

**MINUTES OF THE  
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT**

**Eightieth Session  
February 26, 2019**

The Senate Committee on Revenue and Economic Development was called to order by Chair Marilyn Dondero Loop at 1:37 p.m. on Tuesday, February 26, 2019, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Marilyn Dondero Loop, Chair  
Senator Julia Ratti, Vice Chair  
Senator David R. Parks  
Senator Ben Kieckhefer  
Senator Heidi Seevers Gansert

**STAFF MEMBERS PRESENT:**

Russell Guindon, Principal Deputy Fiscal Analyst  
Joe Reel, Deputy Fiscal Analyst  
Lex Thompson, Committee Secretary  
Barbara Williams, Committee Secretary

**OTHERS PRESENT:**

Hillary A. Bunker, Senior Deputy Attorney General, Office of the Attorney General  
Jessica Adair, Chief of Staff, Office of the Attorney General  
Michael Hackett, Nevada Tobacco Prevention Coalition; Nevada Public Health Association  
Melanie Young, Executive Director, Department of Taxation  
Shellie Hughes, Chief Deputy Director, Department of Taxation  
Peter D. Krueger, Cigar Association of America  
Joshua J. Hicks, McLane Company, Inc.  
Robert Ostrovsky, Core-Mark International, Inc.  
Marla McDade Williams, Reno-Sparks Indian Colony

CHAIR DONDERO LOOP:

We will first hear a presentation on the Tobacco Master Settlement Agreement (MSA) by the Office of the Attorney General (AG).

HILLARY A. BUNKER (Senior Deputy Attorney General, Office of the Attorney General):

I have put together a brief overview of the MSA ([Exhibit C](#)). The MSA originated after several states sued major tobacco companies in the 1990s to recover Medicaid costs and other damages related to tobacco use. In 1998, Nevada, many other states and territories, and various tobacco companies signed the MSA. What is important is the MSA does not end. There is no sunset provision; it will continue on as long as cigarettes are sold.

The MSA placed restrictions on tobacco companies related to outdoor advertising, sponsorship and focus on youth smoking. The states that signed the MSA agreed to release the tobacco companies from claims they may have otherwise been able to pursue. In return, the tobacco companies would make annual payments to the signatory states.

Of the original four participating tobacco manufacturers, Philip Morris and R.J. Reynolds are the only two companies still in existence. The other two, Lorillard and Brown & Williamson, are no longer tobacco manufacturers. Since 1998, more than 40 other manufacturers have signed on.

Nevada receives a 0.6 percent share of the MSA payment in April, which translates into approximately \$40 million annually. Per statute, 40 percent goes to the Governor Guinn Millennium Scholarship Program and 60 percent goes to the Fund for a Healthy Nevada. Enforcement costs are also funded by the MSA payment.

Tobacco companies that are not signatories to the MSA are referred to as nonparticipating manufacturers. They do not make annual payments to the MSA but are required to make payments to an escrow account. This prevents them from gaining a market advantage. Their activity is regulated by statute.

After the MSA was signed, tobacco companies challenged whether states were performing the required diligent enforcement. Ongoing arbitration, which is delayed, most recently focused on sales in 2004. Failure to perform diligent enforcement can cost a state up to its entire MSA payment for the year in

question. Diligent enforcement is not defined in the MSA, but some factors taken into consideration are: how well the AG Office and the Department of Taxation work together on tobacco issues, the reliability of wholesale dealers submitted information, what resources are allocated to enforcement, enacted legislation and working with the National Association of Attorneys General.

The two agencies in the State responsible for enforcing the MSA are the AG Tobacco Enforcement Unit and the Department of Taxation MSA Unit. These units make sure all tobacco-related companies active in our State follow policies, regulations and laws. The Tobacco Enforcement Unit oversees the Youth Compliance Program, in which undercover stings are performed on retailers to see if tobacco sales will be made to children under 18. It regularly works with and represents the Department of Taxation on tobacco-related issues.

SENATOR RATTI:

Is the percentage Nevada receives from the MSA always the same, or is it driven by usage? Would it be affected by smoking rates increasing or decreasing?

Ms. BUNKER:

The 0.6 percent Nevada receives is written in the MSA itself, so it will not change.

SENATOR KIECKHEFER:

Who holds the escrow account non-signatory tobacco companies remit to? What are those funds used for?

