

CHAPTER.....

AN ACT relating to tobacco products; revising provisions governing the reporting and disclosure of certain information relating to sales of cigarettes, roll-your-own tobacco and smokeless tobacco in and into this State; requiring the submission of certain monthly reports relating to the sale, transfer, shipment or delivery in or into this State of cigarettes, roll-your-own tobacco and smokeless tobacco; providing that an importer is jointly and severally liable for such monthly reports; providing that certain information reported to the Department of Taxation or the Attorney General relating to sales of cigarettes is confidential; requiring a nonparticipating manufacturer to post a bond approved by the Attorney General and revising the amount of such a bond; revising provisions governing the circumstances under which a nonparticipating manufacturer and its brand families may be denied listing in or removed from the directory of manufacturers and brand families created and maintained by the Department; revising provisions relating to the assignment to the State of the interest of a manufacturer in money in a qualified escrow fund; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

On November 23, 1998, leading United States tobacco product manufacturers and the State of Nevada entered into a settlement agreement, entitled the “Master Settlement Agreement,” which obligates the manufacturers, in return for a release of past, present and certain future claims against them, to: (1) pay substantial sums to the State; (2) fund a national foundation devoted to the interests of public health; and (3) make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking. In 1999, the Nevada Legislature enacted provisions requiring all manufacturers of tobacco products sold in this State to participate in the Master Settlement Agreement or to place certain money in escrow. (Chapter 370A of NRS) In 2005, the Legislature made a finding that violations of chapter 370A of NRS threatened the integrity of the Master Settlement Agreement and the fiscal soundness of the State and public health, and enacted procedural safeguards to aid in the enforcement of the provisions of chapter 370A of NRS. (NRS 370.600-370.705) This bill generally revises existing, and provides additional, procedures and licensing requirements to aid in the statutory enforcement of the Master Settlement Agreement.

Section 2 of this bill authorizes the Department of Taxation, the Nevada Tax Commission and the Attorney General to share certain information with other entities for the purpose of enforcing the Master Settlement Agreement and ensuring compliance with provisions governing the taxation of sales of cigarettes. **Section 2** also provides that certain data relating to cigarette sales obtained by the Department, the Nevada Tax Commission or the Attorney General is confidential. **Sections 1 and 10** of this bill revise provisions relating to the confidentiality of



such information. Existing law authorizes the Department to audit certain licensees to ensure compliance with the Master Settlement Agreement and **section 2** additionally authorizes the Department to investigate the facilities of such licensees and applicants for licenses to ensure compliance. (NRS 370.257)

Section 3 of this bill requires any person, other than a common carrier, who sells, transfers, ships or otherwise delivers cigarettes, roll-your-own tobacco or smokeless tobacco in or into Nevada to submit monthly reports to the Department. **Section 3** sets forth the information which must be included in the reports, provides certain exceptions from the requirement to file the reports and revises the period for which a manufacturer or importer is required to retain the information provided in the reports. **Section 3** also requires a manufacturer or importer, upon request, to provide to the Attorney General copies of similar reports which the manufacturer or importer files in another state. Additionally, **section 3** requires a manufacturer or importer to provide copies or provide for the release of its quarterly federal tax returns and certain monthly reports required by federal law to the Attorney General. **Section 6** of this bill provides that an importer is jointly and severally liable for the reports required by **section 3**.

Existing law provides that a nonparticipating manufacturer may, as a condition of being included in the directory of manufacturers maintained by the Department, be required to post a bond for the benefit of the State of Nevada under certain circumstances. (NRS 370.682) **Section 5** of this bill requires the posting of the bond by all nonparticipating manufacturers and revises the minimum amount of the bond.

Existing law sets forth the circumstances under which a nonparticipating manufacturer and its brand families may be denied listing in the directory maintained by the Department or removed from the directory. (NRS 370.698) **Section 8** of this bill provides that a nonparticipating manufacturer and its brand families may be denied listing in the directory or removed from the directory if, in any year, the total nationwide reported sales of cigarettes of the nonparticipating manufacturer on which federal excise tax is paid exceeds by more than 5 percent the amount of cigarette sales reported by the nonparticipating manufacturer or its importers on certain national, interstate or intrastate reports.

Section 9 of this bill revises provisions governing the assignment to the State of a manufacturer's interest in money in certain qualified escrow funds. (NRS 370A.153)

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 360.255 is hereby amended to read as follows:
360.255 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration or collection of any tax, fee, assessment or other amount required by law to be collected are confidential and privileged. The Department, an employee of the Department and any other person engaged in the administration or collection of any tax, fee, assessment or other amount required by



law to be collected or charged with the custody of any such records or files:

(a) Shall not disclose any information obtained from those records or files; and

(b) May not be required to produce any of the records or files for the inspection of any person or governmental entity or for use in any action or proceeding.

