Assembly Bill No. 471–Assemblymembers Hibbetts; and Nguyen

CHAPTER..........

AN ACT relating to taxation; revising provisions governing the taxation of remote sales of cigars and pipe tobacco; revising provisions governing the licensing of remote retail sellers of cigars and pipe tobacco; revising provisions governing age verification for remote retail sales of certain tobacco products; providing penalties; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes a tax on the receipt, purchase or sale in this State of cigarettes and other tobacco products, including, without limitation, cigars and pipe tobacco. (NRS 370.0318, 370.165, 370.350, 370.440, 370.450) Under existing law, the tax on tobacco products, other than cigarettes, is required to be paid by the wholesale dealer who purchased the products from the manufacturer and who distributes the products to a retail dealer in this State. If any tobacco products, other than cigarettes, are authorized by law to be sold directly to a consumer in this State by a person located outside this State, the tax is imposed on the person making the sale and the tax is based on the established price for which the products are sold to the consumer. (NRS 370.440, 370.450)

This bill enacts provisions to provide for the taxation of the remote sale of cigars and pipe tobacco by persons who make sales of cigars and pipe tobacco through any means by which the cigars or pipe tobacco are delivered to the consumer through remote sales. **Sections 2 and 3** of this bill, respectively, define the sales that constitute a remote retail sale and the sellers who are remote retail sellers for the purposes of taxing such remote retail sales of cigars and pipe tobacco. **Section 3.3** of this bill requires the tax for a remote sale of cigars or pipe tobacco to be based on the actual cost of the cigars or pipe tobacco to the remote retail seller, as defined in **section 1.3** of this bill. Under **section 3.3**, a remote retail seller is subject to this tax only if the remote retail seller meets certain thresholds for the retail sale of cigars or pipe tobacco to consumers in this State. **Section 3.4** of this bill provides for the filing of a monthly report of the sales of cigars and pipe tobacco by a remote retail seller in a manner similar to the monthly report for a wholesale dealer of such products, and **section 3.5** of this bill imposes recordkeeping requirements on a remote retail seller of cigars and pipe tobacco that are similar to the recordkeeping requirements for a wholesale dealer of such products. **Sections 3.6-3.9** of this bill provide for the licensing of remote retail sellers of cigars and pipe tobacco in the same manner as wholesale dealers of such products. Specifically: (1) **section 3.65** prohibits the issuance, maintenance or renewal of a license if the applicant or licensee is not registered to collect and remit sales and use tax, is delinquent in the payment of sales and use tax or the tax imposed by **section 3.3**, or does not comply with certain age-verification requirements; (2) **section 3.8** imposes the same fees for a license that are imposed on similar tobacco licensees; and (3) **section 3.9** imposes the same bonding requirements that are imposed on similar tobacco licensees. **Section 7** of this bill clarifies requirements for wholesale dealers of tobacco products, other than cigarettes, to maintain an inventory of such products by providing that such inventory must be maintained at each location in this State at which the wholesaler maintains a place of business. **Section 12.5** of this bill makes a remote retail seller subject to the penalties that apply under existing law to delinquency in the payment of taxes on tobacco products. (NRS 370.523) **Section 20** of this bill makes a conforming change to align with existing requirements for the use of an independent, third-party age verification service by remote retail sellers of certain tobacco products. **Section 20.5** of this bill makes a conforming change to ensure premium cigars sold to a remote retail seller are taxed in the same manner as premium cigars sold by other retail sellers in this State. **Section 20.7** of this bill makes an appropriation to the Department of Taxation for certain costs to implement the provisions of this bill.

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

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

Section 1. Chapter 370 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 3.9, inclusive, of this act.