Ms. BUNKER:

Statute stipulates the bank must satisfy certain qualifications. The accounts are held in private banks that meet the threshold amount of deposits. The funds sit in the escrow accounts for 25 years. If the State were to sue the company to recoup healthcare-related costs, the funds could come from escrow. Companies that signed the MSA cannot be sued to recover healthcare-related costs by the State, but private individuals can seek damages.

SENATOR KIECKHEFER:

Have other states sued nonparticipating companies for funds?

Ms. BUNKER:

To my knowledge, there has been one release claim. Overall, litigation against tobacco companies has decreased substantially, even by private individuals.

SENATOR RATTI:

What happens to the funds after 25 years?

Ms. BUNKER:

They revert to the company which originally placed them in escrow.

SENATOR RATTI:

Do we know how much money is in escrow?

Ms. BUNKER:

The AG Office receives quarterly updates from the holding banks and the remitting tobacco companies. One of our tasks is to ensure funds do not drop below the principal amount. There is between \$15 million and \$20 million in escrow.

CHAIR DONDERO LOOP:

How often does the Youth Compliance Program catch a retailer in a sting? What is the penalty to the business?

Ms. BUNKER:

The statutes impose a fine and misdemeanor citation issued to the clerk involved in the sale. It differs in that way from underage alcohol sales, which do result in penalties for the business. Our buy rate has been increasing over the years and stands today at about 14 percent.

SENATOR RATTI:

Are there states that fine the establishment as well as the clerk?

Ms. BUNKER:

Yes, there are other states that do it differently. Some fine the business with the potential for license suspension or revocation if the violation persists. Some states have the ability to penalize both the business and the clerk.

SENATOR KIECKHEFER:

Is there a correlation between the intensity of enforcement and the instance of violation?

MS. BUNKER:

Our minors are hired State employees. Because this is a criminal citation, we have POST-certified investigators perform the stings. I do not have the exact numbers, but I have heard states that levy penalties against the business often have an immediate reduction in their buy rates. When a store has something to lose, it is treated differently than when a clerk has something to lose. Repeated violations at the same store will not affect that store's ability to sell tobacco products in Nevada.

CHAIR DONDERO LOOP:

I will now open the hearing on Senate Bill (S.B.) 62.

**SENATE BILL 62**: Revises provisions relating to manufacturers and wholesale dealers of tobacco products. (BDR 32-424)

JESSICA ADAIR (Chief of Staff, Office of the Attorney General):

I am here on behalf of Nevada Attorney General Aaron Ford to present testimony in support of S.B. 62, revising *Nevada Revised Statutes* (NRS) 370, which regulates the manufacture and sale of tobacco products in Nevada. In 1998, Nevada entered into the MSA, which resolved healthcare-related lawsuits between the Nation's largest tobacco manufacturer and 52 U.S. states and territories. In exchange for the receipt of annual MSA payments, the State of Nevada must demonstrate diligence in the regulation and enforcement of the manufacture and sale of tobacco products in our State. Senate Bill 62 is brought for your consideration in furtherance of our diligent enforcement efforts.

MS. BUNKER:

Each Legislative Session, the Office of the Attorney General submits a bill related to tobacco regulation enforcement. The office is tasked with diligent enforcement of the MSA, which is determined on an annual basis. The entire MSA payment Nevada receives is jeopardized if it is found to have failed diligent enforcement.

Following signature of the MSA, the tobacco companies arbitrated against the states to determine if they had been diligent in their enforcement efforts. As a

result of this arbitration, Nevada signed a separate Settlement Agreement with over 30 other states and various tobacco manufacturers concerning our diligent enforcement of the MSA for calendar years 2003 through 2017. By entering into this Agreement, Nevada did not have to participate in arbitration proceedings to determine its diligence in enforcing the MSA for those years. As there is no sunset provision on the MSA, the question of diligence has to be determined every year.

Although diligent enforcement is not defined in the MSA, one of the factors considered in determining diligence is whether the State enacted legislation toward strengthening its enforcement efforts.

