

SENATE BILL NO. 374—SENATOR PICKARD

MARCH 26, 2021

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions relating to taxation.
(BDR 32-161)

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

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

AN ACT relating to taxation; providing for the imposition, administration, collection and enforcement of a tax on certain digital products electronically transferred to a purchaser; extending the excise tax on admission to certain facilities where live entertainment is provided to include the increase in price of a ticket for admission upon resale; requiring the Department of Taxation to treat a construction contractor as the consumer of tangible personal property used in performing a construction contract; revising provisions relating to the imposition of transient lodging taxes on the gross receipts of room remarketers from the reserving of, arranging for, conveying of or furnishing of the right to use or occupy transient lodging; establishing provisions regulating the lease of a passenger car through a personal vehicle sharing program; imposing a governmental services fee and authorizing certain counties to impose a fee on the lease of a passenger car through a personal vehicle sharing program; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Sections 25 and 34** of this bill impose a tax on a retail sale in this State of
2 specified digital products electronically transferred to a person and on the use of
3 specified digital products electronically transferred to a person in a transaction in
4 this State for which the tax was not collected at the time of sale. **Section 24** of this
5 bill establishes requirements for determining the place where a sale of specified



digital products takes place for the purpose of the tax. Under **sections 25 and 34**, the rate of the tax is the same as the sales and use tax rate imposed in the county determined pursuant to **section 24**. Under **section 101** of this bill, the requirement to impose, collect and remit the tax is imposed on a retailer if, in the immediately preceding calendar year or the current calendar year, the retailer had more than \$100,000 of gross revenue from certain transactions that took place in this State or 200 or more such transactions that took place in this State. **Sections 1-22, 26-33, 35-100 and 102-118** of this bill provide for the administration, collection and enforcement of the tax in the same manner as the sales and use tax.

Sections 119-135 of this bill make conforming changes.

Existing law imposes an excise tax on admission to certain facilities where live entertainment is provided. (Chapter 368A of NRS) **Section 136** of this bill provides that a taxpayer who resells a ticket for admission to a facility where live entertainment is provided for which the tax was already paid is entitled to a credit in an amount equal to the tax already paid. **Section 137** of this bill provides that, for the purposes of imposing the tax, an admission charge includes any increase from the initial price of the ticket which is charged upon resale. **Section 138** of this bill revises the term "taxpayer" to include a purchaser who resells a ticket for admission to a facility where live entertainment is provided.

The Sales and Use Tax Act and the Local School Support Tax Law impose certain taxes on the sale, storage, use or other consumption in this State of tangible personal property. The taxes must be paid by the consumer of the property. (Chapters 372 and 374 of NRS) **Sections 139 and 140** of this bill require the Department of Taxation, in administering the provisions of the Sales and Use Tax Act and the Local School Support Tax Law, to consider a construction contractor to be a consumer and not a retailer of the tangible personal property used in improving real property or in constructing, altering or repairing a work of improvement pursuant to a contract with the owner or lessee of real property.

Existing law governs the imposition and collection of taxes on the gross receipts of a person engaged in the business of providing transient lodging from the rental of transient lodging in a county or incorporated city. (See, e.g., NRS 244.33508, 244.3351, 244.33516, 244.3352, 244.33561, 268.096) Existing law requires each board of county commissioners and the city council or other governing body of each incorporated city to define the term "transient lodging" for the purpose of such taxes. (NRS 244.33565, 268.0195) **Sections 141 and 144** of this bill require the board of county commissioners of each county and the city council or other governing body of each city to adopt an ordinance to: (1) require a room remarketer who reserves, arranges for, conveys or furnishes the right to use or occupy transient lodging in a county or incorporated city in this State in exchange for an amount of consideration determined by the room remarketer, to impose, collect and remit transient lodging taxes on the gross receipts of the room remarketer from reserving, arranging for, conveying or furnishing the right to use or occupy transient lodging; (2) require the room remarketer to include in the gross receipts on which the tax is imposed the amounts received by the room remarketer for reserving, arranging for, conveying or furnishing the right to use or occupy transient lodging, including any service or other charge or amount required to be paid as a condition to the right to use or occupy the transient lodging; and (3) authorize the room remarketer to claim a refund or credit for any transient lodging taxes paid by the room remarketer to the provider of the transient lodging.

Sections 146-170 of this bill establish provisions to regulate the lease of a passenger car by the car's registered owner to another person through a personal vehicle sharing program. **Section 155** of this bill prohibits a personal vehicle sharing program from engaging in business in this State unless the program holds a valid license issued by the Department of Motor Vehicles and establishes the requirements to obtain such a license from the Department. **Section 156** of this bill



requires a personal vehicle sharing program to maintain insurance for each motor vehicle that it facilitates the use of and imposes liability for certain damages upon a program which fails to maintain such insurance.

Section 159 of this bill requires a personal vehicle sharing program to appoint and keep a registered agent in this State.

Section 160 of this bill establishes certain requirements which must be satisfied before the passenger car of a person may be leased through a personal vehicle sharing program, including a requirement for the program to obtain certain information from such a person.

Sections 157, 158 and 165-169 of this bill establish provisions governing the trade practices of a personal vehicle sharing program.

Section 162 of this bill requires a personal vehicle sharing program to collect from each lessee a governmental service fee of 10 percent of the total amount for which a passenger car was leased through the program, plus any additional fee imposed on the lease of the passenger car by authorized counties. **Section 162** requires the personal vehicle sharing program to remit such fees to the Department of Taxation, along with a quarterly report. **Sections 119-129** of this bill make conforming changes to provide for the administration of the governmental services fee by the Department of Taxation.

Section 164 of this bill authorizes a personal vehicle sharing program, the owner of a passenger car and a lessee to agree that the lessee will be responsible for certain damages.

Section 170 of this bill makes a waiver of certain provisions of this bill void and unenforceable.

Existing law provides that a short-term lessor is not liable for a fine or penalty imposed by the Nevada Transportation Authority for certain violations of law that result in a vehicle of the short-term lessor being impounded if the vehicle was in the care, custody or control of a lessee at the time that it was impounded. (NRS 706.478) **Section 173** of this bill provides that the owner of a vehicle who leases the vehicle through a personal vehicle sharing program is also not liable for such fines and penalties if the vehicle was in the care, custody or control of a lessee.

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

Section 1. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 118, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 22, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Business” includes any activity engaged in by any person or caused to be engaged in by him or her with the object of gain, benefit or advantage, either direct or indirect.*

Sec. 4. *“Computer software” means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.*



1 **Sec. 5.** *“Digital audio works” means works that result from*
2 *the fixation of a series of musical, spoken or other sounds,*
3 *including, without limitation, ringtones.*

4 **Sec. 6.** *“Digital audio-visual works” means a series of*
5 *related images which, when shown in succession, impart an*
6 *impression of motion, together with accompanying sounds, if any.*

7 **Sec. 7.** *“Digital books” means works that are generally*
8 *recognized in the ordinary and usual sense as “books.”*

9 **Sec. 8.** *“Electronically transferred” means obtained by the*
10 *purchaser by means other than tangible storage media.*

11 **Sec. 9.** *“End user” means any person other than a person*
12 *who receives by contract a specified digital product for further*
13 *commercial broadcast, rebroadcast, transmission, retransmission,*
14 *licensing, relicensing, distribution, redistribution or exhibition of*
15 *the specified digital product, in whole or in part, to another person*
16 *or persons.*

17 **Sec. 10.** 1. *“Gross receipts” means the total amount of the*
18 *sales or lease or rental price, as the case may be, of the retail sales*
19 *of specified digital products of retailers of specified digital*
20 *products, valued in money, whether received in money or*
21 *otherwise, without any deduction on account of any of the*
22 *following:*

23 (a) *The cost of the specified digital products sold except that,*
24 *in accordance with such rules and regulations as the Department*
25 *may prescribe, a deduction may be taken if the retailer has*
26 *purchased specified digital products for some other purpose than*
27 *resale, has reimbursed his or her vendor for tax which the vendor*
28 *is required to pay to the State or has paid the use tax with respect*
29 *to the specified digital products, and has resold the specified*
30 *digital products before making any use of the specified digital*
31 *products other than the broadcast, rebroadcast, transmission,*
32 *retransmission, licensing, relicensing, distributing, redistributing*
33 *or exhibition in the regular course of business. If such a deduction*
34 *is taken by the retailer, no refund or credit will be allowed to his or*
35 *her vendor with respect to the sale of the specified digital products.*

36 (b) *The cost of the materials used, labor or service cost,*
37 *interest paid, losses or any other expense.*

38 2. *The total amount of the sales or lease or rental price*
39 *includes all of the following:*

40 (a) *Any services that are a part of the sale.*

41 (b) *All receipts, cash, credits and property of any kind.*

42 (c) *Any amount for which credit is allowed by the seller to the*
43 *purchaser.*

44 3. *“Gross receipts” does not include any of the following:*

45 (a) *Cash discounts allowed and taken on sales.*



(b) The sales price of specified digital products returned by customers when the full sales price is refunded either in cash or credit, but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other specified digital products at a price greater than the amount charged for the specified digital products that are returned.

(c) The price received for labor or services used in installing or applying the specified digital products sold.

(d) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the end user.

4. For purposes of the tax imposed by section 25 of this act, if the retailers establish to the satisfaction of the Department that the tax has been added to the total amount of the sales price and has not been absorbed by them, the total amount of the sales price shall be deemed to be the amount received exclusive of the tax imposed.

Sec. 11. "In this State" or "in the State" means within the exterior limits of the State of Nevada and includes all territory within these limits owned by or ceded to the United States of America.

Sec. 12. 1. "Occasional sale" includes:

(a) A sale of specified digital products not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, if the sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit.

(b) Any transfer of all or substantially all the specified digital products held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.

2. For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the specified digital products of the corporation or other entity.

Sec. 13. "Other digital products":

1. Means greeting cards, images, video or electronic games or entertainment, news and prewritten computer software, as defined in NRS 360B.470.

2. Does not include computer software that is not prewritten computer software.



1 **Sec. 14.** *“Purchase” means any transfer, exchange or barter,*
2 *conditional or otherwise, in any manner or by any means*
3 *whatsoever, of specified digital products for a consideration.*

4 **Sec. 15.** *“Retail sale” or “sale at retail” means a sale for any*
5 *purpose other than resale in the regular course of business of*
6 *specified digital products.*

7 **Sec. 16.** 1. *“Retailer” includes:*

8 (a) *Every seller who makes any retail sale or sales of specified*
9 *digital products.*

10 (b) *Every person engaged in the business of making sales of*
11 *specified digital products for use.*

12 (c) *Every person making more than two retail sales of specified*
13 *digital products during any 12-month period, including sales made*
14 *in the capacity of assignee for the benefit of creditors or a receiver*
15 *or trustee in bankruptcy.*

16 2. *When the Nevada Tax Commission determines that it is*
17 *necessary for the efficient administration of this chapter to regard*
18 *any salespersons, representatives, peddlers or canvassers as the*
19 *agents of the dealers, distributors, supervisors or employers under*
20 *whom they operate or from whom they obtain the specified digital*
21 *products sold by them, irrespective of whether they are making*
22 *sales on their own behalf or on behalf of such dealers,*
23 *distributors, supervisors or employers, the Nevada Tax*
24 *Commission may so regard them and may regard the dealers,*
25 *distributors, supervisors or employers as retailers for purposes of*
26 *this chapter.*

27 **Sec. 17.** *“Ringtones” means digitized sound files that are*
28 *downloaded onto a device and that may be used to alert the*
29 *customer with respect to a communication.*

30 **Sec. 18.** *“Sale” means and includes any transfer of title or*
31 *possession, exchange, barter, lease or rental, conditional or*
32 *otherwise, in any manner or by any means whatsoever, of*
33 *specified digital products for a consideration, including, without*
34 *limitation, any such transfer, exchange or barter on a subscription*
35 *basis.*

36 **Sec. 19.** 1. *“Sales price” means the total amount for which*
37 *specified digital products are sold, valued in money, whether paid*
38 *in money or otherwise, without any deduction on account of any*
39 *of the following:*

40 (a) *The cost of the specified digital products sold.*

41 (b) *The cost of materials used, labor or service cost, interest*
42 *charged, losses or any other expenses.*

43 (c) *The cost of transmitting the specified digital products*
44 *before purchase.*



2. The total amount for which specified digital products are sold includes all of the following:

(a) Any services that are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

3. "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for specified digital products returned by customers when the entire amount charged therefor is refunded either in cash or credit, except that this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other specified digital products at a price greater than the amount charged for the specified digital products that are returned.

(c) The amount charged for labor or services rendered in installing or applying the specified digital products sold.

(d) The amount of any tax, not including any manufacturers' or importers' excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

Sec. 20. "Seller" includes every person engaged in the business of selling specified digital products of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the tax imposed by section 25 of this act.

Sec. 21. 1. "Specified digital products":

(a) Means electronically transferred:

(1) Digital audio works;

(2) Digital audio-visual works;

(3) Digital books;

(4) Digital codes; and

(5) Other digital products.

(b) Does not include

(1) Direct-to-home satellite service; and

(2) Video service for which the gross revenues from such service may be used to calculate a franchise fee imposed pursuant to NRS 711.670.

2. As used in this section:

(a) "Digital code" means a method that permits a purchaser to obtain or access at a later date a specified digital product.

(b) "Direct-to-home satellite service" means only programming transmitted or broadcast by satellite directly to the subscribers' premises without the use of ground receiving or distribution equipment, except at the subscribers' premises or in the uplink process to the satellite.



1 **Sec. 22.** *“Subscription” means any arrangement in which a*
2 *person has the right or ability to access, receive, use, obtain,*
3 *purchase or otherwise acquire specified digital products on a*
4 *permanent or less than permanent basis, regardless of whether the*
5 *person actually accesses, receives, uses, obtains, purchases or*
6 *otherwise acquires such specified digital product.*

7 **Sec. 23.** *The Legislature intends that the tax imposed by*
8 *sections 25 and 34 of this act be administered and enforced in the*
9 *same manner as the taxes imposed pursuant to chapter 374 of*
10 *NRS are administered and enforced.*

11 **Sec. 24.** *For the purposes of this chapter, a retail sale of*
12 *specified digital products shall be deemed to take place:*

13 1. *If the specified digital products are received by the*
14 *purchaser at a place of business of the seller, at that place of*
15 *business.*

16 2. *If the specified digital products are not received by the*
17 *purchaser at a place of business of the seller:*

18 (a) *At the location indicated to the seller pursuant to any*
19 *instructions provided for the delivery of the specified digital*
20 *products to the purchaser or to another recipient who is*
21 *designated by the purchaser as his or her donee; or*

22 (b) *If no such instructions are provided and if known by the*
23 *seller, at the location where the purchaser or another recipient*
24 *who is designated by the purchaser as his or her donee, receives*
25 *the specified digital products.*

26 3. *If subsections 1 and 2 do not apply, at the address of the*
27 *purchaser indicated in the business records of the seller that are*
28 *maintained in the ordinary course of the seller’s business, unless*
29 *the use of that address would constitute bad faith.*

30 4. *If subsections 1, 2 and 3 do not apply, at the address of the*
31 *purchaser obtained during the consummation of the sale,*
32 *including, if no other address is available, the address of the*
33 *purchaser’s instrument of payment, unless the use of an address*
34 *pursuant to this subsection would constitute bad faith.*

35 5. *In all other circumstances, at the address from which the*
36 *specified digital products were shipped.*

37 **Sec. 25.** 1. *An excise tax is hereby imposed upon the retail*
38 *sale of specified digital products to an end user in this State, in an*
39 *amount equal to the rate equal to the sum of the rates of all taxes*
40 *imposed upon sales at retail of tangible personal property in the*
41 *county in which the purchaser resides multiplied by the gross*
42 *receipts of the retailer of the specified digital products.*

43 2. *The tax imposed by subsection 1 applies whether the*
44 *purchaser obtains permanent use or less than permanent use of*
45 *the specified digital product, whether the sale is conditioned or not*



1 *conditioned upon continued payment from the purchaser and*
2 *whether the sale is on a subscription basis or is not on a*
3 *subscription basis.*

4 **Sec. 26.** *The tax imposed by section 25 of this act shall be*
5 *collected by the retailer from the end user insofar as it can be*
6 *done.*

7 **Sec. 27. 1.** *It is unlawful for any retailer to advertise or*
8 *hold out or state to the public or to any customer, directly or*
9 *indirectly, that the tax or any part thereof will be assumed*
10 *or absorbed by the retailer or that it will not be added to the selling*
11 *price of the specified digital products sold or that, if added, it or*
12 *any part thereof will be refunded.*

13 **2.** *Any person violating any provision of this section is guilty*
14 *of a misdemeanor.*

15 **Sec. 28. 1.** *A person shall not engage in or conduct*
16 *business as a seller in this State unless the person has:*

17 *(a) Registered with the Department pursuant to NRS*
18 *360B.200; or*

19 *(b) Obtained a permit issued by the Department.*

20 **2.** *Every application for a permit must:*

21 *(a) Be made upon a form prescribed by the Department.*

22 *(b) Set forth the name under which the applicant transacts or*
23 *intends to transact business and the location of the applicant's*
24 *place or places of business.*

25 *(c) Set forth any other information which the Department may*
26 *require.*

27 *(d) Be accompanied by a fee of \$5.*

28 *(e) Be signed by:*

29 *(1) The owner if he or she is a natural person;*

30 *(2) A member or partner if the seller is an association or*
31 *partnership; or*

32 *(3) An executive officer or some person specifically*
33 *authorized to sign the application if the seller is a corporation.*
34 *Written evidence of the signer's authority must be attached to the*
35 *application.*

36 **Sec. 29. 1.** *If the holder of a permit issued pursuant to this*
37 *chapter fails to comply with any provision of this chapter or any*
38 *regulation adopted pursuant thereto, the Department may revoke*
39 *or suspend any one or more of the permits held by the person.*
40 *Before doing so, the Department must hold a hearing after giving*
41 *10 days' written notice to the holder of the permit. The notice must*
42 *specify the time and place of the hearing and require the holder of*
43 *the permit to show cause why the permit should not be suspended*
44 *or revoked.*



2. If a permit is suspended or revoked, the Department must give written notice of the action to the holder of the permit.

