with intent to sell;
7. To transfer to anyone for sale or resale;
8. To possess or transport in contravention of the provisions of NRS 370.001 to 370.430, inclusive ~~;~~ , *and sections 2 to 34, inclusive, of this act;*

9. To traffic in for any consideration, promised or obtained directly or indirectly; or

10. To procure or allow to be procured for any reason.

Sec. 48. NRS 370.055 is hereby amended to read as follows:

370.055 "Wholesale dealer" means:

1. Any person ~~;~~ , ~~whether~~ located within ~~for outside of~~ the borders of this State ~~;~~ who:

(a) Brings ~~;~~ , ~~sends,~~ or causes to be brought ~~for sent~~ into this State any unstamped cigarettes purchased from the manufacturer ~~for another wholesale dealer; and~~ ; *or*

(b) ~~;~~ ~~Stores, sells or otherwise disposes of those cigarettes within the State.~~ *Brings or causes to be brought into this State any*



stamped cigarettes purchased from a licensed wholesale dealer for the purpose of resale to anyone other than a consumer.

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

3. Any person ~~{, whether}~~ located ~~{within or}~~ outside of the borders of this State, who ~~{acquires}~~ *sells stamped* cigarettes ~~{solely for the purpose of bona fide resale}~~ to *licensed* retail dealers *or other wholesale dealers* in this State . ~~{or to other persons in this State for the purpose of resale only.}~~

Sec. 49. NRS 370.073 is hereby amended to read as follows:

370.073 Each *manufacturer*, wholesale dealer *and retail dealer* shall:

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

- (a) A permanent mailing address; and
- (b) An electronic mail address.

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

Sec. 50. NRS 370.090 is hereby amended to read as follows:

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

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

Sec. 51. NRS 370.175 is hereby amended to read as follows:

370.175 1. Except as otherwise provided in subsection 2 or a regulation of the Department ~~{:~~

~~—(a) No~~ , *no* person, other than a wholesale dealer that receives unstamped cigarette packages directly from a person who holds a current permit to engage in business as a manufacturer or importer of cigarettes issued pursuant to 26 U.S.C. § 5713, may possess an unstamped cigarette package.

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

2. Subsection 1 does not apply to ~~{any}~~ :

(a) Any common or contract carrier who is transporting cigarettes in compliance with the provisions of NRS 370.295 ~~{; or~~

(b) A person engaged in the manufacturing, testing, investigation or research of cigarettes or other tobacco products, if



the person is operating legally and has all licenses and permits required by federal and state law.

Sec. 52. NRS 370.190 is hereby amended to read as follows:

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

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

3. The Department may provide by regulation for:

(a) Payment of the tax by manufacturers without the use of stamps on gifts or samples sent into Nevada when plainly marked "Tax Paid."

(b) Any requirements for the purchase of stamps.

Sec. 53. NRS 370.193 is hereby amended to read as follows:

370.193 A wholesale dealer may apply to the Department to fix the maximum amount of revenue stamps ~~{or-metered-machine impressions}~~ which the wholesale dealer may have unpaid at any time. Upon receipt of the application and the bond or bonds required pursuant to ~~[NRS 370.155.]~~ *section 29 of this act*, the Department shall fix an amount for the wholesale dealer.

Sec. 54. NRS 370.195 is hereby amended to read as follows:

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

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

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

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



(b) The bond or bonds required pursuant to ~~[NRS 370.155]~~ *section 29 of this act* are cancelled or become void, impaired or unenforceable for any reason; or

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

Sec. 55. NRS 370.210 is hereby amended to read as follows:

370.210 1. A wholesale dealer ~~[whose stamping facilities are]~~ located within the borders of this State shall affix stamps to all applicable cigarette packages ~~[received at those stamping facilities]~~ within 20 days after receipt. A wholesale dealer may set aside, without affixing stamps, only that part of the stock of the wholesale dealer that is identified for sale or distribution outside of the borders of this State. A wholesale dealer must identify any stock to be set aside pursuant to this subsection within 20 days after the receipt of that stock.

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

3. If a wholesale dealer maintains stocks of unstamped cigarette packages as authorized pursuant to subsection 1, those unstamped cigarette packages must be stored separately from stamped cigarette packages and must not be transferred by the wholesale dealer to another facility of the wholesale dealer within the borders of this State or to any other person within the borders of this State.

4. A person shall not affix stamps to any cigarette packages except upon the premises described in the license of a wholesale dealer or upon other premises where authorized by regulation.

Sec. 56. NRS 370.220 is hereby amended to read as follows:

370.220 In the sale of any cigarette revenue stamps ~~[or any metered machine settings]~~ to a licensed cigarette dealer, the Department and its agents shall allow the purchaser a discount of 0.25 percent against the amount of excise tax otherwise due for the services rendered in affixing cigarette revenue stamps ~~[or metered machine impressions]~~ to the cigarette packages.