The main focus of this bill is to amend various sections of NRS 370 to mirror what is already being done in practice. These sections relate to styles of cigarettes, which is an industry description of cigarettes. For example, Camel is a brand of cigarettes, but Camel Silver and Camel Crush are cigarette styles. Similarly, Marlboro is a brand of cigarettes, but Marlboro Red and Marlboro Special Blend are different styles of the same brand family. This is how all of the cigarettes are listed in the Nevada Tobacco Directory (NTD) when the State Fire Marshal Division certifies cigarettes by style for fire standard compliance. This bill amends sections so that throughout NRS cigarettes are identified, certified and listed by style, not by brand family. By requiring cigarettes to be certified by style, the State has the ability to more accurately monitor cigarette sales and create a more uniform certification for all tobacco manufacturers.

Section 1 amends the contraband definition to include any style of cigarette not on the NTD. Existing language is limited to brand family.

Cigarette manufacturers are required to submit annual certifications and updates to the AG's Office whereby they certify what cigarettes they are requesting to sell in the State. Section 2 of S.B. 62 requires these manufacturers to list all styles of cigarettes in addition to the current brand families.

Sections 3 and 4 relate to the NTD, which is a list of all cigarettes and roll-your-own tobacco that can legally be sold in the State. Section 3 amends the listing to include styles of cigarettes. Section 4 allows updates to the NTD to include when a style is added or removed. These are already included in the way the Directory appears online.

*Nevada Revised Statutes* 370 states it is unlawful for anyone to stamp, sell or possess for sale any cigarette-brand family not listed on the NTD. Section 5 of S.B. 62 amends this to include cigarette styles not on the NTD.

Section 6 broadens the scope of compliance to ensure manufacturers are complying with any regulations relevant to tobacco enforcement. This section also clarifies all cigarette manufacturers are subject to civil penalties, to include participating manufacturers that signed the MSA.

SENATOR KIECKHEFER:

It seems today there are a great many styles of cigarettes. How often will a manufacturer be able to update this list? Will it hamper their ability to move products in to the State? What is the process?

MS. BUNKER:

Manufacturers are required to notify the State at least 30 days before they intend on selling cigarettes in Nevada. The NTD can be updated at any time.

CHAIR DONDERO LOOP:

Is there a standardized way cigarettes are displayed or sold? Are businesses mandated to keep them behind a counter?

MS. BUNKER:

There is a federal ban on self-service displays, which is why tobacco products are kept behind the counter in most establishments. In terms of the display, you are touching on a hot-button industry issue, which is shelf space. Manufacturers are greatly interested in exactly where their brands are displayed.

CHAIR DONDERO LOOP:

How are cigarette vending machines regulated under the federal ban on self-service displays?

MS. BUNKER:

Not every state allows cigarette vending machines, but Nevada does. They are supposed to be in an area not accessible to youth under the age of 18, such as casinos and bars. As part of our Youth Compliance Program, we do vending machine stings, but we do not issue a citation to a clerk. Our investigator instead talks to a security manager or general manager on site, and then our office follows up with the corporate entity or a general counsel.

MICHAEL HACKETT (Nevada Tobacco Prevention Coalition; Nevada Public Health Association):

I am here in support of S.B. 62 to ensure the State continues to be in compliance with the terms and conditions of the MSA. Settlement dollars are the sole source of funding for the Fund for a Healthy Nevada, which provides important public health programs for the State. It is likewise the sole source of funding for the State's Tobacco Prevention and Control programs and funds programs on food insecurity, Senior Rx and Nevada 2-1-1 phone service, among others.

CHAIR DONDERO LOOP:

I will close the hearing on S.B. 62 and open the hearing on S.B. 81.

**SENATE BILL 81**: Revises various provisions relating to tobacco products.  
(BDR 32-190)

MELANIE YOUNG (Executive Director, Department of Taxation):

Before you today is S.B. 81, which revises the provisions relating to tobacco products. The bill establishes uniform provisions for the licensing of persons engaged in the manufacture, distribution and sale of cigarettes and other tobacco products (OTP) as well as creating consistency within the statutes of OTP.

SHELLIE HUGHES (Chief Deputy Director, Department of Taxation):

Before I go into the details, I would first like to explain the current issues we are trying to resolve with this bill.

Existing law under NRS 370 provides certain licensing procedures, requirements and penalties for cigarettes and other tobacco products. *Nevada Revised Statutes* 370 is separated into several sections. One of those sections contains provisions related solely to cigarettes and another section contains provisions related solely to OTP.