3. The notices required by this section may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

4. The Department shall not issue a new permit after the revocation of a permit unless the Department is satisfied that the former holder of the permit will comply with the provisions of this chapter and the regulations of the Department adopted pursuant thereto.

5. A retailer whose permit has been suspended or revoked must pay the Department a fee of \$5 for the reinstatement of the permit or the issuance of a new permit.

Sec. 30. For the purpose of the proper administration of this chapter and to prevent evasion of the tax imposed by section 25 of this act, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of specified digital products is not a sale at retail is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the specified digital products were purchased by an end user and the purchaser:

1. Is engaged in the business of commercial broadcasting, rebroadcasting, transmitting, retransmitting, licensing, relicensing, distributing, redistributing or exhibiting specified digital products, in whole or in part, to another person or persons;

2. Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to section 28 of this act, if required; and

3. At the time of purchasing the specified digital product, intends to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, redistribute or exhibit the specified digital product in the regular course of business or is unable to ascertain at the time of purchase whether the specified digital product will be used for such a purpose or will be used for some other purpose.

Sec. 31. A resale certificate must:

1. Be substantially in such form and include such information as the Department may prescribe; and

2. Unless submitted in electronic form, be signed by the purchaser.

Sec. 32. 1. If a purchaser who gives a resale certificate makes any use of specified digital products other than the commercial broadcasting, rebroadcasting, transmitting, retransmitting, licensing, relicensing, distributing, redistributing or exhibiting of the specified digital products, in whole or in part, to another person or persons in the regular course of business:



(a) The use is taxable to the purchaser as of the time one of the specified digital products is first so used by him or her, and the sales price of the specified digital products to the purchaser is the measure of the tax.

(b) The seller is liable for the tax with respect to the sale of the specified digital products to the purchaser only if:

(1) There is an unsatisfied use tax liability pursuant to paragraph (a); and

(2) The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.

2. As used in this section, "seller" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.

Sec. 33. Any person who gives a resale certificate for specified digital products which the person knows at the time of purchase is not to be further broadcast, rebroadcast, transmitted, retransmitted, licensed, relicensed, distributed, redistributed or exhibited by the person in the regular course of business for the purpose of evading payment to the seller of the amount of the tax applicable to the transaction is guilty of a misdemeanor.

Sec. 34. 1. An excise tax is hereby imposed on the use in this State of specified digital products purchased and electronically transferred from any retailer on or after January 1, 2022, in a retail sale that takes place in this State, as set forth in section 24 of this act, for use in this State at a rate equal to the sum of the rates of all taxes imposed upon the storage, use or other consumption of tangible personal property in the county in which the retail sale takes place, as set forth in section 24 of this act.

2. The tax is imposed with respect to all specified digital products which were electronically transferred in a transaction that is taxable pursuant to this chapter but for which the tax imposed by section 25 of this act was not collected.

Sec. 35. Every person storing, using or otherwise consuming in this State specified digital products purchased from a retailer is liable for the tax. His or her liability is not extinguished until the tax has been paid to this State, except that a receipt from a retailer given to the purchaser pursuant to section 36 of this act is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Sec. 36. Every retailer maintaining a place of business in this State and making sales of specified digital products for use in this State, not exempted by this chapter, shall, at the time of making the sales or, if the use of the specified digital products is not then taxable hereunder, at the time the use becomes taxable,



1 collect the tax from the purchaser and give to the purchaser a
2 receipt therefor in the manner and form prescribed by the Nevada
3 Tax Commission.

4 **Sec. 37.** The tax required to be collected by the retailer
5 constitutes a debt owed by the retailer to this State.

6 **Sec. 38.** It is unlawful for any retailer to advertise or hold
7 out or state to the public or to any customer, directly or indirectly,
8 that the tax or any part thereof will be assumed or absorbed by the
9 retailer or that it will not be added to the selling price of the
10 specified digital products sold or that, if added, it or any part
11 thereof will be refunded.

12 **Sec. 39.** The tax required to be collected by the retailer from
13 the purchaser must be displayed separately from the list price, the
14 price advertised in the premises, the marked price, or any other
15 price on the sales check or other proof of sales.

16 **Sec. 40.** Any person who violates section 36, 38 or 39 of this
17 act is guilty of a misdemeanor.

18 **Sec. 41.** 1. Every retailer who sells specified digital
19 products for use in this State shall register with the Department
20 and give:

21 (a) The name and address of all agents operating in this State.

22 (b) The location of all offices or other places of business in
23 this State.

24 (c) Such other information as the Department may require.

25 2. Every business that purchases specified digital products for
26 use in this State shall, at the time the business obtains a state
27 business license pursuant to chapter 76 of NRS, register with the
28 Department on a form prescribed by the Department. As used in
29 this subsection, "business" has the meaning ascribed to it in
30 NRS 76.020.

31 **Sec. 42.** For the purpose of the proper administration of this
32 chapter and to prevent evasion of the use tax and the duty to
33 collect the use tax, it is presumed that specified digital products
34 sold by any person for delivery in this State are sold for use in this
35 State until the contrary is established. The burden of proving that
36 a sale of specified digital products is not a sale at retail is upon the
37 person who makes the sale unless the person takes from the
38 purchaser a certificate to the effect that the specified digital
39 products were purchased by an end user and the purchaser:

40 1. Is engaged in the business of commercial broadcasting,
41 rebroadcasting, transmitting, retransmitting, licensing,
42 relicensing, distributing, redistributing or exhibiting specified
43 digital products, in whole or in part, to another person or persons;

44 2. Is registered pursuant to NRS 360B.200 or holds a permit
45 issued pursuant to section 28 of this act, if required; and



3. At the time of purchasing the specified digital products, intends to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, redistribute or exhibit the specified digital products in the regular course of business or is unable to ascertain at the time of purchase whether the specified digital products will be used for such a purpose or will be used for some other purpose.

Sec. 43. A resale certificate must:

1. Be substantially in such form and include such information as the Department may prescribe; and

2. Unless submitted in electronic form, be signed by the purchaser.

Sec. 44. If a purchaser who gives a resale certificate makes any use of the specified digital products other than the commercial broadcasting, rebroadcasting, transmitting, retransmitting, licensing, relicensing, distributing, redistributing or exhibiting of the specified digital products, in whole or in part, to another person or persons in the regular course of business, the use is taxable as of the time any of the specified digital products is first so stored or used.

Sec. 45. As used in sections 45 to 57, inclusive, of this act, “exempted from the taxes imposed by this chapter” means exempted from the computation of the amount of taxes imposed.

Sec. 46. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the use in this State of, specified digital products the gross receipts from the sale of which, or the use of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

Sec. 47. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of specified digital products that are textbooks sold within the Nevada System of Higher Education.

Sec. 48. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the use in this State of, specified digital products which is a newspaper regularly issued at average intervals not exceeding 1 week.

Sec. 49. There are exempted from the taxes imposed by this chapter the gross receipts from occasional sales of specified digital products and the use in this State of specified digital products, the transfer of which to the purchaser is an occasional sale.

Sec. 50. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of any specified digital products to:

1. The United States, its unincorporated agencies and instrumentalities.



2. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

3. The State of Nevada, its unincorporated agencies and instrumentalities.

4. Any county, city, district or other political subdivision of this State.

Sec. 51. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the use in this State of, any specified digital products sold by or to a nonprofit organization created for religious, charitable or educational purposes. The Legislature shall establish:

1. Standards for determining whether an organization is created for religious, charitable or educational purposes.

2. Procedures for administering the provisions of this section.

Sec. 52. 1. For the purposes of section 51 of this act, an organization is created for religious, charitable or educational purposes if it complies with the provisions of this section.

2. An organization is created for religious purposes if:

(a) It complies with the requirements set forth in subsection 5; and

(b) The sole or primary purpose of the organization is the operation of a church, synagogue or other place of religious worship at which nonprofit religious services and activities are regularly conducted. Such an organization includes, without limitation, an integrated auxiliary or affiliate of the organization, men's, women's or youth groups established by the organization, a school or mission society operated by the organization, an organization of local units of a church and a convention or association of churches.

3. An organization is created for charitable purposes if:

(a) It complies with the requirements set forth in subsection 5;

(b) The sole or primary purpose of the organization is to:

(1) Advance a public purpose, donate or render gratuitously or at a reduced rate a substantial portion of its services to the persons who are the subjects of its charitable services, and benefit a substantial and indefinite class of persons who are the legitimate subjects of charity;

(2) Provide services that are otherwise required to be provided by a local government, this State or the Federal Government; or

(3) Operate a hospital or medical facility licensed pursuant to chapter 449 or 450 of NRS; and

(c) The organization is operating in this State.

4. An organization is created for educational purposes if:



(a) It complies with the requirements set forth in subsection 5; and

(b) The sole or primary purpose of the organization is to:

(1) Provide athletic, cultural or social activities for children;

(2) Provide displays or performances of the visual or performing arts to members of the general public;

(3) Provide instruction and disseminate information on subjects beneficial to the community;

(4) Operate a school, college or university located in this State that conducts regular classes and provides courses of study required for accreditation or licensing by the State Board of Education or the Commission on Postsecondary Education, or for membership in the Northwest Accreditation Commission or accreditation by the Northwest Commission on Colleges and Universities;

(5) Serve as a local or state apprenticeship committee to advance programs of apprenticeship in this State; or

(6) Sponsor programs of apprenticeship in this State through a trust created pursuant to 29 U.S.C. § 186.

5. In addition to the requirements set forth in subsection 2, 3 or 4, an organization is created for religious, charitable or educational purposes if:

(a) No part of the net earnings of any such organization inures to the benefit of a private shareholder, individual or entity;

(b) The business of the organization is not conducted for profit;

(c) No substantial part of the business of the organization is devoted to the advocacy of any political principle or the defeat or passage of any state or federal legislation;

(d) The organization does not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; and

(e) Any property sold to the organization for which an exemption is claimed is used by the organization in this State in furtherance of the religious, charitable or educational purposes of the organization.

Sec. 53. There are exempted from the taxes imposed by this chapter on the use of specified digital products any such products loaned or donated to:

1. The United States, its unincorporated agencies and instrumentalities.

2. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.



3. The State of Nevada, its unincorporated agencies and instrumentalities.

4. Any county, city, district or other political subdivision of this State.

5. Any organization created for religious, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

Sec. 54. The use in this State of specified digital products, the gross receipts from the sale of which are required to be included in the measure of the tax imposed by section 25 of this act, is exempted from the tax imposed by section 34 of this act.

Sec. 55. 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such information from the purchaser as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer:

(a) Fraudulently fails to collect the tax;

(b) Solicits a purchaser to participate in an unlawful claim of an exemption; or

(c) Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.

6. As used in this section:



(a) "Entity-based exemption" means an exemption based on who purchases the product or who sells the product, and which is not available to all.

(b) "Retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

Sec. 56. 1. Any nonprofit organization created for religious, charitable or educational purposes that wishes to claim an exemption pursuant to section 51 of this act, must file an application with the Department to obtain a letter of exemption. The application must be on a form and contain such information as is required by the Department.

2. If the Department determines that the organization is created for religious, charitable or educational purposes, it shall issue a letter of exemption to the organization. The letter of exemption expires 5 years after the date on which it is issued by the Department. At least 90 days before the expiration of the letter of exemption, the Department shall notify the organization to whom the letter was issued of the date on which the letter will expire. The organization may renew its letter of exemption for an additional 5 years by filing an application for renewal with the Department. The application for renewal must be on a form and contain such information as is required by the Department.

3. To claim an exemption pursuant to section 51 of this act for the sale of specified digital products to such an organization:

(a) The organization must give a copy of its letter of exemption to the retailer from whom the organization purchases the product; and

(b) The retailer must retain and present upon request a copy of the letter of exemption.

4. The Department shall adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 57. If a purchaser certifies in writing to a seller that the specified digital products purchased will be used in a manner or for a purpose entitling the seller to regard the gross receipts from the sale as exempted by this chapter from the computation of the amount of the taxes imposed by this chapter, and uses the specified digital products in some other manner or for some other purpose, the purchaser shall be liable for payment of the tax as if he or she were a retailer making a retail sale of the specified digital products at the time of such use, and the cost of the specified digital products to him or her shall be deemed the gross receipts from such retail sale.



1 **Sec. 58.** *A retailer shall hold the amount of all taxes*
2 *collected pursuant to this chapter in a separate account in trust for*
3 *the State.*

4 **Sec. 59.** *Except as otherwise provided in section 66 of this act*
5 *or required by the Department pursuant to NRS 360B.200, the*
6 *taxes imposed by this chapter are due and payable to the*
7 *Department monthly on or before the last day of the month next*
8 *succeeding each month.*

9 **Sec. 60.** *Except as otherwise required by the Department*
10 *pursuant to NRS 360B.200:*

11 1. *On or before the last day of the month following each*
12 *reporting period, a return for the preceding period must be filed*
13 *with the Department in such form and manner as the Department*
14 *may prescribe. Any return required to be filed by this section must*
15 *be combined with any return required to be filed pursuant to the*
16 *provisions of chapters 372 and 374 of NRS.*

17 2. *For purposes of:*

18 (a) *The tax imposed by section 25 of this act, a return must be*
19 *filed by each seller.*

20 (b) *The tax imposed by section 34 of this act, a return must be*
21 *filed by each retailer maintaining a place of business in the State*
22 *and by each person purchasing specified digital products, the use*
23 *of which is subject to the use tax, who has not paid the use tax*
24 *due.*

25 3. *Unless filed electronically, returns must be signed by the*
26 *person required to file the return or by his or her authorized agent*
27 *but need not be verified by oath.*

28 **Sec. 61.** 1. *Except as otherwise required by the Department*
29 *pursuant to NRS 360B.200:*

30 (a) *For the purposes of the tax imposed by section 25 of this*
31 *act:*

32 (1) *The return must show the gross receipts of the seller*
33 *during the preceding reporting period.*

34 (2) *The gross receipts must be segregated and reported*
35 *separately for each county to which a sale of specified digital*
36 *products pertains.*

37 (3) *A sale pertains to the county in this State in which the*
38 *retail sale of specified digital products takes place as determined*
39 *pursuant to section 24 of this act.*

40 (b) *For purposes of the tax imposed by section 34 of this act:*

41 (1) *In the case of a return filed by a retailer, the return*
42 *must show the total sales price of the specified digital products*
43 *purchased by him or her, the use of which specified digital*
44 *products became subject to the use tax during the preceding*
45 *reporting period.*



(2) The sales price must be segregated and reported separately for each county to which a purchase of specified digital products pertains.