Sec. 57. NRS 370.240 is hereby amended to read as follows:

370.240 1. ~~[Each]~~ *On or before the 25th day of each month, each wholesale* dealer *who is* authorized to purchase ~~[or]~~ *and* affix cigarette ~~[revenue]~~ stamps shall report to the Department ~~[:]~~ *, with respect to the immediately preceding calendar month:*



(a) *The physical inventory of cigarettes in packages with a Nevada stamp affixed to it in the possession or control of the wholesale dealer for sale or distribution within the borders of this State on hand at the start of business on the first day of the month;*

(b) *If the wholesale dealer has a physical location in this State, the physical inventory of cigarettes in packages with the stamp of another state affixed to it in the possession or control of the wholesale dealer for sale or distribution outside of the borders of this State on hand at the start of business on the first day of the month;*

(c) *If the wholesale dealer has a physical location in this State, the physical inventory of cigarettes in unstamped packages in the possession or control of the wholesale dealer for sale or distribution outside or within the borders of this State on hand at the start of business on the first day of the month;*

(d) *The quantity of cigarettes in packages with a Nevada stamp affixed to it in the possession or control of the wholesale dealer for sale or distribution within the borders of this State that were received by the wholesale dealer from another licensed wholesale dealer during the month, and the name and address of each licensed wholesale dealer from whom those products were received;*

(e) *If the wholesale dealer has a physical location in this State, the quantity of cigarettes in the possession or control of the wholesale dealer for sale or distribution outside of the borders of this State that were received by the wholesale dealer from another person during the month, and the name and address of each person from whom those products were received;*

(f) *If the wholesale dealer has a physical location in this State, the quantity of cigarettes in unstamped packages in the possession or control of the wholesale dealer for sale or distribution within or outside of the borders of this State that were received by the wholesale dealer from a manufacturer during the month, and the name and address of each manufacturer from whom those products were received;*

(g) *If the wholesale dealer does not have a physical location in this State, the quantity of cigarettes in unstamped packages in the possession or control of the wholesale dealer held with the intent for sale or distribution within the borders of this State that were received by the wholesale dealer during the month;*

(h) *The quantity of cigarettes in packages with a Nevada stamp affixed to it in the possession or control of the wholesale dealer that were distributed or shipped during the month to:*



(1) Another wholesale dealer of cigarettes located within or outside of the borders of this State; or

(2) A tobacco retail dealer located within or outside of the borders of this State,

➡ and the name and address of each person to whom those products were distributed or shipped;

(i) If the wholesale dealer has a physical location in this State, the quantity of cigarettes in packages with the stamp of another State affixed to it and in unstamped packages in the possession or control of the wholesale dealer that were distributed or shipped outside the borders of this State during the month;

(j) The quantity of cigarettes in packages with a Nevada stamp affixed to it in the possession or control of the wholesale dealer that were distributed or shipped within the borders of this State to Indian tribes or instrumentalities of the Federal Government during the month, and the name and address of each person to whom those products were distributed or shipped;

(k) If the wholesale dealer has a physical location in this State, the quantity of cigarettes in packages with a Nevada stamp affixed to it, with the stamp of any other state affixed to it and in unstamped packages that were returned to a manufacturer or another wholesale dealer during the month;

(l) If the wholesale dealer has a physical location in this State, the physical inventory of cigarettes in packages with the stamp of another state affixed to it in the possession or control of the wholesale dealer for sale or distribution outside of the borders of this State on hand at the close of business on the last day of the month;

(m) The physical inventory of cigarettes in packages with a Nevada stamp affixed to it in the possession or control of the wholesale dealer for distribution within the borders of this State on hand at the close of business on the last day of the month;

(n) If the wholesale dealer has a physical location in this State, the physical inventory of cigarettes in unstamped packages in the possession or control of the wholesale dealer for sale or distribution within or outside of the borders of this State on hand at the close of business on the last day of the month;

(o) The quantity and roll numbers for each type of Nevada stamp that is not affixed to a cigarette package on hand at the start of business on the first day of the month;

(p) The quantity and roll numbers for each type of Nevada stamp that is not affixed to a cigarette package purchased or received during the month;



(q) *The quantity and roll numbers for each type of Nevada stamp affixed during the month;*

(r) *The quantity and roll numbers for each type of Nevada stamp damaged or otherwise considered unusable during the month; and*

(s) *The quantity and roll numbers for each type of Nevada stamp that is not affixed to a cigarette package and is on hand at the close of business on the last day of the month.*

~~{The inventory of all cigarettes in the possession or control of the dealer at the close of business on the last day of each month.~~

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

2. ~~{The report must be made by the 25th day of the month following shipments upon forms to be provided by the Department.}~~
Each report required by subsection 1 must be:

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

(b) *Provided separately for each facility operated by the wholesale dealer.*

3. *In each report required by this section, the information required must be itemized so as to disclose clearly the brand family of cigarettes to which the report applies.*

4. The *wholesale* dealer ~~{may}~~ :

(a) *May* be allowed 5 additional days to file the report, if the *wholesale* dealer makes prior written application to the Department and the Department finds good cause for extension.

(b) *Shall, upon discovery of any error in the report filed with the Department, promptly notify the Department and file an amended report that corrects the error.*

~~{4.}~~ 5. If, during the preceding month, the *wholesale* dealer affixed cigarette ~~{revenue}~~ stamps upon cigarette packages imported into the United States, the *wholesale* dealer shall file with the report a copy of each certificate submitted pursuant to 19 U.S.C. § 1681a(c) with regard to the cigarette packages.

6. *The Department may require a wholesale dealer to report information in addition to the reporting requirements established by this section if the Department determines that additional information will assist the Department in enforcing the provisions of this chapter.*

Sec. 58. NRS 370.260 is hereby amended to read as follows:

370.260 1. All taxes and license fees imposed by the provisions of NRS 370.001 to 370.430, inclusive, *and sections 2 to*



34, inclusive, of this act, less any refunds granted as provided by law, must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall:

(a) As compensation to the State for the costs of collecting the taxes and license fees, transmit each month the sum the Legislature specifies from the remittances made to it pursuant to subsection 1 during the preceding month to the State Treasurer for deposit to the credit of the Department. The deposited money must be expended by the Department in accordance with its work program.