Sec. 1.1. ***As used in sections 1.1 to 3.9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.3 to 3.2, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 1.3. ***"Actual cost" means the actual price paid by a remote retail seller for an individual stock keeping unit of cigars or pipe tobacco.***

Sec. 1.5. ***"Actual cost list price" means the average of the price paid by a remote retail seller for a stock keeping unit over the 12 calendar months immediately preceding January 1 of the year in which a remote retail sale is made by a remote retail seller.***

Sec. 1.7. ***"Cigar" means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco, other than a cigarette, as defined in NRS 370.010.***

Sec. 1.8. ***"License" means a license issued pursuant to section 3.6 of this act that authorizes the holder of the license to engage in business as a remote retail seller.***

Sec. 1.85. ***"Licensee" means the holder of a license.***

Sec. 1.9. ***"Pipe tobacco" means any tobacco which, because of its appearance, type, packaging or labeling, is suitable for use and likely to be offered to, or purchased by, ultimate consumers as tobacco to be smoked in a pipe.***

Sec. 2. ***"Remote retail sale" means a sale of a cigar or pipe tobacco to an ultimate consumer in this State for which:***

1. The ultimate consumer submits the order for the sale by means of a telephonic or other method of voice transmission, the mail or the Internet or any other on-line service, or the seller is

otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

2. The cigar or pipe tobacco is delivered by common carrier, private delivery service or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigars or pipe tobacco.

Sec. 3. ***"Remote retail seller" means a person located within or outside the borders of this State who makes a remote retail sale of a cigar or pipe tobacco to ultimate consumers in this State.***

Sec. 3.1. ***"Sale" means any transfer, exchange, barter, gift, offer for sale or distribution for consideration of other tobacco products.***

Sec. 3.15. ***"Stock keeping unit" means the unique identifier assigned by the distributor or remote retail seller to an item for the purpose of tracking inventory.***

Sec. 3.2. ***"Ultimate consumer" has the meaning ascribed to it in NRS 370.440.***

Sec. 3.25. (Deleted by amendment.)

Sec. 3.3. ***1. Except as otherwise provided in this section, there is hereby imposed upon the receipt, purchase or sale of cigars and pipe tobacco sold by a remote retail seller to an ultimate consumer in this State:***

(a) For cigars and pipe tobacco that are not premium cigars, a tax of 30 percent of the actual cost of those products; and

(b) For cigars and pipe tobacco that are premium cigars, a tax of 30 percent of the actual cost of those products except that, if 30 percent of the actual cost of those products is:

(1) Greater than 50 cents for each premium cigar, the tax imposed shall be 50 cents for each premium cigar.

(2) Less than 30 cents for each premium cigar, the tax imposed shall be 30 cents for each premium cigar.

2. The tax is imposed at the time the remote retail seller makes a remote retail sale to an ultimate consumer in this State. The tax must be paid by the remote retail seller to the Department in accordance with the provisions of section 3.4 of this act. It is the intent and purpose of this section to impose the tax once and only once on cigars and pipe tobacco sold in this State.

3. The tax is imposed on a remote retail seller only if, during the current calendar year or the immediately preceding calendar year:

(a) The cumulative gross receipts of the remote retail seller from remote retail sales of cigars or pipe tobacco, or both, by the

remote retail seller to ultimate consumers in this State exceed $100,000; or

(b) The remote retail seller makes 200 or more separate remote retail sales of cigars or pipe tobacco, or both, to ultimate consumers in this State.

4. Any remote retail seller who makes a remote retail sale of cigars or pipe tobacco to an ultimate consumer in this State without paying the tax provided for by this section is guilty of a misdemeanor.

5. As used in this section, "premium cigar" means a cigar that is rolled by hand, has a wrapper made of whole tobacco leaves and does not have a filter or mouthpiece.

Sec. 3.4. 1. ***A remote retail seller shall, not later than 20 days after the end of each month, submit to the Department a report setting forth such information as the Department may prescribe concerning cigars and pipe tobacco on which the tax provided by section 3.3 of this act was imposed during the preceding calendar month. The report must include, without limitation, information concerning:***

(a) All cigars and pipe tobacco brought into this State from outside this State, or caused to be brought into this State from outside this State, by the remote retail seller, or shipped or transported from within or outside this State to ultimate consumers in this State by the remote retail seller, during the preceding calendar month; and

(b) The actual cost and actual cost list price for each stock keeping unit for the preceding calendar month.