(3) If the specified digital products were:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the specified digital products purchased by him or her, the use of which became subject to the tax imposed by section 25 of this act during the preceding reporting period and indicate the county in this State in which the specified digital products were first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or



violations in the manner provided in paragraph (a) of subsection 4.

Sec. 62. *In determining the amount of taxes due pursuant to this chapter:*

1. *The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.*

2. *A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.*

Sec. 63. 1. *If a retailer is unable to collect all or part of the sales price of a sale, the retailer is entitled to receive a deduction from his or her taxable sales for that bad debt.*

2. *Any deduction that is claimed pursuant to this section may not include interest.*

3. *The amount of any deduction claimed must equal the amount of a deduction that may be claimed pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166, for that sale minus:*

(a) *Any finance charge or interest charged as part of the sale;*
(b) *Any tax imposed by this chapter charged on the sales price;*
(c) *Any amount not paid on the sales price because the specified digital product that was sold was not delivered until the full sales price is paid; and*

(d) *Any expense incurred in attempting to collect the bad debt.*

4. *A bad debt may be claimed as a deduction on the return that covers the period during which the bad debt is written off in the business records of the retailer that are maintained in the ordinary course of the retailer's business and is eligible to be claimed as a deduction pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166, or if the retailer is not required to file a federal income tax return, would be eligible to be claimed as a deduction pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166.*

5. *If a bad debt for which a deduction has been claimed is subsequently collected in whole or in part, the tax on the amount so collected must be reported on the return that covers the period in which the collection is made.*

6. *If the amount of the bad debt is greater than the amount of the taxable sales reported for the period during which the bad debt is claimed as a deduction, a claim for a refund may be filed pursuant to NRS 372.630 to 372.720, inclusive, except that the time within which the claim may be filed begins on the date on which the return that included the deduction was filed.*



7. If the retailer has contracted with a certified service provider for the remittance of the tax due under this chapter, the service provider may, on behalf of the retailer, claim any deduction to which the retailer is entitled pursuant to this section. The service provider shall credit or refund the full amount of any deduction or refund received pursuant to this section to the retailer.

8. For the purposes of reporting a payment received on a bad debt for which a deduction has been claimed, the payment must first be applied to the sales price of the specified digital products sold and the tax due thereon, and then to any interest, service charge or other charge that was charged as part of the sale.

9. If the records of a retailer indicate that a bad debt may be allocated among other states that are members of the Streamlined Sales and Use Tax Agreement, the retailer may allocate the bad debt among those states.

10. A retailer who assigns a debt to an entity which is part of an affiliated group that includes the retailer may claim any deduction or refund to which the retailer would otherwise be entitled pursuant to this section, notwithstanding:

(a) The assignment of the debt to the entity;

(b) That the debt is written off as a bad debt in the business records of the entity which are maintained in the ordinary course of the entity's business; and

(c) That the bad debt is or would be eligible to be claimed by the entity as a deduction pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166.

11. Except as otherwise provided in subsection 12, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the deduction claimed or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the deduction claimed or \$3,000, whichever is less.

12. For the purposes of subsection 11, if the first violation of this section by any retailer was determined by the Department



through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 11.

13. As used in this section:

(a) “Affiliated group” means:

(1) An affiliated group as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. § 1504(a); or

(2) A controlled group of corporations as described in section 1563(a)(2) of the Internal Revenue Code, 26 U.S.C. § 1563(a)(2).

(b) “Bad debt” means a debt that may be deducted pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166.

(c) “Certified service provider” has the meaning ascribed to it in NRS 360B.060.

Sec. 64. 1. Except as otherwise provided in subsection 2, if the taxes imposed by this chapter are paid in accordance with section 59 of this act, a taxpayer may deduct and withhold from the taxes otherwise due from him or her 0.25 percent of those taxes as reimbursement for the cost of collecting the tax.

2. The regulations adopted by the Nevada Tax Commission pursuant to NRS 360B.110 may authorize the deduction and withholding from the taxes otherwise due from a taxpayer such other amounts as are required to carry out the Streamlined Sales and Use Tax Agreement.

Sec. 65. 1. Except as otherwise authorized or required by the Department, the person required to file a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

Sec. 66. 1. Except as otherwise provided in this section or required by the Department pursuant to NRS 360B.200, the reporting and payment period of:

(a) A taxpayer whose taxable sales do not exceed \$10,000 per month is a calendar quarter.

(b) A taxpayer who files reports on a quarterly basis in accordance with paragraph (a) and:

(1) From whom no tax is due pursuant to this chapter for the immediately preceding three quarterly reporting periods; or

(2) Whose taxable sales do not exceed a total amount of \$1,500 for the immediately preceding four quarterly reporting periods,



↪ is 12 calendar months, unless the taxable sales of the taxpayer exceed a total amount of \$1,500 for such a 12-month reporting and payment period or \$10,000 for a calendar month.

2. The Department, if it deems this action necessary to ensure payment to or facilitate the collection by the State of the amount of taxes, may require returns and payment of the amount of taxes for periods other than calendar months or quarters, depending upon the principal place of business of the seller, retailer or purchaser, as the case may be, or for other than monthly, quarterly or annual periods.

Sec. 67. For the purposes of the tax imposed by section 25 of this act, gross receipts from rentals or leases of specified digital products must be reported and the tax paid in accordance with such regulations as the Department may prescribe.

Sec. 68. The Department for good cause may extend for not to exceed 1 month the time for making any return or paying any amount required to be paid under this chapter.

Sec. 69. 1. The Department, whenever it deems it necessary to ensure compliance with this chapter, may require any person subject to the chapter to place with it such security as the Department may determine. The Department shall fix the amount of the security which, except as otherwise provided in subsection 2, may not be greater than twice the estimated average tax due quarterly of persons filing returns for quarterly periods, three times the estimated average tax due monthly of persons filing returns for monthly periods or four times the estimated average tax due annually of persons filing returns for annual periods, determined in such a manner as the Department deems proper.

2. In the case of persons who are habitually delinquent in their obligations under this chapter, the amount of the security may not be greater than three times the average actual tax due quarterly of persons filing returns for quarterly periods, five times the average actual tax due monthly of persons filing returns for monthly periods or seven times the average actual tax due annually of persons filing returns for annual periods.

3. The limitations provided in this section apply regardless of the type of security placed with the Department.

4. The amount of the security may be increased or decreased by the Department subject to the limitations provided in this section.

5. The Department may sell the security at public auction if it becomes necessary to recover any tax or any amount required to be collected, or interest or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail. If the notice is served by mail, service must be made in the



manner prescribed for service of a notice of a deficiency determination and must be addressed to the person at his or her address as it appears in the records of the Department. Security in the form of a bearer bond issued by the United States or the State of Nevada which has a prevailing market price may be sold by the Department at a private sale at a price not lower than the prevailing market price.

6. Upon any sale any surplus above the amounts due must be returned to the person who placed the security.

Sec. 70. 1. 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 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.

2. Any overpayment of the tax imposed by section 34 of this act by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to sections 34 to 44, inclusive, of this act must be credited or refunded by the State to the purchaser, subject to the requirements of NRS 360.236.

Sec. 71. Except as otherwise provided in NRS 360.235 and 360.395 and section 63 of this act:

1. No refund may be allowed unless a claim for it is filed with the Department within 3 years after the last day of the month following the close of the period for which the overpayment was made.

2. 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.

Sec. 72. No credit or refund of any amount paid pursuant to sections 34 to 44, inclusive, of this act may be allowed on the ground that the use of the specified digital products is exempted pursuant to section 54 of this act, unless the person who paid the amount reimburses his or her vendor for the amount of the tax imposed by section 25 of this act upon his or her vendor with respect to the sale of the specified digital products and paid by the vendor to the State.



1 **Sec. 73.** *Every claim shall be in writing and shall state the*
2 *specific grounds upon which the claim is founded.*

3 **Sec. 74.** *Failure to file a claim within the time prescribed in*
4 *section 71 of this act constitutes a waiver of any demand against*
5 *the State on account of overpayment.*

6 **Sec. 75.** *Within 30 days after disallowing any claim in whole*
7 *or in part, the Department shall serve notice of its action on the*
8 *claimant in the manner prescribed for service of notice of a*
9 *deficiency determination.*

10 **Sec. 76.** *Except as otherwise provided in NRS 360.320 or any*
11 *other specific statute, interest must be paid upon any overpayment*
12 *of any amount of tax at the rate set forth in, and in accordance*
13 *with the provisions of, NRS 360.2937.*

14 **Sec. 77.** *If the Department determines that any overpayment*
15 *has been made intentionally or by reason of carelessness, it shall*
16 *not allow any interest thereon.*

17 **Sec. 78.** *No injunction or writ of mandate or other legal or*
18 *equitable process shall issue in any suit, action or proceeding in*
19 *any court against the State, a county, any officer thereof to*
20 *prevent or enjoin the collection under this chapter of any tax or*
21 *any amount of tax required to be collected.*

22 **Sec. 79.** *No suit or proceeding shall be maintained in any*
23 *court for the recovery of any amount alleged to have been*
24 *erroneously or illegally determined or collected unless a claim for*
25 *refund or credit has been duly filed.*

26 **Sec. 80.** 1. *Within 90 days after a final decision upon a*
27 *claim filed pursuant to this chapter is rendered by the Nevada Tax*
28 *Commission, the claimant may bring an action against the*
29 *Department on the grounds set forth in the claim in a court of*
30 *competent jurisdiction in Carson City, the county of this State*
31 *where the claimant resides or maintains his or her principal place*
32 *of business or a county in which any relevant proceedings were*
33 *conducted by the Department, for the recovery of the whole or any*
34 *part of the amount with respect to which the claim has been*
35 *disallowed.*

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

39 **Sec. 81.** *If the Department fails to mail notice of action on a*
40 *claim within 6 months after the claim is filed, the claimant may*
41 *consider the claim disallowed and file an appeal with a hearing*
42 *officer within 45 days after the last day of the 6-month period. If*
43 *the claimant is aggrieved by the decision of the hearing officer on*
44 *appeal, the claimant may, pursuant to the provisions of NRS*
45 *360.245, appeal the decision to the Nevada Tax Commission. If*



1 *the claimant is aggrieved by the decision of the Commission on*
2 *appeal, the claimant may, within 45 days after the decision is*
3 *rendered, bring an action against the Department on the grounds*
4 *set forth in the claim for the recovery of the whole or any part of*
5 *the amount claimed as an overpayment.*

6 **Sec. 82.** 1. *If judgment is rendered for the plaintiff, the*
7 *amount of the judgment must first be credited as follows:*

8 (a) *If the judgment is for a refund of tax imposed by section 25*
9 *of this act, it must be credited on any amount of tax due from the*
10 *plaintiff pursuant to this chapter.*

11 (b) *If the judgment is for a refund of the tax imposed by*
12 *section 34 of this act, it must be credited on any amount of that tax*
13 *due from the plaintiff pursuant to this chapter.*

14 2. *The balance of the judgment must be refunded to the*
15 *plaintiff.*

16 **Sec. 83.** *In any judgment, interest shall be allowed at the rate*
17 *of 3 percent per annum upon the amount found to have been*
18 *illegally collected from the date of payment of the amount to the*
19 *date of allowance of credit on account of the judgment, or to a*
20 *date preceding the date of the refund warrant by not more than 30*
21 *days, the date to be determined by the Department.*

22 **Sec. 84.** *A judgment shall not be rendered in favor of the*
23 *plaintiff in any action brought against the Department to recover*
24 *any amount paid when the action is brought by or in the name of*
25 *an assignee of the person paying the amount or by any person*
26 *other than the person who paid the amount.*

27 **Sec. 85.** *The Department may recover any refund or part of it*
28 *which is erroneously made and any credit or part of it which is*
29 *erroneously allowed in an action brought in a court of competent*
30 *jurisdiction in Carson City or Clark County in the name of the*
31 *State of Nevada.*

32 **Sec. 86.** *The action must be tried in Carson City or Clark*
33 *County unless the court, with the consent of the Attorney General,*
34 *orders a change of place of trial.*

35 **Sec. 87.** *The Attorney General shall prosecute the action,*
36 *and the provisions of NRS, the Nevada Rules of Civil Procedure*
37 *and the Nevada Rules of Appellate Procedure relating to service of*
38 *summons, pleadings, proofs, trials and appeals are applicable to*
39 *the proceedings.*

40 **Sec. 88.** 1. *If any amount in excess of \$25 has been*
41 *illegally determined, either by the person filing the return or by the*
42 *Department, the Department shall certify this fact to the State*
43 *Board of Examiners, and the latter shall authorize the*
44 *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. 89. This chapter must be administered in accordance with the provisions of chapter 360B of NRS.

Sec. 90. 1. The provisions of this chapter relating to:

(a) The imposition, collection and remittance of the tax imposed by section 25 of this act apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.

(b) The collection and remittance of the tax imposed by section 34 of this act apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.

2. In administering the provisions of this chapter, the Department shall construe the terms “seller,” “retailer” and “retailer maintaining a place of business in this State” in accordance with the provisions of subsection 1.

Sec. 91. As used in sections 91 to 98, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 92, 93 and 94 of this act have the meanings ascribed to them in those sections.

Sec. 92. “Affiliate” means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purposes of this section, control shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote or holds proxies representing 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact.

Sec. 93. 1. “Marketplace facilitator” means a person, including any affiliate of the person, who:

(a) Directly or indirectly, does one or more of the following to facilitate a retail sale:

(1) Lists, makes available or advertises specified digital products for sale by a marketplace seller in a marketplace owned, operated or controlled by the person;

(2) Facilitates the sale of a marketplace seller’s product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of specified digital products between a marketplace seller and a purchaser in a forum including a shop, store, booth, catalog, Internet site or similar forum;



(3) Owns, rents, licenses, makes available or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark or patent that connects marketplace sellers to purchasers for the purpose of making retail sales of specified digital products;

(4) Provides a marketplace for making retail sales of specified digital products, or otherwise facilitates retail sales of specified digital products, regardless of ownership or control of the specified digital products that are the subject of the retail sale;

(5) Provides software development or research and development activities related to any activity described in this subsection, if such software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace provider;

(6) Provides or offers fulfillment or storage services for a marketplace seller;

(7) Sets prices for the sale of specified digital products by a marketplace seller;

(8) Provides or offers customer service to a marketplace seller or the customers of a marketplace seller, or accepts or assists with taking orders, returns or exchanges of specified digital products sold by a marketplace seller; or

(9) Brands or otherwise identifies sales as those of the marketplace facilitator; and

(b) Directly or indirectly, does one or more of the following to facilitate a retail sale:

(1) Collects the sales price or purchase price of a retail sale of specified digital products;

(2) Provides payment processing services for a retail sale of specified digital products;

(3) Charges, collects or otherwise receives selling fees, listing fees, referral fees, closing fees, fees for inserting or making available specified digital products on a marketplace or other consideration from the facilitation of a retail sale of specified digital products, regardless of ownership or control of the specified digital products that are the subject of the retail sale;

(4) Through terms and conditions, agreements or arrangements with a third party, collects payment in connection with a retail sale of specified digital products from a purchaser and transmits that payment to the marketplace seller, regardless of whether the person collecting and transmitting such payment receives compensation or other consideration in exchange for the service; or

(5) Provides a virtual currency that purchasers are allowed or required to use to purchase specified digital products.