(b) From the remittances made to it pursuant to subsection 1 during the preceding month, less the amount transmitted pursuant to paragraph (a), transmit each month the portion of the tax which is equivalent to 85 mills per cigarette to the State Treasurer for deposit to the credit of the Account for the Tax on Cigarettes in the State General Fund.

(c) Transmit the balance of the payments each month to the State Treasurer for deposit in the Local Government Tax Distribution Account created by NRS 360.660.

(d) Report to the State Controller monthly the amount of collections.

3. The money deposited pursuant to paragraph (c) of subsection 2 in the Local Government Tax Distribution Account is hereby appropriated to Carson City and to each of the counties in proportion to their respective populations and must be credited to the respective accounts of Carson City and each county.

Sec. 59. NRS 370.270 is hereby amended to read as follows:

370.270 1. ~~{Every}~~ **Each** retail dealer ~~{making a sale to a customer}~~ shall, ~~{at the time of sale,}~~ **not later than 5 calendar days after the retail dealer takes possession of a package of cigarettes,** see that ~~{each}~~ **the** package ~~{, packet or container}~~ has the Nevada cigarette ~~{revenue}~~ stamp ~~{or metered stamping machine indicia}~~ properly affixed.

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

3. No unstamped packages ~~{, packets or containers}~~ of cigarettes may lawfully be accepted or held in the possession of any person, except as authorized by law or regulation. For the purposes of this subsection, "held in possession" means:



- (a) In the actual possession of the person; or
- (b) In the constructive possession of the person when cigarettes are being transported or held for the person or for his or her designee by another person. Constructive possession is deemed to occur at the location of the cigarettes being transported or held.

4. Any cigarettes found in the possession of any person except a person authorized by law or regulation to possess them, which do not bear ~~indicia of~~ *such identifying marks as are necessary to ascertain the origin of the cigarettes and numbering in a legible manner on the* Nevada excise tax ~~stamping~~ stamp, must be seized by the Department or any of its agents, and caused to be stamped by a licensed ~~cigarette~~ *wholesale* dealer, or confiscated and sold by the Department or its agents to the highest bidder among the licensed wholesale dealers in this State after due notice to all licensed Nevada wholesale dealers has been given by mail to the addresses contained in the Department's records. If there is no bidder, or in the opinion of the Department the quantity of the cigarettes is insufficient, or for any other reason such disposition would be impractical, the cigarettes must be destroyed or disposed of as the Department may see fit. The proceeds of all sales must be classed as revenues derived under the provisions of NRS 370.001 to 370.430, inclusive.

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

Sec. 60. NRS 370.280 is hereby amended to read as follows:

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

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

(b) Veterans' hospitals for distribution or sale to service personnel with disabilities or ex-service personnel with disabilities interned therein, but not to civilians or civilian employees;

(c) Any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed which is equal to or greater than the rate of the cigarette tax imposed under this chapter; or

(d) An Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the cigarette tax imposed under this chapter.



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

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

(b) The date or dates on which the ~~{cigarettes were}~~ **wholesale dealer:**

(1) Destroyed the cigarettes; or

(2) Sent the cigarettes to be destroyed ; ~~{and the place where destroyed;}~~

(c) That the cigarettes ~~{were actually destroyed because they}~~ had become stale ~~{}~~ **or damaged; and**

(d) ~~{By whom the cigarettes were destroyed; and~~

~~—(e)}~~ Other information which the Department may require.

3. Upon proof satisfactory to the Department, refunds may be allowed to licensed wholesale ~~{cigarette}~~ dealers for the face value of the cigarette ~~{metered machine}~~ **revenue** stamp tax paid, less any discount previously allowed upon:

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

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

(c) Cigarettes which were not stamped but were registered on the machine as being stamped because of failure of the meter counters.

4. A wholesale dealer who ceases operations in this State shall return the balance of all unused tribal stamps to the Department not later than 10 days after the wholesale dealer ceases operations in this State.

~~{4.}~~ **5.** Any refund shall be paid as other claims against the State are paid.

Sec. 61. NRS 370.290 is hereby amended to read as follows:

370.290 1. A wholesale dealer shall not export cigarettes unless they bear revenue stamps in accordance with NRS 370.170



and 370.180 to any out-of-state destination other than by a licensed common or contract carrier.

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

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

4. Within 30 days after any wholesale dealer ships any unstamped cigarettes to any destination outside Nevada, the dealer shall send to the state of destination a written notice of the fact of such shipment and whatever other information is required by such state.

5. If a wholesale dealer *knowingly or negligently* fails to comply with the requirements of this section, the Department may ~~{suspend}~~ :

(a) Impose a civil penalty pursuant to NRS 370.425;

(b) Suspend or revoke its license or permit, as provided in ~~{subsection 2 of NRS 370.250.}~~ *section 32 of this act; or*

(c) Take any combination of the action authorized by paragraphs (a) and (b).

Sec. 62. NRS 370.3715 is hereby amended to read as follows:

370.3715 The ~~{Executive Director}~~ *Commission* may adopt regulations for the enforcement of NRS 370.371 to ~~{370.379,}~~ *370.378*, inclusive.