2. Each report submitted pursuant to this section must be accompanied by the tax owed pursuant to section 3.3 of this act for cigars and pipe tobacco on which that tax was imposed during the previous month.

Sec. 3.5. ***1. Every remote retail seller shall keep at the principal place of business identified on the license issued to the remote retail seller complete and accurate records relating to remote retail sales to ultimate consumers in this State, including invoices indicating the actual cost or actual cost list price paid by the remote retail seller for each stock keeping unit. The invoices required by this subsection must contain:***

(a) The name and address of the remote retail seller who sold the cigars or pipe tobacco;

(b) The name and address of the ultimate consumer in this State who purchased the cigars or pipe tobacco;

(c) The date of the sale;

(d) The invoice number;

(e) The method of delivery; and

(f) The itemized quantity of each brand, type, quantity and price of cigar and pipe tobacco sold.

2. Every remote retail seller shall preserve for at least 5 years after the date of the sale to the ultimate consumer in this State or the date of the last entry made on the record, whichever is later.

Sec. 3.6. *1. A person shall not engage in business as a remote retail seller unless the person first secures a license to engage in that activity from the Department.*

2. An application for a license must:

(a) Be made to the Department on forms prescribed by the Department.

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

(c) Specify the location, by street and number, of the principal place of business of the applicant.

(d) Specify the location, by street and number, of any place used by the applicant to distribute, ship, warehouse or store cigars and pipe tobacco and for which the license is sought.

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

(f) Be accompanied by the required license fee.

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

3. A license as a remote retail seller authorizes the holder thereof to make remote retail sales of cigars and pipe tobacco from the premises for which the license was issued to any ultimate consumer in this State.

Sec. 3.65. *No license as a remote retail seller may be issued, maintained or renewed if:*

1. The provisions of chapter 372 or 374 of NRS, or any regulations adopted pursuant thereto, require the applicant or licensee to impose, collect and remit sales tax, or collect and remit use tax, and the applicant or licensee:

(a) Is not registered with the Department pursuant to NRS 360B.200 or does not hold a valid permit for each place of business of the applicant pursuant to NRS 360.5971; or

(b) Is delinquent in the payment of any such tax, or any penalty or imposed by the Department for delinquent payment of such tax.

2. The applicant or licensee is:

(a) Required by section 3.3 of this act to pay tax on the receipt, purchase or sale of cigars or pipe tobacco to an ultimate consumer in this State; and

(b) Delinquent in the payment of any such tax, or any penalty or interest imposed by the Department for delinquent payment of such tax.

3. The applicant or licensee does not provide for age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of such databases, that are regularly used by governmental agencies and businesses for the purposes of age and identity verification to the personal information entered by the person during the ordering process to establish that the person is over the age of 21 years.

Sec. 3.7. *1. Each holder of a license shall include the license information on the Internet website of the licensee.*

2. Licenses are nontransferable, except that upon prior written notice to the Department the location of the premises for which the license was issued may be changed.

Sec. 3.8. *1. Each license issued by the Department is valid only for the calendar year for which it is issued and must be renewed annually.*

2. The Department shall charge an annual license fee of $650 for a license as a remote retail seller of cigars and pipe tobacco.

3. If a license is issued at any time during the year other than on January 1, except for the renewal of a delinquent license pursuant to subsection 5, the licensee shall pay a proportionate part of the annual fee for the remainder of the year, but not less than 25 percent of the annual license fee.