2. The term does not include a person who provides Internet advertising services, including, without limitation, the listing of products for sale, if the person does not directly or indirectly or through an affiliate:

(a) Transmit or otherwise communicate an offer or acceptance of a retail sale of specified digital products between a marketplace seller and a purchaser; and

(b) Do one or more of the activities listed in paragraph (b) of subsection 1.

Sec. 94. “Marketplace seller” means:

1. A seller who makes retail sales through any physical or electronic marketplace owned, operated or controlled by a marketplace facilitator, even if such seller would not have been required to collect and remit the sales tax or use tax had the sale not been made through such marketplace; or

2. A seller who makes retail sales resulting from a referral by a referrer, even if such seller would not have been required to collect and remit the sales tax or use tax had the sale not been made through such referrer.

Sec. 95. 1. Except as otherwise provided in this section and section 96 of this act, the provisions of this chapter relating to the imposition, collection and remittance of the tax imposed by section 25 of this act, and the collection and remittance of the tax imposed by section 34 of this act, apply to a marketplace facilitator during a calendar year in which or during a calendar year immediately following any calendar year in which:

(a) The cumulative gross receipts from retail sales of tangible personal property and specified digital products made or facilitated by the marketplace facilitator on its own behalf or for one or more marketplace sellers to customers in this State exceed \$100,000; or

(b) The marketplace facilitator makes or facilitates 200 or more separate retail sales transactions of tangible personal property or specified digital products on his or her own behalf or for one or more marketplace sellers to customers in this State.

2. The provisions of this chapter relating to the imposition, collection and remittance of the tax imposed by section 25 of this act and the collection and remittance of the tax imposed by section 34 of this act do not apply to a marketplace facilitator described in subsection 1 if:

(a) The marketplace facilitator and the marketplace seller have entered into a written agreement whereby the marketplace seller assumes responsibility for the collection and remittance of the tax imposed by section 25 of this act, and the collection and remittance of the tax imposed by section 34 of this act, for retail



1 sales made by the marketplace seller through the marketplace
2 facilitator; and

3 (b) The marketplace seller has obtained a permit pursuant to
4 section 28 of this act or registered pursuant to NRS 360B.200.

5 ↳ Upon request of the Department, a marketplace facilitator shall
6 provide to the Department a report containing the name of each
7 marketplace seller with whom the marketplace facilitator has
8 entered into an agreement pursuant to this subsection and such
9 other information as the Department determines is necessary to
10 ensure that each marketplace seller with whom the marketplace
11 facilitator has entered into an agreement pursuant to this
12 subsection has obtained a permit pursuant to section 28 of this act
13 or registered pursuant to NRS 360B.200.

14 3. Except as otherwise provided in this section and section 96
15 of this act, the provisions of subsection 1 apply regardless of
16 whether:

17 (a) The marketplace seller for whom a marketplace facilitator
18 makes or facilitates a retail sale would not have been required to
19 collect and remit the sales tax or the use tax had the retail sale not
20 been facilitated by the marketplace facilitator;

21 (b) The marketplace seller for whom a marketplace facilitator
22 makes or facilitates a retail sale was required to register with the
23 Department pursuant to NRS 360B.200 or obtain a permit
24 pursuant to section 28 of this act; or

25 (c) The amount of the sales price of a retail sale will ultimately
26 accrue to or benefit the marketplace facilitator, the marketplace
27 seller or any other person.

28 4. In administering the provisions of this chapter, the
29 Department shall construe the terms "seller," "retailer" and
30 "retailer maintaining a place of business in this State" in
31 accordance with the provisions of this section.

32 **Sec. 96. 1.** In administering the provisions of this chapter,
33 the Department shall not hold a marketplace facilitator liable for
34 the payment of any tax imposed by this chapter which is
35 attributable to a retail sale made or facilitated on behalf of a
36 marketplace seller who is not an affiliate of the marketplace
37 facilitator if:

38 (a) The marketplace facilitator provides proof satisfactory to
39 the Department that the marketplace facilitator has made a
40 reasonable effort to obtain accurate information from the
41 marketplace seller about the retail sale; and

42 (b) The failure to collect and remit the correct tax on the retail
43 sale was due to incorrect information provided to the marketplace
44 facilitator by the marketplace seller.



2. Except as otherwise provided in subsection 3, in administering the provisions of this chapter, the Department shall not hold a marketplace facilitator liable for the payment of any tax imposed by this chapter which is attributable to a retail sale made or facilitated on behalf of a marketplace seller who is not an affiliate of the marketplace facilitator if the marketplace facilitator provides proof satisfactory to the Department that:

(a) The retail sale was made before January 1, 2023;

(b) The retail sale was made through a marketplace of the marketplace facilitator; and

(c) The failure to collect the tax imposed by section 25 of this act and the tax imposed by section 34 of this act was due to an error other than an error in sourcing the retail sale.

3. The relief from liability provided pursuant to subsection 2 for the 2021 and 2022 calendar year, respectively, shall not exceed 5 percent of the total tax imposed by sections 25 and 34 of this act owed for the calendar year on the cumulative gross receipts of the marketplace facilitator from retail sales made or facilitated by the marketplace facilitator for one or more marketplace sellers to customers in this State.

4. If a marketplace facilitator is relieved of liability for the collection and remittance of any amount of the tax imposed by section 25 of this act or the tax imposed by section 34 of this act pursuant to subsection 1, the marketplace seller or purchaser, as applicable, is liable for the payment of such uncollected, unpaid or unremitted tax.

5. To the extent that a marketplace facilitator is relieved of liability for the collection and remittance of any tax pursuant to subsections 2 and 3, the marketplace seller for whom the marketplace facilitator made or facilitated the retail sale giving rise to the tax is also relieved of such liability.

6. Nothing in this section shall be construed to relieve any person of liability for collecting but failing to remit to the Department any tax imposed by this chapter.

Sec. 97. 1. The Department may provide by regulation that, except as otherwise provided in this section, the provisions of this chapter relating to the imposition, collection and remittance of the tax imposed by section 25 of this act and the collection and remittance of the tax imposed by section 34 of this act apply to a referrer during a calendar year in which, or during a calendar year immediately following any calendar year in which:

(a) The cumulative gross receipts from retail sales of tangible personal property and specified digital products or to customers in this State resulting from referrals from a platform of the referrer are in excess of \$100,000; or



(b) There are 200 or more separate retail sales transactions involving sales of tangible personal property or specified digital products to customers in this State resulting from referrals from a platform of the referrer.

2. Any regulations adopted by the Department pursuant to subsection 1 must provide that the provisions of this chapter relating to the imposition, collection and remittance of the tax imposed by section 25 of this act, and the collection and remittance of the tax imposed by section 34 of this act do not apply to a referrer described in subsection 1 if the referrer:

(a) Posts a conspicuous notice on each platform of the referrer that includes all of the following:

(1) A statement that tax imposed by sections 25 and 34 of this act is due on certain purchases;

(2) A statement that the marketplace seller from whom the person is purchasing on the platform may or may not collect and remit the tax imposed by sections 25 and 34 of this act on a purchase;

(3) A statement that Nevada requires the purchaser to pay the tax imposed by sections 25 and 34 of this act and file a return for such taxes if the tax imposed by sections 25 and 34 of this act is not collected at the time of the sale by the marketplace seller;

(4) Information informing the purchaser that the notice is provided under the requirements of this section; and

(5) Instructions for obtaining additional information from the Department regarding whether and how to remit the tax imposed by sections 25 and 34 of this act;

(b) The referrer provides a monthly notice to each marketplace seller to whom the referrer made a referral of a potential customer located in this State during the previous calendar year, which monthly notice shall contain all of the following:

(1) A statement that Nevada imposes the tax imposed by sections 25 and 34 of this act on retail sales in this State;

(2) A statement that a marketplace facilitator or other retailer making retail sales in this State must collect and remit the tax imposed by sections 25 and 34 of this act; and

(3) Instructions for obtaining additional information from the Department regarding the collection and remittance of the tax imposed by sections 25 and 34 of this act; and

(c) The referrer provides the Department with periodic reports in an electronic format and in the manner prescribed by the Department, which reports contain all of the following:

(1) A list of marketplace sellers who received a notice from the referrer pursuant to paragraph (b);



(2) A list of marketplace sellers that collect and remit the tax imposed by sections 25 and 34 of this act and that list or advertise the marketplace seller's products for sale on a platform of the referrer; and

(3) An affidavit signed under penalty of perjury from an officer of the referrer affirming that the referrer made reasonable efforts to comply with the applicable notice and reporting requirements of this subsection.

3. Any regulations adopted by the Department pursuant to subsection 1 must provide that in administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of this section.

4. Any regulations adopted by the Department pursuant to subsection 1 must apply only to referrals by a referrer and shall not preclude the applicability of other provisions of this chapter to a person who is a referrer and is also a retailer, a marketplace facilitator or a marketplace seller.

5. As used in this section:

(a) "Platform" means an electronic or physical medium, including, without limitation, an Internet site or catalog, that is owned, operated or controlled by a referrer.

(b) "Referral" means the transfer through telephone, Internet link or other means by a referrer of a potential customer to a retailer or seller who advertises or lists specified digital products for sale on a platform of the referrer.

(c) "Referrer":

(1) Means a person who does all of the following:

(I) Contracts or otherwise agrees with a retailer, seller or marketplace facilitator to list or advertise for sale specified digital products of the retailer, seller or marketplace facilitator on a platform, provided such listing or advertisement identifies whether or not the retailer, seller or marketplace facilitator collects the tax imposed by sections 25 and 34 of this act;

(II) Receives a commission, fee or other consideration from the retailer, seller or marketplace facilitator for the listing or advertisement;

(III) Provides referrals to a retailer, seller or marketplace facilitator, or an affiliate of a retailer, seller or marketplace facilitator; and

(IV) Does not collect money or other consideration from the customer for the transaction.

(2) Does not include:

(I) A person primarily engaged in the business of printing or publishing a newspaper; or



(II) A person who does not provide the retailer's, seller's or marketplace facilitator's shipping terms and who does not advertise whether a retailer, seller or marketplace facilitator collects the tax imposed by sections 25 and 34 of this act.

Sec. 98. 1. Nothing in sections 91 to 98, inclusive, of this act shall be construed to create any remedy or private right of action against a marketplace facilitator.

2. A marketplace facilitator that is required to collect taxes imposed by this chapter is immune from civil liability for claims arising from or related to the overpayment of taxes imposed by this chapter if the marketplace facilitator acted in good faith and without malicious intent.

3. Nothing in this section shall apply to or otherwise limit:

(a) Any claim, action, mandate, power, remedy or discretion of the Department, or an agent or designee of the Department.

(b) The right of a taxpayer to seek a refund pursuant to 70 to 88, inclusive, of this act.

Sec. 99. 1. Except as otherwise provided in this section, it is presumed that the provisions of this chapter relating to the imposition, collection and remittance of the tax imposed by section 25 of this act, and the collection and remittance of the tax imposed by section 34 of this act, apply to a retailer if:

(a) The retailer is part of a controlled group of corporations that has a component member, other than a common carrier acting in its capacity as such, that has physical presence in this State; and

(b) The component member with physical presence in this State:

(1) Sells a similar line of products or services as the retailer and does so under a business name that is the same or similar to that of the retailer;

(2) Maintains an office, distribution facility, warehouse or storage place or similar place of business in this State to facilitate the delivery of products or services sold by the retailer to the retailer's customers;

(3) Uses trademarks, service marks or trade names in this State that are the same or substantially similar to those used by the retailer;

(4) Delivers, installs, assembles or performs maintenance services for the retailer's customers within this State;

(5) Facilitates the retailer's delivery of products or services to customers in this State by allowing the retailer's customers to pick up or receive products or services sold by the retailer at an office, distribution facility, warehouse, storage place or similar



place of business maintained by the component member in this State; or

(6) Conducts any other activities in this State that are significantly associated with the retailer's ability to establish and maintain a market in this State for the retailer's products or services.

2. A retailer may rebut the presumption set forth in subsection 1 by providing proof satisfactory to the Department that, during the calendar year in question, the activities of the component member with physical presence in this State are not significantly associated with the retailer's ability to establish or maintain a market in this State for the retailer's products or services.

3. In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of this section.

4. As used in this section:

(a) "Component member" has the meaning ascribed to it in section 1563(b) of the Internal Revenue Code, 26 U.S.C. § 1563(b), and includes any entity that, notwithstanding its form of organization, bears the same ownership relationship to the retailer as a corporation that would qualify as a component member of the same controlled group of corporations as the retailer.

(b) "Controlled group of corporations" has the meaning ascribed to it in section 1563(a) of the Internal Revenue Code, 26 U.S.C. § 1563(a), and includes any entity that, notwithstanding its form of organization, bears the same ownership relationship to the retailer as a corporation that would qualify as a component member of the same controlled group of corporations as the retailer.

Sec. 100. 1. Except as otherwise provided in this section, it is presumed that the provisions of this chapter relating to:

(a) The imposition, collection and remittance of the tax imposed by section 25 of this act; and

(b) The collection and remittance of the tax imposed by section 34 of this act,

↪ apply to every retailer who enters into an agreement with a resident of this State under which the resident, for a commission or other consideration based upon the sale of specified digital products by the retailer, directly or indirectly refers potential customers, whether by a link on an Internet website or otherwise, to the retailer, if the cumulative gross receipts from sales by the retailer to customers in this State who are referred to the retailer by all residents with this type of an agreement with the retailer is



1 in excess of \$10,000 during the preceding four quarterly periods
2 ending on the last day of March, June, September and December.

3 2. A retailer may rebut the presumption set forth in
4 subsection 1 by providing proof satisfactory to the Department that
5 each resident with whom the retailer has an agreement did not
6 engage in any activity in this State that was significantly
7 associated with the retailer's ability to establish or maintain a
8 market in this State for the retailer's products or services during
9 the preceding four quarterly periods ending on the last day of
10 March, June, September and December. Such proof may consist
11 of the sworn written statements of each resident with whom the
12 retailer has an agreement stating that the resident did not engage
13 in any solicitation in this State on behalf of the retailer during the
14 preceding four quarterly periods ending on the last day of March,
15 June, September and December, if the statements were obtained
16 from each resident and provided to the Department in good faith.

17 3. In administering the provisions of this chapter, the
18 Department shall construe the terms "seller," "retailer" and
19 "retailer maintaining a place of business in this State" in
20 accordance with the provisions of this section.

21 **Sec. 101.** 1. The provisions of this chapter relating to the
22 imposition, collection and remittance of the tax imposed by section
23 25 of this act, and the collection and remittance of the tax imposed
24 by section 34 of this act apply to a retailer if, in the immediately
25 preceding calendar year or the current calendar year:

26 (a) The gross revenue of the retailer from the retail sale of
27 tangible personal property or specified digital products, or the total
28 gross revenue of the retailer from the retail sale of tangible
29 personal property and specified digital products, in transactions
30 that took place in this State, as determined pursuant to NRS
31 360B.350 to 360B.375, inclusive, or section 24 of this act, as
32 applicable, is greater than \$100,000.

33 (b) The retailer had 200 or more transactions that took place
34 in this State, as determined pursuant to NRS 360B.350 to
35 360B.375, inclusive, or section 24 of this act, as applicable, in
36 which tangible personal property or specified digital products were
37 sold at retail.

38 2. In administering the provisions of this chapter, the
39 Department shall construe the terms "seller," "retailer" and
40 "retailer maintaining a place of business in this State" in
41 accordance with the provisions of subsection 1.

42 **Sec. 102.** 1. The Department shall enforce the provisions of
43 this chapter and may adopt regulations relating to the
44 administration and enforcement of this chapter.



2. The Department may prescribe the extent to which any regulation may be applied without retroactive effect.

Sec. 103. In administering the provisions of section 50 of this act, the Department shall apply the exemption for the sale of specified digital products to the State of Nevada, its unincorporated agencies and instrumentalities to include all specified digital products that are sold to:

1. A member of the Nevada National Guard who is engaged in full-time National Guard duty, as defined in 10 U.S.C. § 101(d)(5) and has been called into active service.