Sec. 63. NRS 370.3735 is hereby amended to read as follows:

370.3735 The provisions of NRS 370.371 to ~~{370.379,}~~ *370.378*, inclusive, do not apply to a sale at wholesale made:

1. As an isolated transaction and not in the usual course of business;

2. When cigarettes are advertised, offered for sale or sold in a bona fide clearance sale for the purpose of discontinuing trade in the cigarettes, and the advertisement, offer to sell or sale states the reason therefor and the quantity of cigarettes advertised, offered for sale or to be sold;

3. When cigarettes are advertised, offered for sale or sold as imperfect or damaged and the advertising, offer to sell or sale states



the reason therefor and the quantity of cigarettes advertised, offered for sale or to be sold;

4. When cigarettes are sold upon the final liquidation of a business; or

5. When cigarettes are advertised, offered for sale or sold by a fiduciary or other officer acting under the order or direction of a court.

Sec. 64. NRS 370.376 is hereby amended to read as follows:

370.376 A contract made by a person in violation of any of the provisions of NRS 370.371 to ~~{370.379,}~~ **370.378**, inclusive, is void and no recovery thereon may be made.

Sec. 65. NRS 370.378 is hereby amended to read as follows:

370.378 1. An action may be maintained in any court of competent jurisdiction to prevent, restrain or enjoin a violation or threatened violation of any provision of NRS 370.371 to ~~{370.379,}~~ **370.378**, inclusive. An action may be instituted by any person injured by a violation or threatened violation of NRS 370.371 to ~~{370.379,}~~ **370.378**, inclusive, or by the Attorney General upon the request of the Executive Director. If in such an action, a violation or threatened violation is established, the court shall enjoin and restrain, or otherwise prohibit the violation or threatened violation. In such an action it is not necessary that actual damages to the plaintiff be alleged or proved, but where alleged and proved, the plaintiff, in addition to injunctive relief and costs of the suit, including reasonable attorney's fees, may recover from the defendant the actual damages sustained by the plaintiff.

2. If no injunctive relief is sought or required, any person injured by a violation of the provisions of NRS 370.371 to ~~{370.379,}~~ **370.378**, inclusive, may maintain an action for damages and costs, including attorney's fees, in any court of competent jurisdiction.

Sec. 66. NRS 370.380 is hereby amended to read as follows:

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

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

(b) To have in his or her possession any forged, counterfeited, spurious or altered license ~~{}~~ **or** stamp ~~{or cigarette tax meter impression,}~~ with the intent to use the same, knowing or having reasonable grounds to believe the same to be such;

(c) To have in his or her possession one or more cigarette stamps ~~{or cigarette tax meter impressions}~~ which he or she knows



have been removed from the pieces of packages or packages of cigarettes to which they were affixed;

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

(e) To have in his or her possession for the purpose of sale cigarettes which do not bear indicia of the State of Nevada excise tax stamping. Presence of the cigarettes in a cigarette vending machine is prima facie evidence of the purpose to sell.

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

Sec. 67. NRS 370.382 is hereby amended to read as follows:

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

(a) To fail to keep or make any record, return, report or inventory, or keep or make any false or fraudulent record, return, report or inventory, required pursuant to NRS ~~[370.080]~~ 370.090 to 370.327, inclusive, *or sections 2 to 34, inclusive, of this act*, or any regulations adopted for the administration or enforcement of those provisions;

(b) To refuse to pay any tax imposed pursuant to NRS ~~[370.080]~~ 370.090 to 370.327, inclusive, or attempt in any manner to evade or defeat the tax or the payment thereof;

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

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

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

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

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

(h) To fail to comply with any requirement of NRS ~~[370.080]~~ 370.090 to 370.327, inclusive ~~+~~, *or sections 2 to 34, inclusive, of this act*.

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



Sec. 68. NRS 370.385 is hereby amended to read as follows:

370.385 1. A wholesale ~~for-retail~~ dealer shall not affix a Nevada cigarette revenue stamp ~~for a metered machine impression~~ upon , *and a wholesale dealer or a retail dealer shall not knowingly or negligently accept or possess*, a package, carton, packet or other container of cigarettes which:

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

(b) Is labeled as “for export only,” “U.S. tax exempt,” “for use outside the U.S.” or with similar wording indicating that the manufacturer did not intend for the product to be sold in the United States ~~H~~ *unless the wholesale dealer or retail dealer is legally authorized to possess tax-exempt cigarettes for the purposes of export;*

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

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

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

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

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

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

2. A ~~wholesale or retail dealer~~ *person* shall not:

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

(b) Sell or distribute in this state; or

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

↪ cigarettes manufactured for export outside the United States.

3. The Department may impose a penalty on a wholesale or retail dealer who violates subsection 1 or 2 as follows:

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

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

4. Notwithstanding any other provision of law, the Department shall seize and destroy cigarettes upon which a revenue stamp ~~for~~



~~metered machine impression~~ was placed in violation of subsection 1 or 2.

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

Sec. 69. NRS 370.390 is hereby amended to read as follows:

370.390 Except as otherwise provided in NRS 370.380 and 370.382, any person violating any of the provisions of NRS ~~[370.080]~~ 370.090 to 370.315, inclusive, *or sections 2 to 34, inclusive, of this act* is guilty of a gross misdemeanor.

Sec. 70. NRS 370.415 is hereby amended to read as follows:

370.415 1. The Department, its agents, sheriffs within their respective counties and all other peace officers of the State of Nevada shall seize any counterfeit stamps, contraband tobacco products, machinery used to manufacture contraband tobacco products and cigarette rolling machines being used in violation of any provision of this chapter that are found or located in the State of Nevada.