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

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

Sec. 3.85. *1. After notice to the licensee and a hearing as prescribed by the Department, the Department may suspend or revoke a license if the licensee:*

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

(b) Fails to pay any tax owed upon cigars or pipe tobacco required by this chapter;

(c) Sells in this State, purchases or possesses any cigars or pipe tobacco in violation of any provision of this chapter;

(d) Imports into or exports from this State any cigars or pipe tobacco in violation of any provision of this chapter; or

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

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

(a) Impose on the licensee a civil penalty pursuant to NRS 370.523;

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

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

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

3. A person whose license has been suspended or revoked shall not purchase or sell cigars or pipe tobacco to be sold during the period of suspension or revocation:

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

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

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

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

(a) Sells or otherwise disposes of cigars or pipe tobacco that are in the constructive possession of the Department; or

(b) Is convicted of any felony relating to the manufacture, distribution or sale of cigars or pipe tobacco.

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

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

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

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

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

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

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

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

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

8. The Department shall adopt regulations establishing a procedure for the suspension and revocation of any license issued pursuant to sections 1.1 to 3.9, inclusive, of this act.

Sec. 3.9. *1. Except as otherwise provided in this section, each licensed remote retail seller shall furnish a bond executed by the remote retail seller as principal, and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada and conditioned upon the payment of all excise taxes required to be precollected by the remote retail seller pursuant to the provisions of sections 1.1 to 3.9, inclusive, of this act. Each bond must be in a principal sum equal to the largest amount of tax precollected by the remote retail seller in any quarter of the preceding year. If the information to establish that amount is not available, then the bond must be in a sum required from a licensee operating under conditions deemed comparable by the Department. No bond may be for less than $1,000. When cash is used, the amount must be rounded up to the next larger integral multiple of $100.*

2. Upon application and a satisfactory showing, the Department may increase or decrease the amount of a bond required by subsection 1, based on the record of taxes remitted by the remote retail seller.

3. The Department may waive the requirement of the bond required by subsection 1 whenever a licensed remote retail seller has maintained a satisfactory record of payment of excise taxes or deferred payments, respectively, for a period of 5 consecutive years.

4. A remote retail seller is not entitled to a refund of any portion of money paid as a bond pursuant to this section if the remote retail seller has failed to file a report required by this chapter or owes the Department any fee, payment or penalty.

Sec. 4. NRS 370.0318 is hereby amended to read as follows:

370.0318 "Other tobacco product" **[**~~means any tobacco of any description, any vapor product, any alternative nicotine product or any product made from tobacco, other than cigarettes.~~**]** ***has the meaning ascribed to it in NRS 370.440.***

Sec. 5. NRS 370.054 is hereby amended to read as follows:

370.054 "Vapor product":

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

2. Includes, without limitation:

(a) An electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device; and

(b) The components of such a product or device, whether or not sold separately, including, without limitation, vapor cartridges or other container of nicotine or any other substance in a solution or other form that is intended to be used with or in an electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device, atomizers, cartomizers, digital displays, clearomizers, tank systems, flavors, programmable software or other similar products or devices. As used in this paragraph, "component" means a product intended primarily or exclusively to be used with or in an electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device.

3. Does not include any product:

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

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

(c) Purchased by a person who holds a current, valid medical cannabis establishment license pursuant to chapter 678B of NRS.

Sec. 6. NRS 370.440 is hereby amended to read as follows:

370.440 As used in NRS 370.440 to 370.503, inclusive, unless the context otherwise requires:

1. "Alternative nicotine product" has the meaning ascribed to it in NRS 370.008.

2. "Other tobacco product" ~~[has the meaning ascribed to it in NRS 370.0318.~~

~~3.]~~ ***means any tobacco of any description, any vapor product, any alternative nicotine product or any product made or derived from tobacco, other than cigarettes.***

3. "Retail dealer" means any person who is engaged in selling other tobacco products to ultimate consumers. ***The term does not include a remote retail seller, as defined in section 3 of this act.***

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

5. "Ultimate consumer" means a person who purchases one or more other tobacco products for his or her household or personal use and not for resale.