2. A relative of a member of the Nevada National Guard eligible for the exemption pursuant to subsection 1 who:

(a) Resides in the same home or dwelling in this State as the member; and

(b) Is related by blood, adoption or marriage within the first degree of consanguinity or affinity to the member.

3. A relative of a deceased member of the Nevada National Guard who was engaged in full-time National Guard duty, as defined in 10 U.S.C. § 101(d)(5), and who was killed while performing his or her duties as a member of the Nevada National Guard during a period when the member was called into active service. To be eligible under this subsection, the relative must be a person who:

(a) Resided in the same house or dwelling in this State as the deceased member; and

(b) Was related by blood, adoption or marriage within the first degree of consanguinity or affinity to the deceased member.

Sec. 104. 1. A person who wishes to claim an exemption pursuant to section 103 of this act must file an application with the Department to obtain a letter of exemption. The application must be on a form and contain such information as is required by the Department.

2. If the Department determines that a person is eligible for the exemption provided pursuant to section 103 of this act, the Department shall issue a letter of exemption to the person. A letter of exemption issued to a member of the Nevada National Guard described in subsection 1 of section 103 of this act or a relative of a member described in subsection 2 of section 103 of this act expires on the date on which the person no longer meets the qualifications for eligibility. A letter of exemption issued to a relative of a deceased member of the Nevada National Guard described in subsection 3 of section 103 of this act expires on the date 3 years after the date of the death of the member.

3. To claim an exemption pursuant to section 103 of this act for the sale of specified digital products to such a person:



(a) The person must provide a copy of the letter of exemption to the retailer from whom the person purchases the specified digital products; and

(b) The retailer must retain and present upon request a copy of the letter of exemption to the Department.

4. The Department shall adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 105. The Department may employ accountants, auditors, investigators, assistants and clerks necessary for the efficient administration of this chapter, and may delegate authority to its representatives to conduct hearings, adopt regulations or perform any other duties imposed by this chapter.

Sec. 106. 1. Notwithstanding any other provision of law, any broadcaster, printer, outdoor advertising firm, advertising distributor or publisher which broadcasts, publishes, displays or distributes paid commercial advertising in this State which is intended to be disseminated primarily to persons located in this State and is only secondarily disseminated to bordering jurisdictions, including advertising appearing exclusively in a Nevada edition or section of a national publication, must be regarded, for the purposes set forth in subsection 2 only, as the agent of the person or entity placing the advertisement, and as a retailer maintaining a place of business in this State.

2. The agency created by this section is solely for the purpose of the proper administration of this chapter, to prevent evasion of the tax imposed by section 34 of this act and the duty to collect that tax, and to provide a presence in Nevada for the collection of the tax imposed by section 34 of this act by and from advertisers and sellers who do not otherwise maintain a place of business in this State. The agent has no responsibility to report, or liability to pay, any tax imposed under this chapter and is not restricted by the provisions of this chapter from accepting advertisements from advertisers or sellers who do not otherwise maintain a place of business in this State.

Sec. 107. 1. Every seller, every retailer, and every person storing, using or otherwise consuming in this State specified digital products purchased from a retailer shall keep records, receipts, invoices and other pertinent papers in such form as the Department may require.

2. Every seller, retailer or person who files the returns required under this chapter shall keep the records for not less than 4 years from their making unless the Department in writing sooner authorizes their destruction.

3. Every seller, retailer or person who fails to file the returns required under this chapter shall keep the records for not less than



8 years from their making unless the Department in writing sooner authorizes their destruction.

Sec. 108. 1. The Department, or any person authorized in writing by it, may examine the books, papers, records and equipment of any person selling specified digital products and any person liable for the tax imposed by section 34 of this act and may investigate the character of the business of the person to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

2. Any person selling or purchasing specified digital products in this State who:

(a) Is required to:

(1) Obtain a permit pursuant to section 28 of this act or register pursuant to NRS 360B.200; or

(2) File a return pursuant to subsection 2 of section 60 of this act; and

(b) Keeps outside of this State his or her records, receipts, invoices and other documents relating to sales the person has made or the tax imposed by section 34 of this act due this State,

↪ shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he or she is absent from his or her regular place of employment to examine those documents.

Sec. 109. In its administration of the tax imposed by section 34 of this act, the Department may require the filing of reports by any person or class of persons having in their possession or custody information relating to sales of specified digital products, the use of which is subject to the tax. The report must:

1. Be filed when the Department requires.

2. Set forth the names and addresses of purchasers of the specified digital products, the sales price of the specified digital products, the date of sale, and such other information as the Department may require.

Sec. 110. Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Department, or who renders a false or fraudulent return shall be fined not more than \$500 for each offense.

Sec. 111. Any person required to make, render, sign or verify any report who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due required by law to be made, is guilty of a gross misdemeanor and shall for



each offense be fined not less than \$300 nor more than \$5,000, or be imprisoned for not more than 364 days in the county jail, or be punished by both fine and imprisonment.

Sec. 112. Any violation of this chapter, except as otherwise provided, is a misdemeanor.

Sec. 113. Any prosecution for violation of any of the penal provisions of this chapter must be instituted within 3 years after the commission of the offense.

Sec. 114. In the determination of any case arising under this chapter, the rule of res judicata is applicable only if the liability involved is for the same period as was involved in another case previously determined.

Sec. 115. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the State under this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments in the State Treasury to the credit of each account in the State General Fund to which is credited a tax imposed upon sales at retail of tangible personal property and use tax due on the purchase of tangible personal property for use in this State, in the proportion that would be credited to each account if the fees, taxes, interest and penalties imposed or required to be paid to the State under this chapter were a tax upon sales at retail of tangible personal property or use tax due on the purchase of tangible personal property for use in this State.

Sec. 116. The money in the accounts described in subsection 2 of section 115 of this act may, upon order of the State Controller, be used for refunds under this chapter.

Sec. 117. The remedies of the State provided for in this chapter are cumulative, and no action taken by the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.

Sec. 118. The imposition of taxes by this chapter, the categories of transactions upon which taxes are imposed and the specification of exemptions are exclusive. The Nevada Tax Commission and the Department shall not construe any provision of this chapter to authorize the imposition of a tax imposed by this chapter upon any transaction not expressly made taxable by this chapter.

Sec. 119. NRS 360.236 is hereby amended to read as follows:
360.236 Notwithstanding any specific statute to the contrary, if the Department determines that any taxpayer or other person has overpaid any tax or fee administered by the Department pursuant to



1 this title or NRS 444A.090 or 482.313 ~~§~~ *or section 162 of this act,*
2 the amount of the overpayment must be credited against any other
3 such tax or fee then due from the taxpayer or other person before
4 any portion of the overpayment may be refunded.

5 **Sec. 120.** NRS 360.261 is hereby amended to read as follows:

6 360.261 Not later than 30 days after the Department or the
7 Nevada Tax Commission makes a finding or ruling, or enters into an
8 agreement with a retailer providing, that the provisions of chapters
9 372 and 374 of NRS *and sections 2 to 118, inclusive, of this act*
10 relating to the imposition, collection and remittance of ~~the sales~~ *a*
11 tax ~~[, and the collection and remittance of the use tax,]~~ do not apply
12 to the retailer, despite the presence in this State of an office,
13 distribution facility, warehouse or storage place or similar place of
14 business which is owned or operated by the retailer or an affiliate of
15 the retailer, whether the finding, ruling or agreement is written or
16 oral and whether the finding, ruling or agreement is express or
17 implied, the Department shall submit a report of the finding, ruling
18 or agreement to the Director of the Legislative Counsel Bureau for
19 transmittal to:

20 1. If the Legislature is in session, the Legislature; or

21 2. If the Legislature is not in session, the Legislative
22 Commission.

23 **Sec. 121.** NRS 360.291 is hereby amended to read as follows:

24 360.291 1. The Legislature hereby declares that each
25 taxpayer has the right:

26 (a) To be treated by officers and employees of the Department
27 with courtesy, fairness, uniformity, consistency and common sense.

28 (b) To a prompt response from the Department to each
29 communication from the taxpayer.

30 (c) To provide the minimum documentation and other
31 information as may reasonably be required by the Department to
32 carry out its duties.

33 (d) To written explanations of common errors, oversights and
34 violations that taxpayers experience and instructions on how to
35 avoid such problems.

36 (e) To be notified, in writing, by the Department whenever its
37 officer, employee or agent determines that the taxpayer is entitled to
38 an exemption or has been taxed or assessed more than is required by
39 law.

40 (f) To written instructions indicating how the taxpayer may
41 petition for:

42 (1) An adjustment of an assessment;

43 (2) A refund or credit for overpayment of taxes, interest or
44 penalties; or



(3) A reduction in or the release of a bond or other form of security required to be furnished pursuant to the provisions of this title that are administered by the Department.

(g) Except as otherwise provided in NRS 360.236 and 361.485, to recover an overpayment of taxes promptly upon the final determination of such an overpayment.

(h) To obtain specific advice from the Department concerning taxes imposed by the State.

(i) In any meeting with the Department, including an audit, conference, interview or hearing:

(1) To an explanation by an officer, agent or employee of the Department that describes the procedures to be followed and the taxpayer's rights thereunder;

(2) To be represented by himself or herself or anyone who is otherwise authorized by law to represent the taxpayer before the Department;

(3) To make an audio recording using the taxpayer's own equipment and at the taxpayer's own expense; and

(4) To receive a copy of any document or audio recording made by or in the possession of the Department relating to the determination or collection of any tax for which the taxpayer is assessed, upon payment of the actual cost to the Department of making the copy.

(j) To a full explanation of the Department's authority to assess a tax or to collect delinquent taxes, including the procedures and notices for review and appeal that are required for the protection of the taxpayer. An explanation which meets the requirements of this section must also be included with each notice to a taxpayer that an audit will be conducted by the Department.

(k) To the immediate release of any lien which the Department has placed on real or personal property for the nonpayment of any tax when:

(1) The tax is paid;

(2) The period of limitation for collecting the tax expires;

(3) The lien is the result of an error by the Department;

(4) The Department determines that the taxes, interest and penalties are secured sufficiently by a lien on other property;

(5) The release or subordination of the lien will not jeopardize the collection of the taxes, interest and penalties;

(6) The release of the lien will facilitate the collection of the taxes, interest and penalties; or

(7) The Department determines that the lien is creating an economic hardship.

(l) To the release or reduction of a bond or other form of security required to be furnished pursuant to the provisions of this



1 title by the Department in accordance with applicable statutes and
2 regulations.

3 (m) To be free from investigation and surveillance by an officer,
4 agent or employee of the Department for any purpose that is not
5 directly related to the administration of the taxes administered by
6 the Department.

7 (n) To be free from harassment and intimidation by an officer,
8 agent or employee of the Department for any reason.

9 (o) To have statutes imposing taxes and any regulations adopted
10 pursuant thereto construed in favor of the taxpayer if those statutes
11 or regulations are of doubtful validity or effect, unless there is a
12 specific statutory provision that is applicable.

13 2. The provisions of this title and title 57 of NRS and NRS
14 244A.820, 244A.870, 482.313 and 482.315 *and section 162 of this*
15 *act* governing the administration and collection of taxes by the
16 Department must not be construed in such a manner as to interfere
17 or conflict with the provisions of this section or any applicable
18 regulations.

19 3. The provisions of this section apply to any tax administered,
20 regulated and collected by the Department pursuant to the
21 provisions of this title and title 57 of NRS and NRS 244A.820,
22 244A.870, 482.313 and 482.315 *and section 162 of this act* and any
23 regulations adopted by the Department relating thereto.

24 **Sec. 122.** NRS 360.2937 is hereby amended to read as
25 follows:

26 360.2937 1. Except as otherwise provided in this section,
27 NRS 360.320 or any other specific statute, and notwithstanding the
28 provisions of NRS 360.2935, interest must be paid upon an
29 overpayment of any tax provided for in chapter 362, 363A, 363B,
30 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C or 377D of NRS
31 *or sections 2 to 118, inclusive, of this act*, any of the taxes
32 provided for in NRS 372A.290, any fee provided for in NRS
33 444A.090 or 482.313, *or section 162 of this act*, or any assessment
34 provided for in NRS 585.497, at the rate of 0.25 percent per month
35 from the last day of the calendar month following the period for
36 which the overpayment was made.

37 2. No refund or credit may be made of any interest imposed on
38 the person making the overpayment with respect to the amount
39 being refunded or credited.

40 3. The interest must be paid:

41 (a) In the case of a refund, to the last day of the calendar month
42 following the date upon which the person making the overpayment,
43 if the person has not already filed a claim, is notified by the
44 Department that a claim may be filed or the date upon which the



claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.

Sec. 123. NRS 360.297 is hereby amended to read as follows:

360.297 1. A responsible person who willfully fails to collect or pay to the Department any tax or fee required to be paid to the Department pursuant to this title, NRS 444A.090 or 482.313, or chapter 680B of NRS, *or section 162 of this act*, or who attempts to evade the payment of any such tax or fee, is jointly and severally liable with any other person who is required to pay such a tax or fee for the tax or fee owed plus interest and all applicable penalties. The responsible person shall pay the tax or fee upon notice from the Department that it is due.

2. As used in this section, “responsible person” includes:

(a) An officer or employee of a corporation; and

(b) A member or employee of a partnership or limited-liability company,

↳ whose job or duty it is to collect, account for or pay to the Department any tax or fee required to be paid to the Department pursuant to this title, NRS 444A.090 or 482.313, or chapter 680B of NRS ~~H~~, *or section 162 of this act*.

Sec. 124. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 360B, 362, 363A, 363B, 363C, 369, 370, 372, 372A, 372B, 374, 377, 377A, 377C, 377D or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, *or sections 2 to 118, inclusive, or 162 of this act*, as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

(a) The facts contained in the return;

(b) Any information within its possession or that may come into its possession; or

(c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.

3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.



4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

Sec. 125. NRS 360.412 is hereby amended to read as follows:

360.412 If the Department believes that the collection of any amount of sales or use tax, business tax or other excise due pursuant to this title, NRS 482.313 or chapter 585 of NRS , *or section 162 of this act* will be jeopardized by delay, it shall make a determination of the amount required to be collected and serve notice of the determination upon the person against whom it is made.

Sec. 126. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C, 377D, 444A or 585 of NRS ~~H~~ *or sections 2 to 118, inclusive, of this act*, any of the taxes provided for in NRS 372A.290, or any fee provided for in NRS 482.313 ~~H~~ *or section 162 of this act*, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 0.75 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 127. NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of any tax or fee required to be paid to the Department pursuant to this title or NRS 482.313 *or section 162 of this act* is the result of circumstances beyond his or her control and occurred despite the exercise of ordinary care and without intent, the Department may relieve the person of all or part of any interest or penalty, or both.



2. A person seeking relief must file with the Department a statement under oath setting forth the facts upon which the person bases his or her claim.

3. The Department shall disclose, upon the request of any person:

(a) The name of the person to whom relief was granted; and

(b) The amount of the relief.

4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.

Sec. 128. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against the person which remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed,

➡ give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his or her possession or under his or her control at the time the person received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his or her possession, under his or her control or owing by that person within the time and in the manner requested by the Department. Except as otherwise provided in



1 subsection 5, no further notice is required to be served to that
2 person.

3 5. If the property of the delinquent taxpayer consists of a series
4 of payments owed to him or her, the person who owes or controls
5 the payments shall transmit the payments to the Department until
6 otherwise notified by the Department. If the debt of the delinquent
7 taxpayer is not paid within 1 year after the Department issued the
8 original demand to transmit, the Department shall issue another
9 demand to transmit to the person responsible for making the
10 payments informing him or her to continue to transmit payments to
11 the Department or that his or her duty to transmit the payments to
12 the Department has ceased.

13 6. If the notice of the delinquency seeks to prevent the transfer
14 or other disposition of a deposit in a bank or credit union or other
15 credits or personal property in the possession or under the control of
16 a bank, credit union or other depository institution, the notice must
17 be delivered or mailed to any branch or office of the bank, credit
18 union or other depository institution at which the deposit is carried
19 or at which the credits or personal property is held.

