

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:

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

15 This bill provides that, for violations which occur within a 24-month period at
16 the same premises, a licensee is liable for a civil penalty of: (1) \$2,500 for a first
17 violation; (2) \$5,000 for a second violation; (3) \$7,500 for a third violation; and (4)
18 \$10,000 for a fourth and any subsequent violation.



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

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

2 370.521 1. Except as otherwise provided in subsections 2, 4
3 and 5, a person shall not sell, distribute or offer to sell cigarettes,
4 cigarette paper, any product containing, made or derived from
5 tobacco, any vapor product, any alternative nicotine product or any
6 product containing, made or derived from nicotine to any person
7 under the age of 21 years.

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

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

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

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

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

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

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

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

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

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



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

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

5 (a) For the first ~~[and second]~~ violation , within a 24-month
6 period at the same premises, the licensee ~~[must be issued a warning.~~
7 ~~—(b) For the third violation within a 24 month period at the same~~
8 ~~premises, the licensee]~~ is liable for a civil penalty of ~~[\$500.~~
9 ~~—(c)] \$2,500.~~

10 (b) For the ~~[fourth]~~ *second* violation within a 24-month period at
11 the same premises, the licensee is liable for a civil penalty of
12 ~~[\$1,250.~~

13 ~~—(d)] \$5,000.~~

14 (c) For the ~~[fifth]~~ *third* ~~[and any subsequent]~~ violation within a
15 24-month period at the same premises, the licensee is liable for a
16 civil penalty of ~~[\$2,500.] \$7,500.~~

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

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

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

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

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

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

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

31 (f) Information advising the person to whom the notice of
32 infraction is issued of the manner in which, and the time within
33 which, the person must submit an answer to the notice of infraction;
34 and

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

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

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



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

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

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

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

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