6. ***"Vapor product" has the meaning ascribed to it in NRS 370.054.***

7. "Wholesale dealer of other tobacco products" ~~[means]~~ ***:***

(a) Means any person who:

~~[(a)]~~ ***(1)*** Maintains a place of business in this State, purchases other tobacco products from the manufacturer or a wholesale dealer and possesses, receives, sells or otherwise disposes of such other tobacco products to wholesale dealers or retail dealers within this State;

~~[(b)]~~ ***(2)*** Does not maintain a place of business in this State and sells or otherwise disposes of other tobacco products by any means ~~[, including, without limitation, through an Internet website,]~~ to wholesale dealers ~~[,]~~ ***or*** retail dealers ~~[or ultimate consumers]~~ within this State; or

~~[(c)]~~ ***(3)*** Manufactures, produces, fabricates, assembles, processes, labels or finishes other tobacco products within this State.

(b) Does not include a remote retail seller, as defined in section 3 of this act.

~~[7.]~~ ***8.*** "Wholesale price" means:

(a) Except as otherwise provided in paragraph (b), the price for which other tobacco products are sold to a wholesale dealer of other tobacco products, valued in money, whether paid in money or otherwise, without any discount or other reduction on account of any of the following:

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

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

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

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

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

(b) For other tobacco products sold to a retail dealer ~~[or an ultimate consumer]~~ by a wholesale dealer of other tobacco products described in paragraph (c) of subsection ~~[6,]~~ ***7,*** the established price for which the other tobacco product is sold to the retail dealer ~~[or ultimate consumer]~~ before any discount or other reduction is made.

Sec. 7. NRS 370.447 is hereby amended to read as follows:

370.447 Each person licensed as a wholesale dealer of other tobacco products shall keep on hand at all times other tobacco products of a wholesale value of at least $5,000 ~~[.]~~ ***at each location in this State at which the wholesale dealer maintains a place of business.***

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 370.465 is hereby amended to read as follows:

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

2. Each report submitted pursuant to this section ~~[on or after August 20, 2001,]~~ must be accompanied by the tax owed pursuant to

NRS 370.450 for other tobacco products on which that tax was imposed during the previous month.

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 370.490 is hereby amended to read as follows:

370.490 1. The Department shall allow ***to a wholesale dealer of other tobacco products*** a credit of the amount of the tax paid pursuant to NRS 370.450, not including any amount of the tax retained by the wholesale dealer **[**~~of other tobacco products~~**]** to cover the costs of collecting and administering the tax, for other tobacco products that may no longer be sold. If the other tobacco products have been purchased and delivered, a credit memo of the manufacturer is required for proof of returned merchandise.

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

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

Sec. 12. (Deleted by amendment.)

Sec. 12.5. NRS 370.523 is hereby amended to read as follows:

370.523 In addition to any other penalty authorized by law:

1. The Department may impose on each person who violates any of the provisions of this chapter a civil penalty of:

(a) Not more than $1,000 for the first violation of a provision; and

(b) Not more than $5,000 for each subsequent violation of the same provision.

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

3. Any person who fails to pay any tax imposed pursuant to the provisions of NRS 370.090 to 370.327, inclusive, or 370.440 to 370.503, inclusive, ***or sections 1.1 to 3.9, inclusive, of this act*** within the time prescribed by law or regulation shall, in addition to the tax due:

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

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

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

Sec. 13. NRS 370.551 is hereby amended to read as follows:

370.551 "Other tobacco product" has the meaning ascribed to it in NRS ~~[370.0318.]~~ ***370.440.***

Secs. 14-19. (Deleted by amendment.)

Sec. 20. NRS 202.24935 is hereby amended to read as follows:

202.24935 1. It is unlawful for a person to knowingly sell or distribute cigarettes, cigarette paper, products containing, made or derived from tobacco, vapor products, alternative nicotine products or products containing, made or derived from nicotine to a person under the age of 21 years through the use of a computer network, telephonic network or other electronic network.

2. Every person who sells or distributes cigarettes, cigarette paper, products containing, made or derived from tobacco, vapor products, alternative nicotine products or products containing, made or derived from nicotine to an ultimate consumer in this State through the use of a computer network, telephonic network or electronic network shall:

(a) Ensure that the packaging or wrapping of the items when they are shipped is clearly marked with the word "cigarettes" or, if the items being shipped are not cigarettes, the words "tobacco products," "vapor products" or "nicotine products," as applicable.

