

Amendment No. 480

Assembly Amendment to Assembly Bill No. 53	(BDR 32-421)
Proposed by: Assembly Committee on Revenue	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

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

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



ASSEMBLY BILL NO. 53—COMMITTEE ON REVENUE

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Revenue

SUMMARY—Revises provisions relating to sales of tobacco products.
(BDR 32-421)

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

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

AN ACT relating to tobacco products; revising penalties for sales of certain tobacco products to persons under 21 years of age; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensing of persons engaged in the manufacture, distribution and sale of cigarettes and other tobacco products, including manufacturers, wholesale dealers of cigarettes, wholesale dealers of other tobacco products, tobacco retail dealers, logistics companies and persons who operate a warehouse or distribution center. (NRS 370.531-370.597) Existing law prohibits a person from selling, distributing or offering to sell cigarettes, cigarette paper, any product containing, made or derived from tobacco, any vapor product, any alternative nicotine product or any product containing, made or derived from nicotine to a person under the age of 21 years. (NRS 370.521) Existing law establishes certain penalties which a licensee is liable for if an employee or agent of the licensee violates this prohibition, including a warning for a first or second violation within a 24-month period at the same premises and certain civil penalties for subsequent violations within a 24-month period at the same premises. (NRS 370.521)

This bill provides that, for violations which occur within a 24-month period at the same premises, a licensee is liable for a civil penalty of: (1) ~~[\$500]~~ ***\$2,500*** for a first violation; (2) ~~[\$1,000]~~ ***\$5,000*** for a second violation; ~~and~~ (3) ~~[\$2,500]~~ ***\$7,500*** for a third violation; and ~~(4) \$10,000 for a fourth~~ ***and any subsequent violation.*** ~~[Additionally, this bill requires the Department of Taxation to suspend the license of a licensee for 30 days for a second violation and for not more than 180 days for a third or any subsequent violation within a 24-month period at the same premises.]~~

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

Section 1. NRS 370.521 is hereby amended to read as follows:

370.521 1. Except as otherwise provided in subsections 2, 4 and 5, a person shall not sell, distribute or offer to sell cigarettes, cigarette paper, any product

1 containing, made or derived from tobacco, any vapor product, any alternative
2 nicotine product or any product containing, made or derived from nicotine to any
3 person under the age of 21 years.

4 2. A person shall be deemed to be in compliance with the provisions of
5 subsection 1 if, before the person sells, distributes or offers to sell to another any
6 item described in subsection 1, the person:

7 (a) Demands that the other person present a valid driver's license, permanent
8 resident card, tribal identification card or other written or documentary evidence
9 which shows that the other person is 21 years of age or older;

10 (b) Is presented a valid driver's license, permanent resident card, tribal
11 identification card or other written or documentary evidence which shows that the
12 other person is 21 years of age or older; and

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

16 3. A person shall not sell, distribute or offer to sell cigarettes, cigarette paper
17 or other tobacco products to any person under 40 years of age without first
18 performing age verification through enhanced controls that utilize a scanning
19 technology or other automated, software-based system to verify that the person is
20 21 years of age or older. A person who violates this subsection is liable for a civil
21 penalty of \$100 for each offense.

22 4. The employer of a person who is under 21 years of age may, for the
23 purpose of allowing the person to handle or transport any item described in
24 subsection 1 in the course of the person's lawful employment, provide an item
25 described in subsection 1 to the person under 21 years of age.

26 5. The provisions of this section do not apply to any product regulated by the
27 United States Food and Drug Administration under Subchapter V of the Federal
28 Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

29 6. A person who violates subsection 1 is liable for a civil penalty of:

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

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

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

33 7. If an employee or agent of a licensee has violated subsection 1:

34 (a) For the first ~~[and second]~~ violation, within a 24-month period at the same
35 premises, the licensee ~~[must be issued a warning.~~

36 ~~—(b) For the third violation within a 24-month period at the same premises, the~~
37 ~~licensee] is liable for a civil penalty of [\$500.~~

38 ~~—(c) \$2,500.~~

39 ~~—(b) For the [fourth] second violation within a 24-month period at the same~~
40 ~~premises, the licensee is liable for a civil penalty of [\$1,250.~~

41 ~~—(d) \$1000 and the Department shall suspend the license of the licensee for 30~~
42 ~~days.] \$5,000.~~

43 (c) For the ~~[fifth] third [and any subsequent]~~ violation within a 24-month
44 period at the same premises, the licensee is liable for a civil penalty of ~~[\$2,500.~~

45 ~~and the Department shall suspend the license of the licensee for not more than~~
46 ~~180 days.] \$7,500.~~

47 (d) For the fourth and any subsequent violation within a 24-month period at
48 the same premises, the licensee is liable for a civil penalty of \$10,000.

49 8. A peace officer or any person performing an inspection pursuant to NRS
50 202.2496 may issue a notice of infraction for a violation of this section. A notice of
51 infraction must be issued on a form prescribed by the Department and must contain:

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

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

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

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

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

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

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

9 9. A notice of infraction issued pursuant to subsection 8 or a facsimile thereof
10 must be filed with the Department and retained by the Department and is deemed to
11 be a public record of matters which are observed pursuant to a duty imposed by law
12 and is prima facie evidence of the facts alleged in the notice.

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

15 (a) Admitting the violation stated in the notice and paying to the State of
16 Nevada the applicable civil penalty set forth in subsection 3, 6 or 7.

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

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

25 12. As used in this section, "licensee" means a person who holds a license
26 issued by the Department pursuant to this chapter.

27 **Sec. 2. This act becomes effective on January 1, 2024.**