20 7. If any person notified by the notice of the delinquency
21 makes any transfer or other disposition of the property or debts
22 required to be withheld or transmitted, to the extent of the value of
23 the property or the amount of the debts thus transferred or paid, that
24 person is liable to the State for any indebtedness due pursuant to this
25 chapter, chapter 360B, 362, 363A, 363B, 363C, 369, 370, 372,
26 372A, 372B, 374, 377, 377A, 377C, 377D or 444A of NRS, NRS
27 482.313, or chapter 585 or 680B of NRS *or sections 2 to 118,*
28 *inclusive, or 162 of this act* from the person with respect to whose
29 obligation the notice was given if solely by reason of the transfer or
30 other disposition the State is unable to recover the indebtedness of
31 the person with respect to whose obligation the notice was given.

32 **Sec. 129.** NRS 360.530 is hereby amended to read as follows:

33 360.530 1. At any time within 3 years after any person has
34 become delinquent in the payment of any amount of sales or use tax
35 or other excise due pursuant to this title, NRS 482.313 or chapter
36 585 of NRS, *or section 162 of this act*, the Department may seize
37 any property, real or personal, of the person and sell the property, or
38 a sufficient part of it, at public auction to pay the amount due,
39 together with any interest or penalties imposed for the delinquency
40 and any costs incurred on account of the seizure and sale.

41 2. Any seizure made to collect a tax due may be only of the
42 property of the person not exempt from execution under the
43 provisions of law.



1 **Sec. 130.** Chapter 360B of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *“Specified digital products” has the meaning ascribed to it in*
4 *section 21 of this act.*

5 **Sec. 131.** NRS 360B.030 is hereby amended to read as
6 follows:

7 360B.030 As used in this chapter, unless the context otherwise
8 requires, the words and terms defined in NRS 360B.040 to
9 360B.100, inclusive, *and section 130 of this act* have the meanings
10 ascribed to them in those sections.

11 **Sec. 132.** NRS 360B.063 is hereby amended to read as
12 follows:

13 360B.063 “Purchaser” means a person to whom a sale of
14 tangible personal property *or specified digital products* is made.

15 **Sec. 133.** NRS 360B.080 is hereby amended to read as
16 follows:

17 360B.080 “Seller” means any person making sales, leases or
18 rentals of tangible personal property ~~H~~ *or specified digital*
19 *products.*

20 **Sec. 134.** NRS 360B.290 is hereby amended to read as
21 follows:

22 360B.290 Any invoice, billing or other document given to a
23 purchaser that indicates the sales price for which tangible personal
24 property *or specified digital products* is sold:

25 1. May state separately any amount received by the seller for
26 any transportation, shipping or postage charges for the delivery of
27 the property to a location designated by the purchaser; and

28 2. Must state separately any amount received by the seller for:

29 (a) Any installation charges for the property;

30 (b) Any credit for any trade-in which is specifically exempted
31 from the sales price of the property pursuant to chapter 372 or 374
32 of NRS;

33 (c) Any interest, financing and carrying charges from credit
34 extended on the sale; and

35 (d) Any taxes legally imposed directly on the consumer.

36 **Sec. 135.** NRS 360B.320 is hereby amended to read as
37 follows:

38 360B.320 1. The Department shall provide public
39 notification to consumers of tangible personal property ~~H~~ *or*
40 *specified digital products*, including purchasers who are exempt
41 from any sales and use taxes, of the practices of this State relating to
42 the collection, use and retention of any personally identifiable
43 information.



2. The Department shall not retain any personally identifiable information if the information is no longer required to ensure the validity of exemptions from sales and use taxes.

3. When any personally identifiable information that identifies a natural person is retained by or on behalf of the State, that person is entitled to reasonable access to that information to correct any portion thereof which has been inaccurately recorded.

4. If any person or other entity, except a state which is a member of the Agreement or any person or other entity who is entitled to such information pursuant to any state law or the Agreement, requests any personally identifiable information maintained by the Department, the Department shall make a reasonable and timely effort to notify any person who is identified by the requested information.

5. The Attorney General shall enforce the provisions of this section.

6. As used in this section, “personally identifiable information” means information that identifies:

(a) A participant in the system created pursuant to the Agreement; or

(b) A consumer of tangible personal property *or specified digital products* who deals with a registered seller that elects to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases.

Sec. 136. Chapter 368A of NRS is hereby amended by adding thereto a new section to read as follows:

If a taxpayer resells a ticket for admission to a facility where live entertainment is provided for which the tax imposed by NRS 368A.200 was already paid, the taxpayer is entitled to a credit in an amount equal to the tax that was already paid. The credit may be used against the amount of tax that the taxpayer is subsequently required to pay pursuant to this chapter.

Sec. 137. NRS 368A.020 is hereby amended to read as follows:

368A.020 1. Except as otherwise provided in this section, “admission charge” means the total amount, expressed in terms of money, of consideration paid for the right or privilege to enter or have access to a facility where live entertainment is provided.

2. Except as otherwise provided in this section or NRS 368A.200 or any other specific statute, the term includes, without limitation, an entertainment fee, a cover charge, a required minimum purchase of food, beverages or merchandise, a membership fee and a service charge or any other fee or charge that



1 is required to be paid in exchange for admission to a facility where
2 live entertainment is provided.

3 3. *The term includes, if a ticket for admission to a facility*
4 *where live entertainment is provided is resold by a purchaser, any*
5 *increase from the initial price of the ticket which is charged at the*
6 *time of resale.*

7 4. The term does not include:

8 (a) The value of an admission to a facility provided to a patron
9 on a complimentary basis, unless the complimentary admission is
10 associated with a separate purchase that is required for the patron to
11 enter or have access to the facility; or

12 (b) A charge for the right or privilege of entering, or having
13 access to, a particular portion within a facility, that is in addition to a
14 charge described in subsection 1 or 2, including, without limitation,
15 a charge for:

16 (1) Food, beverages or merchandise that is in addition to a
17 required minimum purchase of food, beverages or merchandise as
18 described in subsection 2; or

19 (2) Access to tables, seats, lounge chairs or particular areas
20 near a swimming pool.

21 ~~[4.]~~ 5. Except as otherwise provided in this subsection, the
22 term does not include license or rental fees for luxury suites, boxes
23 or similar products at facilities with a maximum occupancy of at
24 least 7,500 persons. If the license or rental fee includes the
25 admission of a certain number of patrons to a facility where a live
26 entertainment event is provided, the admission charge is an amount
27 equal to the lowest priced admission charge for the live
28 entertainment event multiplied by the number of admissions to the
29 live entertainment event included in the license or rental fee.

30 **Sec. 138.** NRS 368A.110 is hereby amended to read as
31 follows:

32 368A.110 “Taxpayer” means:

33 1. Except as otherwise provided in ~~subsection~~ **subsections** 4
34 **H and 5**, if live entertainment that is taxable under this chapter is
35 provided at a licensed gaming establishment, the person licensed to
36 conduct gaming at that establishment.

37 2. Except as otherwise provided in subsections 3 , ~~and~~ 4 **H**
38 **and 5**, if live entertainment that is taxable under this chapter is not
39 provided at a licensed gaming establishment, the owner or operator
40 of the facility where the live entertainment is provided.

41 3. Except as otherwise provided in ~~subsection~~ **subsections** 4
42 **H and 5**, if live entertainment that is taxable under this chapter is
43 provided at a publicly owned facility or on public land, the person
44 who collects the taxable receipts.



4. If live entertainment that is taxable under this chapter is provided by an escort, the escort or, if the escort works as an employee, agent or independent contractor for an escort service, the owner or operator of the escort service.

5. *In addition to the persons listed in subsections 1, 2 and 3, if a ticket for admission to a facility where live entertainment is provided is resold by a purchaser, the purchaser who resold the ticket.*

Sec. 139. Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In administering the provisions of this chapter the Department shall consider a construction contractor to be a consumer and not a retailer of the tangible personal property used in improving real property or in constructing, altering or repairing a work of improvement pursuant to a contract with the owner or lessee of real property.*

2. *Any tangible personal property purchased by a construction contractor for the performance of a contract with the owner or lessee of real property for the improvement of real property or the construction, alteration or repair of a work of improvement shall be deemed to have been purchased for use in improving real property or in constructing, altering or repairing a work of improvement pursuant to a contract with the owner or lessee of real property.*

3. *As used in this section:*

(a) *“Construction contractor” means any person who acts solely in his or her professional capacity or through others to construct, alter, repair, add to, remodel or otherwise improve any real property. The term includes a subcontractor, an interior decorator and a specialty contractor.*

(b) *“Construction contractor” does not include:*

(1) *An employee who receives wages as his or her sole compensation;*

(2) *A licensed architect;*

(3) *A licensed professional engineer; or*

(4) *A manufacturer of:*

(I) *Modular homes;*

(II) *Sectionalized housing;*

(III) *Prefabricated homes; or*

(IV) *Any other factory-built home or unit,*

↪ who joins, installs or affixes the prefabricated unit to the real property unless the manufacturer has entered into a construction contract for improvement to real property with a governmental entity, in which case the manufacturer will be considered a construction contractor.



(c) “Improvement” has the meaning ascribed to it in NRS 108.22128.

(d) “Work of improvement” means the entire structure or scheme of improvement as a whole, including, without limitation, all work, materials and equipment to be used in or for the construction, alteration or repair of the property or any improvement thereon, whether under multiple prime contracts or a single prime contract.

Sec. 140. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In administering the provisions of this chapter the Department shall consider a construction contractor to be a consumer and not a retailer of the tangible personal property used in improving real property or in constructing, altering or repairing a work of improvement pursuant to a contract with the owner or lessee of real property.

2. Any tangible personal property purchased by a construction contractor for the performance of a contract with the owner or lessee of real property for the improvement of real property or the construction, alteration or repair of a work of improvement shall be deemed to have been purchased for use in improving real property or in constructing, altering or repairing a work of improvement pursuant to a contract with the owner or lessee of real property.

3. As used in this section:

(a) “Construction contractor” means any person who acts solely in his or her professional capacity or through others to construct, alter, repair, add to, remodel or otherwise improve any real property. The term includes a subcontractor, an interior decorator and a specialty contractor.

(b) “Construction contractor” does not include:

(1) An employee who receives wages as his or her sole compensation;

(2) A licensed architect;

(3) A licensed professional engineer; or

(4) A manufacturer of:

(I) Modular homes;

(II) Sectionalized housing;

(III) Prefabricated homes; or

(IV) Any other factory-built home or unit,

↪ who joins, installs or affixes the prefabricated unit to the real property unless the manufacturer has entered into a construction contract for improvement to real property with a governmental entity, in which case the manufacturer will be considered a construction contractor.



(c) *“Improvement” has the meaning ascribed to it in NRS 108.22128.*

(d) *“Work of improvement” means the entire structure or scheme of improvement as a whole, including, without limitation, all work, materials and equipment to be used in or for the construction, alteration or repair of the property or any improvement thereon, whether under multiple prime contracts or a single prime contract.*

Sec. 141. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each board of county commissioners shall adopt an ordinance that:

(a) *Defines a room remarketer who reserves, arranges for, conveys or furnishes the right to use or occupy transient lodging in the county to another person for consideration in an amount determined by the room remarketer, to be a person providing transient lodging in the county for the purposes of imposing, collecting and remitting taxes on the gross receipts from the rental of transient lodging in the county. The provisions of this paragraph, or an ordinance adopted pursuant thereto, must not be interpreted or construed to create, expand or alter any other liability, duty, obligation or responsibility of the room remarketer for, or relating to, the transient lodging.*

(b) *Requires the gross receipts of a room remarketer from reserving, arranging for, conveying or furnishing the right to use or occupy transient lodging in the county to another person for consideration in an amount determined by the room remarketer, including any service or other charge or amount required to be paid as a condition to the right to use or occupy the transient lodging, to be gross receipts from the rental of transient lodging in the county for the purpose of imposing, collecting and remitting taxes on the gross receipts from the rental of transient lodging in the county.*

(c) *Authorizes a room remarketer to claim a refund or credit against the amount of the tax on the gross receipts from the rental of transient lodging which the room remarketer is required to collect and remit to the county for reserving, arranging for, conveying or furnishing the right to use or occupy transient lodging in the county. The refund or credit must equal the amount of the tax on the gross receipts from the rental of transient lodging that the room remarketer paid to the provider of the transient lodging upon acquiring the ability or authority to reserve, arrange for, convey or furnish the right to use or occupy such transient lodging. The board of county commissioners may include in the*



1 ordinance adopted pursuant to this section a procedure for
2 claiming the refund or credit required pursuant to this paragraph.

3 2. As used in this section:

4 (a) "Room remarketer" means a person who reserves,
5 arranges for, conveys, or furnishes transient lodging in this State,
6 whether directly or indirectly, to another person for consideration
7 in an amount determined by the room remarketer, directly or
8 indirectly, whether pursuant to a written or other agreement.

9 (b) "Transient lodging" has the meaning ascribed to it in the
10 ordinance adopted pursuant to NRS 244.33565 by the board of
11 county commissioners to define the term "transient lodging" for
12 the purpose of all taxes imposed by the board on the rental of
13 transient lodging.

14 **Sec. 142.** NRS 244A.810 is hereby amended to read as
15 follows:

16 244A.810 1. Except as otherwise provided in subsection 2,
17 the board of county commissioners of a county whose population is
18 100,000 or more but less than 700,000 may by ordinance impose a
19 fee upon the lease of a passenger car by a short-term lessor *or the*
20 *lease of a passenger car through a personal vehicle sharing*
21 *program pursuant to sections 146 to 170, inclusive, of this act* in
22 the county in the amount of not more than 2 percent of the total
23 amount for which the passenger car was leased, excluding any taxes
24 or other fees imposed by a governmental entity.

25 2. The fee imposed pursuant to subsection 1 must not apply to
26 replacement vehicles. As used in this subsection, "replacement
27 vehicle" means a vehicle that is:

28 (a) Rented temporarily by or on behalf of a person or leased to a
29 person by a facility that repairs motor vehicles or a motor vehicle
30 dealer; and

31 (b) Used by the person in place of a motor vehicle owned by the
32 person that is unavailable for use because of mechanical breakdown,
33 repair, service, damage or loss as defined in the owner's policy of
34 liability insurance for the motor vehicle.

35 3. Any proceeds of a fee imposed pursuant to this section
36 which are received by a county must be used solely to pay the costs
37 to acquire, lease, improve, equip, operate and maintain within the
38 county a minor league baseball stadium project, or to pay the
39 principal of, interest on or other payments due with respect to bonds
40 issued to pay such costs, including bonds issued to refund bonds
41 issued to pay such costs, or any combination thereof.

42 4. The board of county commissioners shall not repeal or
43 amend or otherwise directly or indirectly modify an ordinance
44 imposing a fee pursuant to subsection 1 in such a manner as to
45 impair any outstanding bonds issued by or other obligations



1 incurred by the county until all obligations for which revenue from
2 the ordinance have been pledged or otherwise made payable from
3 such revenue have been discharged in full or provision for full
4 payment and redemption has been made.

5 5. As used in this section, the words and terms defined in NRS
6 482.053 and 482.087 have the meanings ascribed to them in those
7 sections.

8 **Sec. 143.** NRS 244A.860 is hereby amended to read as
9 follows:

10 244A.860 1. Except as otherwise provided in subsection 2,
11 the board of county commissioners of a county whose population is
12 700,000 or more may by ordinance impose a fee upon the lease of a
13 passenger car by a short-term lessor *or the lease of a passenger car*
14 *through a personal vehicle sharing program pursuant to sections*
15 *146 to 170, inclusive, of this act* in the county in the amount of not
16 more than 2 percent of the total amount for which the passenger car
17 was leased, excluding any taxes or other fees imposed by a
18 governmental entity.