We found clarity and detail are needed with many of the provisions that relate to OTP to bring those provisions into alignment with the cigarette provisions. Our goal is to have uniform provisions for both cigarettes and OTP in the areas that are similar between the two. This will make the law clear and enforceable.



There are some procedures absent in both the cigarettes and OTP provisions of NRS 370. Examples are the refund claims procedures and issuing a license for a logistics company, warehouse or distribution center. Essentially, we see this as a cleanup bill.

As you look at the language of the bill and all 84 sections, it might appear we are adding many new requirements for licensees of other tobacco products, but that is not the case. The provisions under OTP in NRS 370 are similar to provisions under cigarettes for licensing and applications, remittance of taxes, refunds and credits, reporting, suspension and revocation, penalties, contraband definition and seizures. However, many of those provisions under the OTP sections that start at NRS 370.440 and end at NRS 370.503 are not as detailed as the similar provisions under the cigarette section.

For example, the OTP provisions explain who needs to apply for a license, but do not go into detail regarding the contents of the license, posting and transfer requirements, the scope of the license, the period of validity and renewal procedures as described in the cigarette provisions. All these provisions are important for enforcement purposes and keep the OTP provisions in uniformity with the cigarette provisions. This is not an expansion of licensing requirements, rather it is a clarification of existing provisions.

You can look at the 99 provisions under the cigarette section compared to the 11 provisions under the OTP section to understand the OTP provisions are lacking the detail and clarity the cigarette provisions have. The only real difference between the two types of products is cigarettes fall under the MSA and are required to be stamped.

We are working with the industry on their questions and potential amendments to the bill. With that said, I will briefly explain the sections of S.B. 81.

Sections 2 through 18 provide definitions. Sections 9 and 16 are new definitions. Section 19 adds that a person shall not engage as a wholesale dealer of cigarettes or OTP, a tobacco retailer, cigarette vending machine operator, logistics company, warehouse or distribution center without a license. It also adds that a manufacturer shall not sell any cigarettes to a wholesale dealer of cigarettes in this State or operate or permit any person other than a manufacturer to operate a cigarette rolling machine unless that person secures a license. It also provides that a separate license is needed for each activity and

that a person may be licensed in all categories. Most of this language exists in separate sections in NRS 370. The new language relates to requiring a logistics company and warehouse or distribution center to obtain a license prior to operating.

Sections 20 through 34 establish uniform provisions for the licensing of persons engaged in manufacturing, distribution and sale of cigarettes and OTP.

Section 20 provides that the Department will create, maintain on its website and make available to the public a list of all valid licenses and the identity of those holding those licenses as well as Indian tribe reservations or colonies on which cigarettes are sold but from which the Department does not collect the tax. The Department will update the list at least once a month. This is a current provision for cigarette licensees but a new provision for OTP licensees. This enables the public to know who is licensed to legally sell a product.

Section 21 provides that no license will be issued, maintained or renewed if any of several different conditions exist. This is an enforcement tool. We need to know where the product is because in certain areas we have no jurisdiction.

Section 22 adds requirements for an application for a license. This is language in separate sections of NRS 370.

Section 23 adds that a licensee shall not operate from any other location than that listed on the license. It also adds that the Department may issue a temporary license for a convention or trade show with specific dates of operation. This is new language for both cigarette and OTP licensees and will help with enforcement.

Section 24 adds that the Department may issue a license without a fee to anyone authorized to do business on an Indian reservation or upon a military or other federal reservation. This is language under the cigarette provisions but is new language under the OTP provisions. This language is needed so that tribes can purchase from manufacturers.

Section 25 adds what will be included on the license. Section 26 adds the requirements for each license holder regarding signing and posting. It also adds that the license is nontransferrable unless written notice is provided with a change of location. Section 27 adds what each license authorizes the holder to

do. All of these are current language for cigarette licenses but new language for OTP.

Section 28 adds that each license is valid for one calendar year and must be renewed annually. It details the fee and due date for a license and the late payment of fees. This is language under the cigarette section but new language for the OTP section and provides more detail on the period of validity for OTP.

Section 29 adds requirements for a bond and the amount of the bond for each licensed wholesale dealer and for deferral of payment on the purchase of revenue stamps. This is existing language for cigarettes but new language regarding bond requirements for OTP.