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

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

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

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

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

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

4. Upon the receipt of any:

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

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



(1) Sell the other tobacco products to the highest bidder among the licensed wholesale dealers in this State after due notice to all licensed Nevada wholesale dealers has been given by mail to the addresses contained in the Department's records; or

(2) If there is no bidder, or in the opinion of the Department the quantity of the other tobacco products is insufficient, or for any other reason such disposition would be impractical, destroy or dispose of the other tobacco products as the Department may see fit.

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

5. The sheriff or other peace officer who seizes any stamps, contraband tobacco products, machinery or cigarette rolling machines pursuant to this section shall:

(a) Destroy the stamps, machinery and cigarette rolling machines; and

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

Sec. 71. NRS 370.419 is hereby amended to read as follows:

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

1. Fails to keep or make any record, return, report or inventory required pursuant to NRS ~~{370.080}~~ 370.090 to 370.327, inclusive ~~{1}~~, or sections 2 to 34, inclusive, of this act;

2. Keeps or makes any false or fraudulent record, return, report or inventory required pursuant to NRS ~~{370.080}~~ 370.090 to 370.327, inclusive ~~{1}~~, or sections 2 to 34, inclusive, of this act;

3. Refuses to pay any tax imposed pursuant to NRS ~~{370.080}~~ 370.090 to 370.327, inclusive; or

4. Attempts in any manner to evade or defeat the requirements of NRS ~~{370.080}~~ 370.090 to 370.327, inclusive, or sections 2 to 34, inclusive, of this act,

↪ is subject to forfeiture pursuant to NRS 179.1156 to 179.1205, inclusive.

Sec. 72. NRS 370.425 is hereby amended to read as follows:

370.425 In addition to any other penalty authorized by law:

1. The Department may ~~1~~:

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

~~—(1) Omits, neglects or refuses to:~~



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

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

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

~~— (b) Impose~~ **impose** on each person who violates any of the provisions of ~~[NRS 370.321, 370.323 or 370.327]~~ **this chapter** a civil penalty of:

~~[(1)]~~ **(a)** Not more than \$1,000 for the first violation ~~[]~~ **of a provision;** and

~~[(2)]~~ **(b)** Not ~~[less than \$1,000 nor]~~ more than \$5,000 for each subsequent violation ~~[]~~ **of the same provision.**

2. Each violation of any provision of this chapter is considered a separate violation.

3. Any person who fails to pay any tax imposed pursuant to the provisions of NRS ~~[370.080]~~ **370.090** to 370.327, inclusive, ~~or 370.440 to 370.503, inclusive,~~ within the time prescribed by law or regulation shall ~~[pay]~~ **, in addition to the tax due:**

(a) For a first such failure, pay a penalty of ~~[500]~~ **10** percent of the tax due but unpaid, in addition to the tax. **In addition to the penalty, the Department may suspend or revoke the license of the licensee who failed to pay the tax.**

(b) For a second such failure in a 24-month period, pay a penalty of 25 percent of the amount of tax due but unpaid. In addition to the penalty, the Department may suspend or revoke the license of the licensee who failed to pay the tax.

(c) For a third and each subsequent such failure in a 24-month period, pay a penalty of 25 percent of the amount of tax due but unpaid. In addition to the penalty, the Department shall suspend or revoke the license of the licensee who failed to pay the tax.

Sec. 73. NRS 370.440 is hereby amended to read as follows:

370.440 As used in NRS 370.440 to 370.503, inclusive, **and section 35 of this act,** 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. “Retail dealer” means any person who is engaged in selling other tobacco products ~~[]~~ **to ultimate consumers.**

4. “Sale” means any transfer, exchange, barter, gift, offer for sale, or distribution for consideration of other tobacco products.



5. “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. “Wholesale ~~{dealer}” dealer of other tobacco products~~” means any person who:

(a) ~~{Brings or causes to be brought into}~~ *Maintains a place of business in this State , purchases other tobacco products {purchased} from the manufacturer or a wholesale dealer and {who stores,} possesses, receives, sells or otherwise disposes of such other tobacco products to wholesale dealers or retail dealers within this State;*

(b) *Does not maintain a place of business in this State and sells or otherwise disposes of other tobacco products by any means, including, without limitation, through an Internet website, to wholesale dealers, retail dealers or ultimate consumers within this State;*

(c) *Manufactures , {or} produces , fabricates, assembles, processes, labels or finishes 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. “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}~~ *of other tobacco products, valued in money, whether paid in money or otherwise, without any discount or other reduction {is made.} on account of any of the following:*

(1) Trade discounts, cash discounts, special discounts or deals, cash rebates or any other reduction from the regular sales price;

(2) The cost of materials used, labor or service cost, interest charged, losses or any other expenses;

(3) The cost of transportation of the other tobacco products before its purchase by the wholesale dealer of other tobacco products;

(4) Any services that are a part of the sale, including, without limitation, shipping, freight, warehousing, customer service, advertising or any other service related to the sale; or



(5) The amount of any tax, not including any excise tax, imposed by the United States upon or with respect to the other tobacco product;

(b) For other tobacco products sold to a retail dealer or an ultimate consumer by a wholesale dealer *of other tobacco products* described in paragraph ~~[(b)]~~ (c) of subsection 6, 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. 73.3. NRS 370.450 is hereby amended to read as follows:

370.450 1. Except as otherwise provided in ~~subsection 2,~~ *this section*, there is hereby imposed upon the ~~purchase or possession~~ *receipt, purchase or sale* of other tobacco products ~~by a customer~~ in this State a tax of 30 percent of the wholesale price of those products.