(b) Obtain the full name, date of birth and residential address of the purchaser and perform an age verification through an independent, third-party age verification service that compares information available from ~~[public records]~~ ***a commercially available database, or aggregate of such databases, that are regularly used by governmental agencies and businesses for the purposes of age and identity verification*** to the personal information entered by the person during the ordering process ~~[that establishes]~~ ***to establish*** that the person is over the age of 21 years.

3. Every person who makes sales as described in subsection 2 must certify annually to the Attorney General that the person uses an independent, third-party age verification service as described in paragraph (b) of subsection 2.

4. In addition to or in lieu of any other civil or criminal remedy provided by law, a person who violates this section is subject to:

(a) A civil penalty in an amount not more than $1,000 for each violation; and

(b) The suspension or revocation of the license of the person by the Department of Taxation, if the person is licensed pursuant to chapter 370 of NRS.

5. Any violation of subsection 2 constitutes a deceptive trade practice for the purpose of NRS 598.0903 to 598.0999, inclusive.

6. For the purposes of this section, any sale of cigarettes, cigarette paper, products containing, made or derived from tobacco, vapor products, alternative nicotine products or products containing, made or derived from nicotine to a natural person in this State who does not intend to resell the item constitutes a sale to an ultimate consumer.

Sec. 20.5. Section 3.3 of this act is hereby amended as follows:

Sec. 3.3. 1. Except as otherwise provided in this section, there is hereby imposed upon the receipt, purchase or sale of cigars and pipe tobacco sold by a remote retail seller to an ultimate consumer in this State **[**~~:~~

~~(a) For cigars and pipe tobacco that are not premium cigars,~~**]** a tax of 30 percent of the actual cost of those products **.** **[**~~; and~~

~~(b) For cigars and pipe tobacco that are premium cigars, a tax of 30 percent of the actual cost of those products except that, if 30 percent of the actual cost of those products is:~~

~~(1) Greater than 50 cents for each premium cigar, the tax imposed shall be 50 cents for each premium cigar.~~

~~(2) Less than 30 cents for each premium cigar, the tax imposed shall be 30 cents for each premium cigar.~~**]**

2. The tax is imposed at the time the remote retail seller makes a remote retail sale to an ultimate consumer in this State. The tax must be paid by the remote retail seller to the Department in accordance with the provisions of section 3.4 of this act. It is the intent and purpose of this section to impose the tax once and only once on cigars and pipe tobacco sold in this State.

3. The tax is imposed on a remote retail seller only if, during the current calendar year or the immediately preceding calendar year:

(a) The cumulative gross receipts of the remote retail seller from remote retail sales of cigars or pipe tobacco, or both, by the remote retail seller to ultimate consumers in this State exceed $100,000; or

(b) The remote retail seller makes 200 or more separate remote retail sales of cigars or pipe tobacco, or both, to ultimate consumers in this State.

4. Any remote retail seller who makes a remote retail sale of cigars or pipe tobacco to an ultimate consumer in this State without paying the tax provided for by this section is guilty of a misdemeanor.

~~[5. As used in this section, "premium cigar" means a cigar that is rolled by hand, has a wrapper made of whole tobacco leaves and does not have a filter or mouthpiece.]~~

Sec. 20.7. 1. There is hereby appropriated from the State General Fund to the Department of Taxation for personnel and associated costs, including computer equipment and software and overtime, associated with carrying out the provisions of this act the following sums:

For the Fiscal Year 2025-2026 .... $206,369
For the Fiscal Year 2026-2027 .... $206,253

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2026, and September 17, 2027, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2026, and September 17, 2027, respectively.

Sec. 21. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 20, inclusive, of this act become effective:

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

(b) On January 1, 2026, for all other purposes.

3. Section 20.7 of this act becomes effective July 1, 2025.

4. Section 20.5 of this act becomes effective July 1, 2027.

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