

CHAPTER.....

AN ACT relating to tobacco products; requiring a person to conduct age verification through enhanced controls before selling cigarettes, cigarette paper or other tobacco products to a person under 40 years of age; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from selling, distributing or offering to sell cigarettes, cigarette paper or other tobacco products to a child under the age of 18 years. (NRS 202.24935, 370.521) **Section 5** of this bill prohibits a person from selling, distributing or offering to sell cigarettes, cigarette paper or other tobacco products to a person under 40 years of age without first conducting age verification through enhanced controls to verify that the person is at least 18 years of age and imposes a civil penalty of \$100 on a person who fails to do so.

Section 6 of this bill makes a conforming change.

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:

Sections 1-4. (Deleted by amendment.)

Sec. 5. NRS 370.521 is hereby amended to read as follows:

370.521 1. Except as otherwise provided in subsections 2 and ~~3~~ **4**, a person shall not sell, distribute or offer to sell cigarettes, cigarette paper or other tobacco products to any child under the age of 18 years.

2. A person shall be deemed to be in compliance with the provisions of subsection 1 if, before the person sells, distributes or offers to sell to another, cigarettes, cigarette paper or other tobacco products, the person:

(a) Demands that the other person present a valid driver's license, permanent resident card, tribal identification card or other written or documentary evidence which shows that the other person is 18 years of age or older;

(b) Is presented a valid driver's license, permanent resident card, tribal identification card or other written or documentary evidence which shows that the other person is 18 years of age or older; and

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

3. ***A person shall not sell, distribute or offer to sell cigarettes, cigarette paper or other tobacco products to any person under 40***



years of age without first performing age verification through enhanced controls that utilize a scanning technology or other automated, software-based system to verify that the person is 18 years of age or older. A person who violates this subsection is liable for a civil penalty of \$100 for each offense.

4. The employer of a child who is under 18 years of age may, for the purpose of allowing the child to handle or transport cigarettes, cigarette paper or other tobacco products, in the course of the child's lawful employment, provide cigarettes, cigarette paper or other tobacco products to the child.

~~[4.]~~ 5. A person who violates ~~[this section]~~ *subsection 1* is liable for a civil penalty of:

- (a) For the first violation within a 24-month period, \$100.
- (b) For the second violation within a 24-month period, \$250.
- (c) For the third and any subsequent violation within a 24-month period, \$500.

~~[5.]~~ 6. If an employee or agent of a licensee has violated ~~[this section:]~~ *subsection 1:*

- (a) For the first and second violation within a 24-month period at the same premises, the licensee must be issued a warning.
- (b) For the third violation within a 24-month period at the same premises, the licensee is liable for a civil penalty of \$500.
- (c) For the fourth violation within a 24-month period at the same premises, the licensee is liable for a civil penalty of \$1,250.
- (d) For the fifth and any subsequent violation within a 24-month period at the same premises, the licensee is liable for a civil penalty of \$2,500.

~~[6.]~~ 7. A peace officer or any person performing an inspection pursuant to NRS 202.2496 may issue a notice of infraction for a violation of this section. A notice of infraction must be issued on a form prescribed by the Department and must contain:

- (a) The location at which the violation occurred;
- (b) The date and time of the violation;
- (c) The name of the establishment at which the violation occurred;
- (d) The signature of the person who issued the notice of infraction;
- (e) A copy of the section which allegedly is being violated;
- (f) Information advising the person to whom the notice of infraction is issued of the manner in which, and the time within which, the person must submit an answer to the notice of infraction; and



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

~~{7}~~ **8.** A notice of infraction issued pursuant to subsection ~~{6}~~ **7** or a facsimile thereof must be filed with the Department and retained by the Department and is deemed to be a public record of matters which are observed pursuant to a duty imposed by law and is prima facie evidence of the facts alleged in the notice.

~~{8}~~ **9.** A person to whom a notice of infraction is issued pursuant to subsection ~~{6}~~ **7** shall respond to the notice by:

(a) Admitting the violation stated in the notice and paying to the Department the applicable civil penalty set forth in subsection ~~{4 or}~~ **3, 5 ~~{}~~ or 6.**

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

~~{9}~~ **10.** Any money collected by the Department from a civil penalty pursuant to this section must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2493 and 202.2494.

~~{10}~~ **11.** As used in this section, "licensee" means a person who holds a license issued by the Department pursuant to this chapter.

Sec. 6. 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, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products to a child under the age of 18 years through the use of a computer network, telephonic network or other electronic network.

2. A person who violates the provisions of subsection 1 shall be punished by a fine of not more than \$500 and a civil penalty of not more than \$500. Any money recovered pursuant to this section as a civil penalty must be deposited in the same manner as money is deposited pursuant to subsection ~~{9}~~ **10** of NRS 370.521.

3. Every person who sells or distributes cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products 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.”

(b) Perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the person during the ordering process that establishes that the person is over the age of 18 years and use a method of mail, shipping or delivery that requires the signature of a person over the age of 18 years before the items are released to the purchaser, unless the person:

(1) Requires the customer to:

(I) Create an online profile or account with personal information, including, without limitation, a name, address, social security number and a valid phone number, that is verified through publicly available records; or

(II) Upload a copy of a government-issued identification card that includes a photograph of the customer; and

(2) Sends the package containing the items to the name and address of the customer who ordered the items.

Sec. 7. This act becomes effective on January 1, 2023.