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

(a) ~~Shipped out of the State for sale and use outside the State;~~
~~—(b)—~~ Displayed or exhibited at a trade show, convention or other exhibition in this State by a manufacturer or wholesale dealer *of other tobacco products* who is not licensed in this State; or

~~[(c) Acquired]~~

(b) Distributed free of charge at a trade show, convention or other exhibition or public event in this State, ~~and which do not have significant value as determined by the Department by regulation.~~ *if the distributor has obtained a license to distribute other tobacco products free of charge for the trade show, convention or other exhibition or public event.*

3. This tax ~~must be collected and~~ :

(a) Is imposed:

(1) At the time the other tobacco products are first possessed or received by a wholesale dealer of other tobacco products who maintains a place of business in this State for sale or disposition in this State;

(2) At the time the other tobacco products are sold by a wholesale dealer of other tobacco products who does not maintain a place of business in this State to a retail dealer or ultimate consumer; or

(3) For other tobacco products manufactured, produced, fabricated, assembled, processed, labeled or finished in this State, at the time the other tobacco products are sold in this State to a wholesale dealer of other tobacco products, retail dealer or ultimate consumer.



(b) *Must be* paid by the wholesale dealer *of other tobacco products* to the Department, in accordance with the provisions of NRS 370.465 . ~~{after the sale or distribution of the other tobacco products by the wholesale dealer.}~~ The wholesale dealer *of other tobacco products* is entitled to retain 0.25 percent of the taxes ~~{collected}~~ *due* to cover the costs of collecting and administering the taxes if the taxes are paid in accordance with the provisions of NRS 370.465.

4. Any wholesale dealer *of other tobacco products* who sells or distributes other tobacco products without paying the tax provided for by this section is guilty of a misdemeanor.

Sec. 73.7. NRS 370.465 is hereby amended to read as follows:

370.465 1. A wholesale dealer *of other tobacco products* shall, not later than 20 days after the end of each month, submit to the Department a report on a form prescribed by the Department setting forth ~~{each sale of}~~ *such information as the Department may prescribe concerning* other tobacco products ~~{that the wholesale dealer made}~~ *on which the tax provided by NRS 370.450 was imposed* during the previous month.

2. Each report submitted pursuant to this section on or after August 20, 2001, must be accompanied by the tax owed pursuant to NRS 370.450 for other tobacco products that were sold by the wholesale dealer *of other tobacco products* during the previous month.

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

- ~~— (a) For the first violation within 7 years, a fine of \$1,000.~~
- ~~— (b) For a second violation within 7 years, a fine of \$5,000.~~
- ~~— (c) For a third or subsequent violation within 7 years, revocation of the license of the wholesale dealer.}~~

Sec. 74. NRS 370.470 is hereby amended to read as follows:

370.470 1. A wholesale dealer *of other tobacco products* must obtain from each manufacturer or wholesale dealer ~~{who is not licensed in this State}~~ *of other tobacco products from whom the wholesale dealer of other tobacco products purchases other tobacco products* itemized invoices of all other tobacco products purchased from ~~{and}~~ *or* delivered by the manufacturer or wholesale dealer *of other tobacco products*. ~~{who is not licensed in this State.}~~ The wholesale dealer *of other tobacco products* must obtain from the manufacturer or wholesale dealer ~~{who is not licensed in this State}~~ *of other tobacco products* separate invoices for each purchase made.



2. A retail dealer must obtain from each wholesale dealer of other tobacco products itemized invoices of all other tobacco products purchased from the wholesale dealer of other tobacco products. The retail dealer must obtain separate invoices for each purchase made.

3. The ~~invoice~~ invoices required by subsections 1 and 2 must include:

- ~~1.1~~ (a) The name and address of the manufacturer or wholesale dealer of other tobacco products who ~~is not licensed in this State;~~
~~2.1~~ sold the other tobacco products;
- ~~3.1~~ (b) The name and address of the wholesale dealer ~~;~~
~~of other tobacco products or retail dealer who purchased the other tobacco products;~~
- (c) The date of the purchase; ~~and~~
- ~~4.1~~ (d) The invoice number;
- (e) The method of delivery; and
- (f) The itemized quantity ~~and wholesale price~~ of ~~the~~ each brand, type, size and price of other tobacco products ~~;~~ purchased.

Sec. 74.3. NRS 370.480 is hereby amended to read as follows:

370.480 1. Every wholesale dealer of other tobacco products must keep at its place of business complete and accurate records for that place of business, including copies of all invoices of other tobacco products which the wholesale dealer of other tobacco products holds, purchases and delivers, distributes or sells in this State. All records must be preserved for at least 5 years after the date of purchase or after the date of the last entry made on the record.

2. Every retail dealer shall keep at its place of business complete and accurate records for that place of business, including copies of all itemized invoices or purchases of other tobacco products purchased and delivered from wholesale dealers ~~;~~ of other tobacco products. The invoices must show the name and address of the wholesale dealer of other tobacco products and the date of the purchase. All records must be preserved for at least 5 years after the date of the purchase.

Sec. 74.7. NRS 370.490 is hereby amended to read as follows:

370.490 1. The Department shall allow a credit of 30 percent of the wholesale price, less a discount of 0.25 percent for the services rendered in collecting the tax, for other tobacco products on which the tax has been paid pursuant to NRS 370.450 and that may no longer be sold. If the other tobacco products have been purchased and delivered, a credit memo of the manufacturer is required for proof of returned merchandise.