19 2. The fee imposed pursuant to subsection 1 must not apply to
20 replacement vehicles. As used in this subsection, “replacement
21 vehicle” means a vehicle that is:

22 (a) Rented temporarily by or on behalf of a person or leased to a
23 person by a facility that repairs motor vehicles or a motor vehicle
24 dealer; and

25 (b) Used by the person in place of a motor vehicle owned by the
26 person that is unavailable for use because of mechanical breakdown,
27 repair, service, damage or loss as defined in the owner’s policy of
28 liability insurance for the motor vehicle.

29 3. After reimbursement of the Department pursuant to
30 paragraph (a) of subsection 1 of NRS 244A.870 for its expense in
31 collecting and administering a fee imposed pursuant to this section,
32 the remaining proceeds of the fee which are received by a county
33 must be used to pay the costs to acquire, improve, equip, operate
34 and maintain within the county a performing arts center, or to pay
35 the principal of, interest on or other payments due with respect to
36 bonds issued to pay those costs, including bonds issued to refund
37 bonds issued to pay those costs, or any combination thereof.

38 4. The board of county commissioners of a county that imposes
39 the fee authorized by subsection 1 may enter into a cooperative
40 agreement with another governmental entity in which the other
41 governmental entity agrees to receive the proceeds of the fee from
42 the county if the cooperative agreement includes a provision that
43 requires the other governmental entity to assume all responsibility
44 for the operation of the performing arts center and to use the
45 proceeds of the fee it receives from the county to pay the costs to



1 acquire, improve, equip, operate and maintain within the county a
2 performing arts center, and to pay the principal of, interest on or
3 other payments due with respect to bonds issued to pay those costs,
4 including bonds issued to refund bonds issued to pay those costs, or
5 any combination thereof. A governmental entity that enters into a
6 cooperative agreement with the board of county commissioners
7 pursuant to this subsection may delegate to a nonprofit organization
8 one or more of the responsibilities that the governmental entity
9 assumed pursuant to the cooperative agreement, including, without
10 limitation, the acquisition, design, construction, improvement,
11 equipment, operation and maintenance of the center.

12 5. The board of county commissioners shall not repeal or
13 amend or otherwise directly or indirectly modify an ordinance
14 imposing a fee pursuant to subsection 1 in such a manner as to
15 impair any outstanding bonds issued by or other obligations
16 incurred by the county until all obligations for which revenue from
17 the ordinance have been pledged or otherwise made payable from
18 such revenue have been discharged in full or provision for full
19 payment and redemption has been made.

20 6. A performing arts center to be acquired, improved,
21 equipped, operated and maintained pursuant to this section may,
22 regardless of the estimated cost of the center, be designed and
23 constructed pursuant to a contract with a design-build team in
24 accordance with NRS 338.1711 to 338.1727, inclusive.

25 7. As used in this section, the words and terms defined in NRS
26 482.053 and 482.087 have the meanings ascribed to them in those
27 sections.

28 **Sec. 144.** Chapter 268 of NRS is hereby amended by adding
29 thereto a new section to read as follows:

30 *1. Each city council or governing body of an incorporated*
31 *city shall adopt an ordinance that:*

32 *(a) Defines a room remarketer who reserves, arranges for,*
33 *conveys or furnishes the right to use or occupy transient lodging*
34 *in the incorporated city to another person for consideration in an*
35 *amount determined by the room remarketer, to be a person*
36 *providing transient lodging in the incorporated city for the*
37 *purposes of imposing, collecting and remitting taxes on the gross*
38 *receipts from the rental of transient lodging in the incorporated*
39 *city. The provisions of this paragraph, or an ordinance adopted*
40 *pursuant thereto, must not be interpreted or construed to create,*
41 *expand or alter any other liability, duty, obligation or*
42 *responsibility of the room remarketer for, or relating to, the*
43 *transient lodging.*

44 *(b) Requires the gross receipts of a room remarketer from*
45 *reserving, arranging for, conveying or furnishing the right to use*



1 or occupy transient lodging in the incorporated city to another
2 person for consideration in an amount determined by the room
3 remarketer, including any service or other charge or amount
4 required to be paid as a condition to the right to use or occupy the
5 transient lodging, to be gross receipts from the rental of transient
6 lodging in the incorporated city for the purpose of imposing,
7 collecting and remitting taxes on the gross receipts from the rental
8 of transient lodging in the incorporated city.

9 (c) Authorizes a room remarketer to claim a refund or credit
10 against the amount of the tax on the gross receipts from the rental
11 of transient lodging which the room remarketer is required to
12 collect and remit to the incorporated city for reserving, arranging
13 for, conveying or furnishing the right to use or occupy transient
14 lodging in the incorporated city. The refund or credit must equal
15 the amount of the tax on the gross receipts from the rental of
16 transient lodging that the room remarketer paid to the provider of
17 the transient lodging upon acquiring the ability or authority to
18 reserve, arrange for, convey or furnish the right to use or occupy
19 such transient lodging. The city council or governing body of the
20 incorporated city may include in the ordinance adopted pursuant
21 to this section a procedure for claiming the refund or credit
22 required pursuant to this paragraph.

23 2. As used in this section:

24 (a) “Room remarketer” means a person who reserves,
25 arranges for, conveys, or furnishes transient lodging in this State,
26 whether directly or indirectly, to another person for consideration
27 in an amount determined by the room remarketer, directly or
28 indirectly, whether pursuant to a written or other agreement.

29 (b) “Transient lodging” has the meaning ascribed to it in the
30 ordinance adopted pursuant to NRS 268.0195 by the city council
31 or governing body of an incorporated city to define the term
32 “transient lodging” for the purpose of all taxes imposed by the
33 board on the rental of transient lodging.

34 **Sec. 145.** Title 43 of NRS is hereby amended by adding
35 thereto a new chapter to consist of the provisions set forth as
36 sections 146 to 170, inclusive, of this act.

37 **Sec. 146.** As used in this chapter, unless the context
38 otherwise requires, the words and terms defined in sections 147 to
39 153, inclusive, of this act have the meanings ascribed to them in
40 those sections.

41 **Sec. 147.** “Authorized driver” means:

42 1. The lessee of a passenger car.

43 2. The spouse of the lessee, if that person is a licensed driver
44 and satisfies any minimum age requirement of the personal
45 vehicle sharing program.



3. The employer or coworker of the lessee, if the employer or coworker is engaged in business activity with the lessee, is a licensed driver and satisfies any minimum age requirement of the personal vehicle sharing program.

4. Any person listed on a lease by the personal vehicle sharing program as an authorized driver.

Sec. 148. “Lessee” means a person who leases a passenger car through a personal vehicle sharing program.

Sec. 149. “Motor vehicle” has the meaning ascribed to it in NRS 482.075.

Sec. 150. “Owner” means the registered owner of a passenger car who enters into an agreement with a personal vehicle sharing program to lease his or her passenger car through the program in exchange for a fee to the program.

Sec. 151. “Passenger car” means a motor vehicle designed for carrying 10 persons or less, except a motorcycle, an electric bicycle, an electric scooter or a moped.

Sec. 152. “Personal vehicle sharing” means the lease of a passenger car to a person other than the passenger car’s owner through a personal vehicle sharing program.

Sec. 153. “Personal vehicle sharing program” or “program” means an entity engaged in the business of facilitating the sharing of passenger cars for noncommercial use by people in this State.

Sec. 154. The Department of Motor Vehicles shall adopt such regulations as are necessary to carry out the provisions of this chapter.

Sec. 155. 1. A personal vehicle sharing program shall not engage in business in this State unless the program holds a valid license issued by the Department of Motor Vehicles pursuant to this chapter.

2. A person who desires to operate a personal vehicle sharing program in this State must:

(a) Submit to the Department an application for the issuance of a license to operate a personal vehicle sharing program in such form and including such information as the Department may require by regulation;

(b) Submit to the Department proof of insurance sufficient to satisfy the requirements of section 156 of this act; and

(c) Pay a license fee in an amount established by the Department by regulation.

3. Licenses issued pursuant to subsection 2 expire on December 31 of each year. Before December 31 of each year, licensees shall furnish the Department with an application for renewal of the license accompanied by an annual renewal fee in an amount established by the Department by regulation.



4. It is a gross misdemeanor for any person knowingly to falsify an application or document to obtain a license pursuant to this section.

Sec. 156. 1. A personal vehicle sharing program shall, for each motor vehicle that it facilitates the use of, during all times that the vehicle is engaged in personal vehicle sharing, provide insurance or otherwise cover the lessee to whom the vehicle was leased against liability arising out of his or her negligence in the operation of the leased vehicle in limits of not less than \$25,000 for any one person injured or killed, and \$50,000 for any number more than one person injured or killed in any one crash, and against liability of the short-term lessee for property damage in the limit of not less than \$20,000 for one crash.

2. A personal vehicle sharing program which fails to comply with subsection 1 is jointly and severally liable with a lessee for any damages caused by the negligence of the latter in operating the vehicle and for any damages caused by the negligence of any person operating the vehicle by or with the permission of the lessee, except that the foregoing provisions do not confer any right of action upon any passenger in the leased vehicle against the personal vehicle sharing program. This section does not prevent the introduction as a defense of contributory negligence to the extent to which this defense is allowed in other cases.

3. The policy of insurance, surety bond or deposit of cash or securities maintained pursuant to subsection 1 inures to the benefit of any person operating the vehicle by or with the permission of the lessee in the same manner, under the same conditions and to the same extent as to the lessee.

4. The insurance policy, surety bond or deposit of cash or securities need not cover any liability incurred by the lessee of any vehicle to any passenger in the vehicle, but the personal vehicle sharing program, before the vehicle is made available to the lessee, shall provide to the lessee a written notice of the fact that such a policy, bond or deposit does not cover the liability which the lessee may incur on account of his or her negligence in the operation of the vehicle to any passenger in the vehicle.

5. When any suit or action is brought against the personal vehicle sharing program under this section, the judge before whom the case is pending shall hold a preliminary hearing in the absence of the jury to determine whether the personal vehicle sharing program has provided insurance or a surety bond or deposit of cash or securities covering the lessee as required by subsection 1. Whenever it appears that the personal vehicle sharing program has provided insurance or a surety bond or



1 deposit of cash or securities covering the lessee in the required
2 amount, the judge shall dismiss as to the personal vehicle sharing
3 program the action brought under this section.

4 **Sec. 157.** It is unlawful for a personal vehicle sharing
5 program to offer, arrange for or allow the use of a paid driver
6 whether directly or indirectly through an affiliated person.

7 **Sec. 158. 1.** No personal vehicle sharing program may:

8 (a) Refuse to facilitate the lease of a vehicle to a member of the
9 Armed Forces of the United States; or

10 (b) Discriminate against such a person in the terms, conditions
11 or privileges of the rental of a vehicle,

12 ↪ because of that person's membership in the Armed Forces.

13 2. Any person who willfully violates any provision of
14 subsection 1 is guilty of a misdemeanor.

15 **Sec. 159.** A personal vehicle sharing program shall appoint
16 and keep in this State a registered agent as provided in
17 NRS 14.020.

18 **Sec. 160. 1.** A personal vehicle sharing program may enter
19 into an agreement with one or more owners to facilitate the lease
20 of a passenger car to a lessee in exchange for the payment of a fee
21 by the owner to the program.

22 2. Before a personal vehicle sharing program facilitates the
23 lease of the passenger car of a person pursuant to an agreement
24 with the program, the program must require the person to submit
25 an application to the program, which must include, without
26 limitation:

27 (1) The name, age and address of the applicant.

28 (2) A description of the passenger car of the applicant and
29 a copy of the motor vehicle registration.

30 (3) Proof that the applicant has complied with the
31 requirements of NRS 485.185.

32 3. A personal vehicle sharing program may enter into an
33 agreement with an owner if:

34 (a) The applicant provides proof that the passenger car owned
35 by him or her is registered with the Department of Motor Vehicles
36 unless the applicant is exempt from the requirement to register the
37 passenger car in this State pursuant to NRS 482.385.

38 (b) The applicant provides proof that the passenger car is
39 operated and maintained in compliance with all applicable
40 federal, state and local laws.

41 (c) The applicant provides proof that he or she currently is in
42 compliance with the provisions of NRS 485.185.

43 **Sec. 161.** In accordance with the provisions of this chapter, a
44 personal vehicle sharing program which holds a valid license
45 issued by the Department pursuant to this chapter may, on behalf



1 of an owner, charge a fee for the lease of a passenger car to a
2 lessee by the owner.

3 **Sec. 162.** 1. Except as otherwise provided in subsection 8,
4 upon the lease of a passenger car by a lessee in this State through
5 a personal vehicle sharing program, the personal vehicle sharing
6 program shall charge and collect from the lessee on behalf of the
7 owner:

8 (a) A governmental services fee of 10 percent of the total
9 amount for which the passenger car was leased, excluding any
10 taxes or other fees imposed by a governmental entity and the items
11 described in subsection 7; and

12 (b) Any fee required pursuant to NRS 244A.810 or 244A.860.

13 ➤ The amount of each fee charged pursuant to this subsection
14 must be indicated in the lease agreement.

15 2. The fees due from a personal vehicle sharing program
16 to the Department of Taxation pursuant to subsection 1 are due on
17 the last day of each calendar quarter. On or before the last day of
18 the month following each calendar quarter, the personal vehicle
19 sharing program shall:

20 (a) File with the Department of Taxation, on a form prescribed
21 by the Department of Taxation, a report indicating the total
22 amount of each of the fees collected by the personal vehicle
23 sharing program pursuant to subsection 1 during the immediately
24 preceding calendar quarter; and

25 (b) Remit to the Department of Taxation the fees collected by
26 the personal vehicle sharing program pursuant to subsection 1
27 during the immediately preceding calendar quarter.

28 3. Except as otherwise provided in a contract made pursuant
29 to NRS 244A.820 or 244A.870, the Department of Taxation shall
30 deposit all money received from a personal vehicle sharing
31 program pursuant to the provisions of subsection 1 with the State
32 Treasurer for credit to the State General Fund.

33 4. To ensure compliance with this section, the Department of
34 Taxation may audit the records of a personal vehicle sharing
35 program.

36 5. The provisions of this section do not limit or affect the
37 payment of any taxes or fees imposed pursuant to the provisions of
38 chapter 482 of NRS.

39 6. The Department of Motor Vehicles shall, upon request,
40 provide to the Department of Taxation any information in its
41 records relating to a personal vehicle sharing program that the
42 Department of Taxation considers necessary to collect the fees
43 described in subsection 1.

44 7. For the purposes of charging and collecting the
45 governmental services fee described in paragraph (a) of subsection



1 *1, the following items must not be included in the total amount for*
2 *which the passenger car was leased:*

3 *(a) The amount of any fee charged and collected pursuant to*
4 *paragraph (b) of subsection 1;*

5 *(b) The amount of any charge for fuel used to operate the*
6 *passenger car;*

7 *(c) The amount of any fee or charge for the delivery,*
8 *transportation or other handling of the passenger car by an agent*
9 *of the personal vehicle sharing program, not including the lessee;*

10 *(d) The amount of any fee or charge for insurance, including,*
11 *without limitation, personal accident insurance, extended*
12 *coverage or insurance coverage for personal property; and*

13 *(e) The amount of any charges assessed against a lessee for*
14 *damages for which the lessee is held responsible.*

15 *8. The fee required pursuant to subsection 1 does not apply*
16 *with respect to any passenger car leased by or on behalf of this*
17 *State, its unincorporated agencies and instrumentalities or any*
18 *county, city, district or other political subdivision of this State.*

19 *9. The Executive Director of the Department of Taxation*
20 *shall:*

21 *(a) Adopt such regulations as the Executive Director*
22 *determines are necessary to carry out the provisions of this*
23 *section; and*

24 *(b) Upon the request of the Director of the Department of*
25 *Motor Vehicles, provide to the Director of the Department of*
26 *Motor Vehicles a copy of any record or report described in this*
27 *section.*

28 **Sec. 163.** *1. Every person engaged in business as a*
29 *personal vehicle sharing program shall maintain a record of the*
30 *identity of each lessee and the exact time the vehicle is the subject*
31 *of such lease or in the possession of the lessee.*

32 *2. Every such record is a public record and open to inspection*
33 *by any person.*

34 *3. If the Executive Director of the Department of Taxation*
35 *prescribes a form for the keeping of the record provided for in this*
36 *section, the personal vehicle sharing program shall use the form.*

37 *4. It shall be a misdemeanor for any such personal vehicle*
38 *sharing program to fail to make or possess or to refuse an*
39 *inspection of the record required in this section.*

40 *5. The Executive Director of the Department of Taxation*
41 *shall:*

42 *(a) Adopt such regulations as the Executive Director*
43 *determines are necessary to carry out the provisions of this*
44 *section; and*



(b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record described in this section.