Section 30 adds recordkeeping requirements and production of records. Some of this language is current for both the cigarette and OTP sections, and some of it is new language in alignment with recordkeeping requirements and production of records of our other tax types. This change helps the Department maintain a chain of custody.

Section 31 adds that this chapter does not prohibit any county, city or town in Nevada from requiring licenses to operate. Section 32 adds provisions relating to the suspension or revocation of a license. This is existing language for cigarettes licensees and adds new language for OTP licensees as to when a license will be suspended or revoked.

Section 33 adds that the Department will adopt regulations establishing procedures for the suspension and revocation of licenses. This is existing language for cigarettes but new language for OTP.

Section 34 adds that sections 2 through 34 do not apply to common carriers, persons with quantities for household or personal use which are exempt from federal import duty, or a duty-free sales enterprise. This is new language for both cigarettes and OTP.

Section 35 details how much inventory a wholesale dealer of OTP must have on hand. Sections 36 through 45 relate to overpayments, credits and refunds. These are new provisions for both cigarette and OTP licensees and similar to language in our other tax types. Section 36 adds procedures for overpayments and how they will be credited or refunded, while section 37 adds procedures

regarding credits and refunds: how to claim a credit or refund and the period in which the credit or refund must be claimed.

Section 38 adds that interest must be paid on refunds in accordance with NRS 360.2937. Section 39 adds requirements for suits, actions or proceedings in court, while section 40 adds time frames and requirements for bringing appeals of a final decision of the Nevada Tax Commission to a court of competent jurisdiction.

Section 41 adds provisions relating to the Department's failure to respond to a refund claim and appeal rights to the Nevada Tax Commission. Section 42 adds provisions relating to payment of interest on a judgment, while section 43 adds provisions relating to who may receive a judgment. Section 44 adds provisions on how the Department can recover any refund or credit erroneously made.

Section 45 stipulates that if any amount in excess of \$25 has been illegally determined, it must be certified by the State Board of Examiners who will authorize the cancellation of the amount in the records of the Department.

Section 46 amends NRS 370.0305 to include wholesale dealers of cigarettes and OTP and tobacco retail dealers. This extends the definition of license to include licenses under the OTP provisions.

Section 47 amends NRS 370.035 to provide an exemption for licensed logistics companies or operators of a licensed warehouse or distribution center from the definition of sale. This is a new provision.

Section 48 amends NRS 370.055 to revise the activities that cause a person to be considered a wholesale dealer of cigarettes and provides that these activities do not include the purchase of unstamped cigarettes from anyone other than a manufacturer.

Section 49 amends NRS 370.073 to include the requirement that manufacturers and retail dealers maintain current mailing and electronic addresses with the Department. This provision is needed to include all licensees rather than just wholesale dealers.

Section 50 amends NRS 370.090 to require a wholesale licensee to keep \$10,000 worth of cigarettes on hand, while section 51 amends NRS 370.175

to include that the provisions do not apply to a person engaged in manufacturing, testing, investigation or research of cigarettes or OTP if the person is operating legally and has all licenses required by federal and State law.

Sections 52 through 54, 56, 61, 66 and 70 remove references to metered machine impressions, while section 55 removes the phrase "received at those stamping facilities."

Section 57 amends NRS 370.240 to specify what should be included in the report to the Department regarding stamped and unstamped cigarettes and the date when it shall be provided.

Section 58 amends NRS 370.260 to include that all taxes and fees imposed by sections 2 to 34 of this bill be remitted to the Department.

Section 59 amends NRS 370.270 to direct that a cigarette stamp should be affixed at the time the retail dealer takes possession of a package of cigarettes. Section 60 amends NRS 370.280 to indicate that a refund for cigarette stamp tax paid shall be allowed to wholesale dealers and specifies what is required in order to claim the refund.

Sections 61 through 65 make conforming revisions. Sections 66, 67 and 69 explain that violations of cigarette and OTP provisions included in sections 2 to 34 of this bill are unlawful, and a person in violation of any of these provisions is guilty of a Category C felony or a gross misdemeanor.

Section 68 amends NRS 370.385 to indicate that a wholesale dealer shall not affix a Nevada cigarette revenue stamp and indicates what types of packages, cartons, packets or other containers a wholesale or retail dealer shall not accept or possess.

