

Assembly Bill No. 53—Committee on Revenue

CHAPTER.....

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) \$2,500 for a first violation; (2) \$5,000 for a second violation; (3) \$7,500 for a third violation; and (4) \$10,000 for a fourth and any subsequent violation.

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. 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 containing, made or derived from tobacco, any vapor product, any alternative nicotine product or any product containing, made or derived from nicotine to any person under the age of 21 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 any item described in subsection 1, 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 21 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 21 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 21 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 person who is under 21 years of age may, for the purpose of allowing the person to handle or transport any item described in subsection 1 in the course of the person's lawful employment, provide an item described in subsection 1 to the person under 21 years of age.

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

6. A person who violates 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.

7. If an employee or agent of a licensee has violated 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)]~~ **\$2,500.**

(b) For the ~~[fourth]~~ **second** violation within a 24-month period at the same premises, the licensee is liable for a civil penalty of ~~[\$1,250. — (d)]~~ **\$5,000.**

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



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

8. 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.

9. A notice of infraction issued pursuant to subsection 8 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.

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

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

11. Any money collected by the State of Nevada 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.

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



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