Sec. 164. 1. A personal vehicle sharing program, an owner and a lessee of a passenger car may agree that the lessee will be responsible for:

(a) Physical damage to the car, up to and including its fair market value, regardless of the cause of the damage.

(b) Mechanical damage to the car, up to and including its fair market value, resulting from:

(1) A crash;

(2) An impact; or

(3) Any other type of incident,

↳ that is caused by a deliberate or negligent act or omission on the part of the lessee.

(c) Loss resulting from theft of the car, up to and including its fair market value, except that the lessee is presumed to have no liability for any loss resulting from theft if an authorized driver:

(1) Has possession of the ignition key furnished by the personal vehicle sharing program or owner, or establishes that the ignition key furnished by the personal vehicle sharing program or owner was not in the car at the time of the theft; and

(2) Files an official report of the theft with an appropriate law enforcement agency within 24 hours after learning of the theft and cooperates with the personal vehicle sharing program, owner and the law enforcement agency in providing information concerning the theft.

↳ The personal vehicle sharing program or owner may rebut the presumption set forth in this paragraph by establishing that an authorized driver committed or aided and abetted the commission of the theft.

(d) Physical damage to the car, up to and including its fair market value, resulting from vandalism occurring after or in connection with the theft of the car, except that the lessee has no liability for any damage resulting from vandalism if the lessee has no liability for theft pursuant to paragraph (c).

(e) Physical damage to the car and loss of use of the car, up to \$2,500, resulting from vandalism not related to the theft of the car and not caused by the lessee.

(f) Loss of use of the car if the lessee is liable for damage or loss.

(g) Actual charges for towing and storage and impound fees paid by the personal vehicle sharing program or owner if the lessee is liable for damage or loss.



(h) An administrative charge that includes the cost of appraisal and other costs incident to the damage, loss, loss of use, repair or replacement of the car.

2. For the purposes of this section, the fair market value must be determined in the customary market for the sale of the leased passenger car.

Sec. 165. 1. A personal vehicle sharing program shall not require the purchase of optional insurance or any other optional good or service as a condition to facilitate the lease of a passenger car.

2. A personal vehicle sharing program shall not engage in any unfair, deceptive or coercive conduct to induce a lessee to purchase optional insurance or any other optional good or service, including, but not limited to, refusing to honor the lessee's reservation, limiting the availability of cars, requiring a deposit or debiting or blocking the lessee's credit card account for a sum equivalent to a deposit if the lessee declines to purchase optional insurance or any other optional good or service.

Sec. 166. 1. A personal vehicle sharing program shall not seek to recover any portion of a claim arising out of damage to or loss of a leased passenger car by causing any block to be placed on the lessee's credit card account.

2. A personal vehicle sharing program that facilitate the lease of a passenger car shall not process a charge on a lessee's credit card to pay for any damages to a passenger car leased by the lessee unless the personal vehicle sharing program first:

(a) Obtains the written consent of the lessee, on a form that is separate from the form for the lease, to pay for the damages by processing a charge on the lessee's credit card;

(b) Obtains sufficient evidence from the owner to verify the extent of the damages; and

(c) Provides the lessee with a written estimate of the cost to repair the damages and the lessee provides the personal vehicle sharing program with written authorization to pay for the damages by processing a charge on the lessee's credit card in an amount that does not exceed the amount of the written estimate.

↪ The lessee may waive the provisions of paragraph (c) if the verification conducted pursuant to paragraph (b) indicates that the cost to repair the damages will not exceed \$500 and the lessee provides the personal vehicle sharing program with written authorization to pay for the damages by processing a charge on the lessee's credit card in an amount that does not exceed \$500.

3. A personal vehicle sharing program shall not engage in any unfair, deceptive or coercive tactics in attempting to recover or



1 in recovering on any claim arising out of damage to or loss of a
2 passenger car.

3 **Sec. 167.** 1. Except as otherwise provided in subsection 2, a
4 personal vehicle sharing program shall advertise, quote and
5 charge a rate for leasing a passenger car which includes the entire
6 amount that a lessee must pay to lease the car for the period to
7 which the rate applies, except taxes, charges for mileage and any
8 fees paid to airports, including, without limitation, any concession
9 fees which the personal vehicle sharing program pays to do
10 business at an airport and which the personal vehicle sharing
11 program charges to the lessee.

12 2. The requirements of subsection 1 do not apply to fees
13 charged pursuant to paragraph (a) or (b) of subsection 1 of
14 section 162 of this act or additional charges imposed pursuant to
15 subsection 1 of section 168 of this act which are included in the
16 quotation of an estimated total price for the lease or which are
17 separately identified and clearly disclosed in the lease agreement.

18 3. If a personal vehicle sharing program states a rate for
19 lease of a passenger car in a printed advertisement or in a
20 quotation transmitted by computer, telephone or through a digital
21 network or software application service of the program or in
22 person, the personal vehicle sharing program shall clearly disclose
23 in the advertisement or quotation the terms of any mileage
24 conditions relating to the advertised or quoted rate, including,
25 without limitation, the amount of mileage and gas charges, the
26 number of miles for which no charges will be imposed and a
27 description of geographic driving limitations.

28 **Sec. 168.** 1. The personal vehicle sharing program or the
29 owner may impose an additional charge:

30 (a) Based on reasonable age criteria established by the
31 personal vehicle sharing program.

32 (b) For any item or a service provided if the lessee could have
33 avoided incurring the charge by choosing not to obtain or utilize
34 the optional item or service.

35 (c) For insurance and accessories requested by the lessee.

36 (d) For refueling the passenger car at the conclusion of the
37 lease if the lessee did not return the passenger car with as much
38 fuel as was in the fuel tank at the beginning of the lease.

39 (e) For any authorized driver in addition to the lessee but shall
40 not, except as otherwise provided in this paragraph, charge more
41 than \$10 per full or partial 24-hour period for such an additional
42 authorized driver. The monetary amount set forth in this
43 paragraph must be adjusted for each fiscal year that begins on or
44 after July 1, 2021, by adding to that amount the product of that
45 amount multiplied by the percentage increase in the Consumer



1 *Price Index West Urban for All Urban Consumers (All Items)*
2 *between the calendar year ending on December 31, 2005, and the*
3 *calendar year immediately preceding the fiscal year for which the*
4 *adjustment is made. The Department shall, on or before March 1*
5 *of each year, publish the adjusted amount for the next fiscal year*
6 *on its website or otherwise make that information available to*
7 *personal vehicle sharing programs.*

8 (f) *To recover costs incurred by the personal vehicle sharing*
9 *program as a condition of doing business, including, without*
10 *limitation, concession, access and other fees imposed on the*
11 *personal vehicle sharing program by an airport or other facility*
12 *for the privilege of operating at the facility.*

13 (g) *To recover any fees paid by the personal vehicle sharing*
14 *program on behalf of the lessee, including, without limitation, a*
15 *customer facility charge imposed on the lessee by an airport or*
16 *other facility for the privilege of using the facility.*

17 2. *The personal vehicle sharing program that wishes to*
18 *impose an additional charge pursuant to paragraph (g) or (h) of*
19 *subsection 1:*

20 (a) *Must, at the time the lease commences, provide the lessee*
21 *with a lease agreement which clearly discloses all charges for the*
22 *entire lease, excluding charges that cannot be determined at the*
23 *time the lease commences; and*

24 (b) *Must:*

25 (1) *At the time the lessee makes the reservation for the lease*
26 *of the passenger car, provide a good faith estimate of the total of*
27 *all charges for the entire lease, excluding mileage charges and*
28 *charges for optional items that cannot be determined based upon*
29 *the information provided by the lessee; or*

30 (2) *At the time the personal vehicle sharing program*
31 *provides a price quote or estimate for the lease of the passenger*
32 *car, disclose the existence of any separately stated additional*
33 *charge.*

34 3. *A personal vehicle sharing program or owner shall not*
35 *charge a lessee, as a condition of leasing a passenger car, an*
36 *additional fee for:*

37 (a) *Any surcharges required for fuel.*

38 (b) *Transporting the lessee to the location where the passenger*
39 *car will be delivered to the lessee.*

40 **Sec. 169.** *A lessee may bring an action against a personal*
41 *vehicle sharing program or owner, as applicable, for the recovery*
42 *of damages and appropriate equitable relief for any violation of*
43 *sections 164 to 168, inclusive, of this act. The prevailing party is*
44 *entitled to recover reasonable attorney's fees and costs.*



1 **Sec. 170.** *A waiver of any of the provisions of sections 164 to*
2 *168, inclusive, of this act is contrary to public policy and is void*
3 *and unenforceable.*

4 **Sec. 171.** NRS 482.053 is hereby amended to read as follows:
5 482.053 For the purposes of regulation under this chapter and
6 of imposing tort liability under NRS 41.440, and for no other
7 purpose:

8 1. “Lease” means a contract by which the lienholder or owner
9 of a vehicle transfers to another person, for compensation, the right
10 to use such vehicle.

11 2. “Long-term lessee” means a person who has leased a vehicle
12 from another person for a fixed period of more than 31 days.

13 3. “Long-term lessor” means a person who has leased a vehicle
14 to another person for a fixed period of more than 31 days ~~H~~, *but*
15 *does not include a personal vehicle sharing program licensed*
16 *pursuant to section 155 of this act.*

17 4. “Short-term lessee” means a person who has leased a vehicle
18 from another person for a period of 31 days or less, or by the day, or
19 by the trip.

20 5. “Short-term lessor” means a person who has leased a vehicle
21 to another person for a period of 31 days or less, or by the day, or by
22 the trip ~~H~~, *but does not include a personal vehicle sharing*
23 *program licensed pursuant to section 155 of this act.*

24 **Sec. 172.** NRS 482.3961 is hereby amended to read as
25 follows:

26 482.3961 1. Except as otherwise provided in this section and
27 NRS 482.390 and 706.801 to 706.861, inclusive, a nonresident who:

28 (a) Is not a natural person;

29 (b) Is the owner of a vehicle of a type subject to registration
30 pursuant to the provisions of this chapter; and

31 (c) Allows that vehicle to be operated in this State by an
32 employee, independent contractor or any other person for the
33 purpose of engaging in the business of the nonresident within this
34 State,

35 ↪ shall, within 10 days after the commencement of such operation,
36 apply for a nonresident business permit for the vehicle.

37 2. The Department shall grant an application for the permitting
38 of a vehicle pursuant to subsection 1 if the nonresident owner of the
39 vehicle:

40 (a) Submits proof that the vehicle has been registered for the
41 current year in the state, country or other place of which the owner
42 is a resident;

43 (b) Submits proof that the vehicle is currently insured in
44 compliance with the laws of the state, country or other place of
45 which the owner is a resident;



(c) Submits proof that the vehicle has been tested for emissions in compliance with the laws of the state, country or other place of which the owner is a resident or, if the place where the owner is a resident does not require the testing of the emissions of motor vehicles, complies with the provisions of NRS 445B.700 to 445B.815, inclusive, and the regulations adopted pursuant thereto for the vehicle as if the vehicle were required to comply with those provisions; and

(d) Pays a fee of:

(1) Two hundred dollars for the first vehicle for which the owner obtains a permit pursuant to this section.

(2) One hundred and fifty dollars for each additional vehicle for which the owner obtains a permit pursuant to this section.

3. The Department shall issue to a nonresident owner who obtains a permit for a vehicle pursuant to this section an indicator for the permitted vehicle that must be displayed on the permitted vehicle when the permitted vehicle is operated in this State. The indicator issued pursuant to this subsection is nontransferable and expires 1 year after the date of issuance.

4. All fees paid pursuant to subsection 2 must be deposited with the State Treasurer for credit to the State Highway Fund and expended pursuant to subsection 2 of NRS 408.235.

5. A person who violates the provisions of this section is guilty of a misdemeanor and shall be punished:

(a) For the first offense, by a fine of not more than \$500.

(b) For the second and each subsequent offense, by a fine of not more than \$750.

➤ The failure of a person to comply with the provisions of this section for each vehicle to which this section applies constitutes a separate offense.

6. A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that the vehicle is required to be permitted pursuant to subsection 1. As used in this subsection, “peace officer” includes a constable.

7. The Department may adopt such regulations as are necessary to carry out the provisions of this section.

8. The provisions of this section do not apply with respect to a vehicle that is leased or rented to a lessee by a short-term lessor, as that term is defined in subsection 5 of NRS 482.053 ~~14~~, or through a personal vehicle sharing program licensed pursuant to section 155 of this act.



Sec. 173. NRS 706.478 is hereby amended to read as follows:

706.478 1. Notwithstanding any provision of NRS 706.011 to 706.791, inclusive, to the contrary, if the registered owner of a vehicle which is impounded pursuant to NRS 706.476 is ~~ta~~:

(a) A short-term lessor licensed pursuant to NRS 482.363 who is engaged in the business of renting or leasing vehicles in accordance with NRS 482.295 to 482.3159, inclusive ~~ta~~; or

(b) *The owner of a passenger car who leases the vehicle in accordance with sections 146 to 170, inclusive, of this act through a personal vehicle sharing program licensed pursuant to section 155 of this act,*

↳ *the* registered owner is not liable for any administrative fine or other penalty that may be imposed by the Authority for the operation of a passenger vehicle in violation of NRS 706.011 to 706.791, inclusive, if at the time that the vehicle was impounded, the vehicle was in the care, custody or control of a lessee.

2. A short-term lessor *or the owner of a passenger car who leases the vehicle through a personal vehicle sharing program* may establish that a vehicle was subject to the care, custody or control of a lessee at the time that the vehicle was impounded pursuant to NRS 706.476 by submitting to the Authority a true copy of the lease or rental agreement pursuant to which the vehicle was leased or rented to the lessee by the short-term lessor ~~ta~~ *or owner*. The submission of a true copy of a lease or rental agreement is prima facie evidence that the vehicle was in the care, custody or control of the lessee.

3. Upon the receipt of a true copy of a written lease or rental agreement pursuant to subsection 2 which evidences that the vehicle impounded by the Authority pursuant to NRS 706.476 was under the care, custody or control of a lessee and not the registered owner of the vehicle, the Authority shall release the vehicle to the short-term lessor ~~ta~~ *or owner*.

4. As used in this section, “short-term lessor” has the meaning ascribed to it in NRS 482.053.

Sec. 174. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 175. An ordinance adopted pursuant to section 141 or 144 of this act may not become effective before October 1, 2021.

Sec. 176. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.



1 **Sec. 177.** NRS 360B.483 is hereby repealed.

2 **Sec. 178.** 1. This section and sections 141 and 144 become
3 effective upon passage and approval.

4 2. Sections 1 to 140, inclusive, 142, 143 and 145 to 175,
5 inclusive, of this act become effective upon:

6 (a) Passage and approval for the purposes of adopting
7 regulations and performing any other preparatory administrative
8 tasks as are necessary to carry out the provisions of this act; and

9 (b) On January 1, 2022, for all other purposes.

TEXT OF REPEALED SECTION

360B.483 “Specified digital products” construed.

1. “Specified digital products” means electronically transferred digital audio works, digital audiovisual works and digital books.

2. As used in this section:

(a) “Digital audio works” means works that result from the fixation of a series of musical, spoken or other sounds, including ringtones.

(b) “Digital audiovisual works” means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(c) “Digital books” means works that are generally recognized in the ordinary and usual sense as books.

(d) “Electronically transferred” means obtained by a purchaser by means other than tangible storage media.

(e) “Ringtones” means digitized sound files that are downloaded onto a device and may be used to alert the customer with respect to a communication.