2. A credit must also be granted for any other tobacco products shipped from this State and destined for retail sale and consumption outside the State on which the tax has previously been paid. A duplicate or copy of the invoice is required for proof of the sale outside the State.

3. A wholesale dealer *of other tobacco products* may claim a credit by filing with the Department the proof required by this section. The claim must be made on a form prescribed by the Department.

Sec. 75. NRS 370.525 is hereby amended to read as follows:

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

(a) Sells, distributes or manufactures cigarettes; and

(b) Sustains direct economic or commercial injury as a result of a violation of NRS ~~{370.080}~~ *370.090* to 370.327, inclusive, 370.380, 370.382, 370.385, 370.395, 370.405 or 370.410 ~~{ }~~ *or sections 2 to 34, inclusive, of this act.*

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

Sec. 76. NRS 370.677 is hereby amended to read as follows:

370.677 1. The Department shall notify each wholesale dealer *and retail dealer* when ~~{a manufacturer or brand family is added}~~ *any changes are made* to ~~{or removed from}~~ the directory pursuant to NRS 370.675, *including, without limitation, when a manufacturer, brand family or style of cigarettes is added to or removed from the directory,* by sending a notice to the ~~{mailing address or}~~ electronic mail address of the wholesale dealer *or retail dealer* provided to the Department pursuant to NRS 370.073.

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

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

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

~~—3.}~~ A retail dealer may, not later than 60 days after receiving ~~{a copy of}~~ a notice pursuant to subsection ~~{2}~~ *1* that a manufacturer, ~~{or}~~ brand family *or style of cigarettes* has been removed from the directory pursuant to NRS 370.675, sell any cigarettes in its possession from the manufacturer, ~~{or of the}~~ brand family ~~{ }~~ *or style.* The retail dealer shall, at the expiration of the 60-day period,



turn over possession of any unsold cigarettes to the Department for disposal in the manner provided in subsection 4 of NRS 370.270.

~~{4.}~~ **3.** A wholesale dealer shall not purchase cigarettes for resale from a manufacturer, or of a *style or* brand family, which has been removed from the directory by the Department, or for which the wholesale dealer receives a notice of removal from the Department, until the manufacturer, *style* or brand family is reentered in the directory by the Department.

4. A wholesale dealer that receives a notice pursuant to subsection 1 that a manufacturer, brand family or style of cigarettes has been removed from the directory pursuant to NRS 370.675 shall, not later than 20 days after receiving the notice, identify and set aside any cigarettes of that manufacturer or of that brand family or style of cigarettes for sale or distribution outside of the borders of this State pursuant to NRS 370.210 and keep a record of the destination state for that product, or return any cigarettes of that manufacturer or of that brand family or style to the manufacturer or wholesale dealer.

Sec. 77. NRS 370.684 is hereby amended to read as follows:

370.684 1. An importer is jointly and severally liable for:

(a) The escrow deposit due pursuant to NRS 370A.140 for each cigarette which is intended for sale in this State which the importer causes to be sent to a person who holds a license as a wholesale dealer ~~{or license as a retail dealer}~~ issued by the Department; and

(b) The reports required by subsection 1 of NRS 370.327.

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

3. As used in this section, “importer” has the meaning ascribed to it in NRS 370.0295.

Sec. 78. NRS 370.685 is hereby amended to read as follows:

370.685 1. Not later than ~~{20 calendar days after}~~ the ~~{end}~~ *25th day* of each calendar ~~{quarter}~~ *month*, and more frequently if so directed by the Department, each distributor shall submit such information as the Department requires to facilitate compliance with the provisions of this chapter and chapter 370A of NRS, including, without limitation, a list by brand family of the total number of cigarettes or, in the case of “roll-your-own” tobacco, the equivalent



unit count, for which the distributor affixed stamps during the previous calendar ~~{quarter}~~ **month** or otherwise paid the tax due for those cigarettes. The distributor shall maintain for at least 5 years, and make available to the Department, all invoices and documentation of sales of all cigarettes of nonparticipating manufacturers and any other information relied upon in reporting to the Department.

2. The Department may disclose to the Attorney General any information received pursuant to this chapter or chapter 370A of NRS and requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of this chapter and chapter 370A of NRS. The Department and Attorney General shall share with each other the information received pursuant to the provisions of this chapter and chapter 370A of NRS and may share such information with other federal, state or local agencies only for purposes of enforcement of those provisions or the corresponding laws of other states.

3. The Department or the Attorney General may require at any time from a nonparticipating manufacturer proof, from the financial institution in which that manufacturer has established a qualified escrow fund for the purpose of compliance with chapter 370A of NRS, of the amount of money in that fund, exclusive of interest, the amount and date of each deposit to that fund, and the amount and date of each withdrawal from that fund.

4. In addition to the information otherwise required to be submitted pursuant to this chapter and chapter 370A of NRS, the Department or the Attorney General may, at any time, require a distributor or manufacturer of tobacco products to submit any additional information or documentation as is necessary to determine whether a manufacturer of tobacco products is or will continue to be in compliance with the provisions of this chapter and chapter 370A of NRS.

Sec. 79. NRS 370.698 is hereby amended to read as follows:

370.698 1. The license of a wholesale dealer may be suspended or revoked if a similar license of the wholesale dealer is suspended or revoked in any other state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the suspension or revocation of the license of the wholesale dealer pursuant to ~~[NRS 370.379,]~~ **section 32 of this act**, unless the wholesale dealer demonstrates that the suspension or revocation of its license in the other state was effected without due process. A wholesale dealer whose license is suspended or revoked in this State pursuant to this subsection is eligible for reinstatement



upon the earlier of the date on which the violation in the other state is cured or the date on which the license of the wholesale dealer is reinstated in the other state.