Section 71 extends the forfeiture provisions found in existing cigarette provisions to OTP. Section 72 amends NRS 370.425 to indicate when a civil penalty will be imposed. This revises current language for cigarette licensees and adds language to include OTP licensees. Section 73 extends the definitions found in NRS 370.440 to section 35 of this bill.

Section 74 amends NRS 370.470 to indicate when a wholesale dealer of OTP is required to obtain an itemized invoice from a manufacturer or wholesale dealer

when purchasing OTP. Section 75 extends the provisions of NRS 370.525 regarding a person instituting a civil action for injunctive relief if the person sustains direct economic or commercial injury as a result of sections 2 to 34 of this bill.

Section 76 amends NRS 370.677 to require the Department to notify wholesale and retail dealers of cigarettes of any changes to the Directory and revises notification requirements of the Department from sending to a physical address to requiring notification to an email address. It also requires a wholesale dealer of cigarettes to identify and set aside for sale outside of this State any product from a manufacturer, style or brand family that has been removed from the Directory within 20 days after receiving the notice of the removal.

Section 77 amends NRS 370.684 to remove from the requirement that an importer is jointly and severally liable for the escrow deposit for cigarettes sent to a person who holds a license as a retail dealer.

Section 78 amends NRS 370.685 to require each distributor of cigarettes to submit certain information to the Department on or before the twenty-fifth day of each calendar month instead of 20 days after each calendar quarter.

Section 79 makes conforming changes to the grounds for the suspension or revocation of a license of a wholesale dealer. This applies to cigarettes only. Section 80 amends NRS to indicate that the Department will not accept bonds, savings certificates, certificates of deposit or investment certificates in lieu of the surety bond. Section 81 makes conforming changes to include sections 2 to 34 of this bill. Section 82 adds requirements for a person operating as a logistics company, a warehouse or distribution center.

Section 83 repeals certain sections of NRS 370 that were only under the title "Cigarettes" or only under the title "Other Tobacco Products" and have now been added to a uniform section that applies to both "Cigarettes and Other Tobacco Products," which was previously discussed in sections 2 through 34.

Section 84 stipulates that sections 1 through 28; 30 through 82 and section 83, subsection 1 become effective upon passage. Sections 29 and section 83, subsection 2 become effective 180 days after passage.

In summary, S.B. 81 will create consistency for cigarette and other tobacco product licensees and make sure these tax types are strongly regulated. The bill provides greater enforcement tools for the Department to prevent illegal activity, eliminate tax avoidance and help with compliance for both OTP licensees as well as cigarette licensees, which is important for MSA funding and has a direct impact on the Governor Guinn Millennium Scholarship and the Fund for a Healthy Nevada.

SENATOR KIECKHEFER:

Section 21, subsection 1, paragraph (a) of S.B. 81 appears to allow the Department to deny licensure if an owner, even a minority owner, has a delinquency in any type of tax, even if not related to tobacco. Is that correct?

Ms. HUGHES:

That is correct, if the owner has 10 percent or greater ownership interest.

SENATOR KIECKHEFER:

Even if the delinquent tax is from a separate business one may own, unrelated to this business entity?

Ms. HUGHES:

That is one of the factors we would consider when deciding whether a license should be issued or renewed.

SENATOR KIECKHEFER:

Does each physical location have to get licensed, regardless of how many locations a parent company may have?

Ms. HUGHES:

That is correct.

SENATOR KIECKHEFER:

Is section 27 all new language for both cigarettes and OTP?

Ms. HUGHES:

That is correct.

SENATOR KIECKHEFER:

As I read section 28, if a business gets licensed in November, it pays a fee and has to apply for renewal in January. That seems burdensome. Is there a reason we do not have a rolling licensure?

Ms. YOUNG:

The licensing is on a calendar basis. If a business started in November, it would pay a 25 percent prorated fee and have to renew in January.

SENATOR KIECKHEFER:

Can a business apply for a year and a month at a time? Must they fill out two separate licensing applications?

Ms. YOUNG:

The business would have to complete two separate licensing applications.

SENATOR KIECKHEFER:

Why do we require maintenance of a certain amount of inventory for all sellers?