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

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

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

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

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

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

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



(g) In any calendar year the total nationwide sales of cigarettes on which federal excise tax is paid by the nonparticipating manufacturer exceeds by more than 5 percent the amount of such sales reported in:

(1) Any nationwide report made by the nonparticipating manufacturer or any importer pursuant to 15 U.S.C. §§ 375 et seq.;

(2) Any interstate report required by law; or

(3) Any intrastate report required by law,

↪ unless the nonparticipating manufacturer cures the discrepancy or provides a satisfactory explanation of the discrepancy within 30 days after receiving notice of the discrepancy.

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

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

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

Sec. 80. NRS 100.065 is hereby amended to read as follows:

100.065 1. ~~Not~~ **Except as otherwise provided in subsection 4, in** lieu of any cash payment or surety bond required as protection for the State of Nevada, the person required to provide the cash payment or surety bond may deposit with the State Treasurer, unless a different custodian is named by specific statute:

(a) Bonds of the United States or of the State of Nevada of an actual market value of not less than the amount of the required cash payment or surety bond;

(b) A letter of credit from a bank, savings bank, credit union or savings and loan association situated in Nevada, which meets the requirements set for that purpose by the State Treasurer; or

(c) A savings certificate, certificate of deposit or investment certificate of a bank, savings bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount not less than the amount of the required cash payment or surety bond and, except as otherwise provided by specific statute, that the amount is not available for withdrawal except by direct order of the State Treasurer.

2. Whenever a savings certificate, certificate of deposit or investment certificate is deposited as provided in this section, interest earned on the certificate accrues to the account of the depositor.

3. If a surety bond is provided as protection for the State of Nevada, the bond must be issued by an insurer who is authorized or



otherwise allowed under title 57 of NRS to issue such a bond pursuant to title 57 of NRS.

4. The Department of Taxation shall not accept bonds, savings certificates, certificates of deposit or investment certificates in lieu of the surety bond required to be deposited with the Department pursuant to section 29 of this act.

Sec. 81. NRS 477.206 is hereby amended to read as follows:

477.206 The Department of Taxation, in the regular course of conducting inspections of wholesale dealers, retail dealers and agents pursuant to NRS 370.001 to 370.530, inclusive, ***and sections 2 to 34, inclusive, of this act*** may inspect any packages of cigarettes to determine if they have been marked in accordance with NRS 477.198. If the packages of cigarettes are not marked as required, the Executive Director of the Department of Taxation shall notify the State Fire Marshal and may seize the packages of cigarettes pursuant to subsection 5 of NRS 477.202.

Sec. 82. 1. Except as otherwise provided in this subsection, a person operating in this State as a logistics company before the effective date of this section must, if the person wishes to continue operating as a logistics company in this State, obtain a license as a logistics company issued by the Department of Taxation pursuant to section 19 of this act within 180 days after the effective date of this section. If a person operating in this State as a logistics company before the effective date of this section submits to the Department an application for a license as a logistics company pursuant to section 19 of this act within 180 days after the effective date of this section and is not issued a license as a logistics company pursuant to section 19 of this act within 180 days after the effective date of this section, the person may continue to operate as a logistics company until the person has been notified by the Department of a denial of his or her application.

2. Except as otherwise provided in this subsection, a person operating a warehouse or distribution center in this State before the effective date of this section must, if the person wishes to continue operating a warehouse or distribution center in this State, obtain a license to operate a warehouse or distribution center issued by the Department of Taxation pursuant to section 19 of this act within 180 days after the effective date of this section. If a person operating as a warehouse or distribution center in this State before the effective date of this section submits to the Department an application for a license as a warehouse or distribution center pursuant to section 19 of this act within 180 days after the effective date of this section and is not issued a license as a warehouse or distribution center pursuant



to section 19 of this act within 180 days after the effective date of this section, the person may continue to operate a warehouse or distribution center until the person has been notified by the Department of a denial of his or her application.

3. As used in this section:

(a) "Logistics company" has the meaning ascribed to it in section 9 of this act.

(b) "Warehouse or distribution center" has the meaning ascribed to it in section 16 of this act.

Sec. 82.5. NRS 370.450, as amended by section 73.3 of this act, applies to other tobacco products purchased, received or sold in this State before January 1, 2020, if the tax imposed by NRS 370.450, as that section existed before January 1, 2020, has not been paid before January 1, 2020. A wholesale dealer shall include other tobacco products described in this section in the report filed by the wholesale dealer with the Department of Taxation pursuant to NRS 370.465, as amended by section 73.7 of this act, for the January 2020 reporting period and remit the tax required to be paid by this section with that report.

Sec. 83. 1. NRS 370.080, 370.085, 370.095, 370.100, 370.110, 370.120, 370.130, 370.140, 370.150, 370.160, 370.235, 370.250, 370.253, 370.379 and 370.445 are hereby repealed.

2. NRS 370.155 is hereby repealed.

Sec. 84. 1. This section and sections 1 to 28, inclusive, 30 to 73, inclusive, 74 to 82, inclusive, and subsection 1 of section 83 of this act become effective upon passage and approval.

2. Section 29 and subsection 2 of section 83 of this act become effective 180 days after passage and approval of this act.

3. Sections 73.3, 73.7 and 82.5 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, 2020, for all other purposes.