Ms. HUGHES:

We require a certain amount of inventory to legitimize the business. It helps to make sure these individuals are actually in the business of selling rather than purchasing for personal consumption.

SENATOR KIECKHEFER:

It appears section 57 is a significant expansion of the reporting requirements for wholesalers. Why does the Department need the reporting to be so proscriptive?

Ms. HUGHES:

The language is from NRS 370.235, and expands what is required for reporting purposes. This helps the wholesaler with inventory control and with reporting.

SENATOR KIECKHEFER:

Are you copying the language from another section which you are deleting?

Ms. HUGHES:

That is correct.



CHAIR DONDERO LOOP:

Could you clarify the proposed regulations as they pertain to Indian colonies in section 24?

MS. HUGHES:

Section 24 states the Department may issue a license without payment of fees to any applicant authorized to do business on an Indian reservation, Indian colony, military or other federal reservation. Under the cigarette statutes, the Department provides licenses to Indian tribes without fee, which allows them to purchase directly from manufacturers. The language in section 24 allows that same provision for OTP as well.

MR. HACKETT:

We are in support of the Department's efforts to clarify and modernize the tobacco licensing requirements and processes.

PETER D. KRUEGER (Cigar Association of America):

The Cigar Association of America is a national trade association representing cigar manufacturers worldwide. Senate Bill 81 deals with licensure, reporting, handling and distribution of cigarettes and OTP, which includes cigars. We have met with the Department of Taxation senior leadership to explain why the marketing and distribution of premium cigars is different than the marketing of OTP. This one-size-fits-all approach needs work.

Cigars fall in two categories. One is the premium cigar, which generally retails for at least \$10. The second is the popular-priced cigar, which generally costs \$2 to \$4. It is manufactured by machine and may not have a tobacco wrapper. All premium cigars have tobacco wrappers. We can craft bill language recognizing the unique nature of a premium cigar. This amendment would still allow the Department to ensure only properly licensed dealers and wholesalers maintain an inventory of premium cigars. We hope to provide this language by tomorrow.

I will give you examples of how the bill affects premium cigars. Section 35 establishes a minimum inventory level. Retail cigar tobacconists buy directly from the manufacturer, as freshness is an important quality in a premium cigar. That is why minimum inventory levels as cited will not work. For the same reason, a manufacturer representative for premium cigars would not have the minimum inventory levels required by section 50.

We are in full support of preventing people claiming to be wholesalers but using their product for personal consumption. We believe the bill can accomplish this without penalizing the premium cigar industry.

JOSHUA J. HICKS (McLane Company, Inc.):

McLane Company is one of the Country's larger grocery and food service supply chain providers. In that capacity, McLane affiliates hold cigarette wholesaler licenses in Nevada. We are in opposition to S.B. 81 as written, but we are proposing some changes. We are working on those amendments with the Department. I would describe the proposed amendments as process-related, not substantive. We are primarily focused on setting up a graduated scale of penalties to deal with infractions. We look forward to bringing a consensus amendment to this Committee soon.

ROBERT OSTROVSKY (Core-Mark International, Inc.):

Core-Mark is a wholesaler under the category discussed in S.B. 81. It provides services and merchandise to convenience stores throughout the State. Tobacco is one element of what we provide. We are working with the Department and other interested parties on language that would allow us to comply with the law without overly interfering with our operations. We want to ensure the State gets all the tax revenue it is entitled to and properly controls tobacco products. Because Core-Mark has warehouses in nearly every state, we are concerned with conforming to regulations without undue burden. We look forward to coming before this Committee with a friendly amendment soon.

CHAIR DONDERO LOOP:

To all those with concerns, please continue to work with the Department of Taxation to find consensus.

MARLA MCDADE WILLIAMS (Reno-Sparks Indian Colony):

We want to go on record to ensure any changes include tribal entities as this bill moves forward. We will work with the Department to ensure this.

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CHAIR DONDERO LOOP:  
This meeting is adjourned at 2:40 p.m.

RESPECTFULLY SUBMITTED:

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Barbara Williams,  
Committee Secretary

APPROVED BY:

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Senator Marilyn Dondero Loop, Chair

DATE: \_\_\_\_\_

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	3		Attendance Roster
	C	9	Hillary Bunker / Office of the Attorney General	Introduction to the Master Settlement Agreement