2. The records and files of the Department concerning the administration and collection of any tax, fee, assessment or other amount required by law to be collected are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding before the Nevada Tax Commission, the State Board of Equalization, the Department or any court of this State if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his or her authorized representative of a copy of any document filed by the person pursuant to the provisions of any law of this State.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases, or disclosure in confidence to any federal agency that requests the information for the use of the agency in a federal prosecution or criminal investigation.

(e) Disclosure in confidence to the Governor or his or her agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding relating to a taxpayer, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to an agreement between the Nevada Tax Commission and any county fair and recreation board or the governing body of any county, city or town.

(g) Upon written request made by a public officer of a local government, disclosure of the name and address of a taxpayer who must file a return with the Department. The request must set forth



the social security number of the taxpayer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and privileged and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

(h) Disclosure of information as to amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties to successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested.

(i) Disclosure of relevant information as evidence in an appeal by the taxpayer from a determination of tax due if the Nevada Tax Commission has determined the information is not proprietary or confidential in a hearing conducted pursuant to NRS 360.247.

(j) Disclosure of the identity of a person and the amount of tax assessed and penalties imposed against the person at any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon the person a penalty for fraud or intent to evade a tax imposed by law becomes final or is affirmed by the Nevada Tax Commission.

(k) Disclosure of information pursuant to subsection 2 of NRS 370.257.

3. The Executive Director shall periodically, as he or she deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which the Executive Director has a record. The list must include the mailing address of the business as reported to the Department.

4. The Executive Director may request from any other governmental agency or officer such information as the Executive Director deems necessary to carry out his or her duties with respect to the administration or collection of any tax, fee, assessment or other amount required by law to be collected. If the Executive Director obtains any confidential information pursuant to such a request, he or she shall maintain the confidentiality of that information in the same manner and to the same extent as provided by law for the agency or officer from whom the information was obtained.

5. As used in this section:



(a) "Records" or "files" means any records and files related to an investigation or audit, financial information, correspondence, advisory opinions, decisions of a hearing officer in an administrative hearing and any other information specifically related to a taxpayer.

(b) "Taxpayer" means a person who pays any tax, fee, assessment or other amount required by law to the Department.

Sec. 1.1. NRS 370.080 is hereby amended to read as follows:

370.080 1. A person shall not engage in business as a wholesale dealer in the State of Nevada unless that person first secures a license to engage in that activity from the Department.

2. A person shall not engage in business as a retail dealer in the State of Nevada unless that person first secures a license to engage in that activity from the Department.

3. *A person shall not engage in business as a cigarette vending machine operator in the State of Nevada unless that person first secures a license to engage in that activity.*

4. A manufacturer shall not:

(a) Sell any cigarettes to a wholesale dealer in the State of Nevada; or

(b) Operate or permit any person other than the manufacturer to operate a cigarette rolling machine for the purpose of producing, filling, rolling, dispensing or otherwise manufacturing cigarettes, unless that manufacturer first secures a license to engage in that activity from the Department.

~~4.~~ 5. A separate license is required to engage in each of the activities described in this section.

Sec. 1.3. NRS 370.140 is hereby amended to read as follows:

370.140 1. A current license as a:

(a) Manufacturer authorizes the holder thereof to sell cigarettes ~~anywhere within the borders of this State~~ *from the premises for which the license was issued* to a wholesale dealer *in this State* who holds a current license.

(b) Wholesale dealer authorizes the holder thereof to:

(1) Purchase cigarettes from any manufacturer or wholesale dealer who holds a current license; or

(2) Sell cigarettes ~~anywhere within the borders of this State~~ *from the premises for which the license was issued* to any Indian tribe *in this State* listed by the Department pursuant to NRS 370.085 or any wholesale or retail dealer who holds a current license.

(c) Retail dealer authorizes the holder thereof to:

(1) Purchase cigarettes from any wholesale dealer who holds a current license; or



(2) Sell cigarettes ~~anywhere within the borders of this State~~ *from the premises for which the license was issued* to any consumer ~~in this State~~.

(d) Cigarette vending machine operator authorizes the holder thereof to sell Nevada stamped cigarettes by means of coin-operated machines within the borders of this State.

2. No person who holds a current license as a:

(a) Manufacturer may sell cigarettes within the borders of this State to any person other than a wholesale dealer who holds a current license.

(b) Wholesale or retail dealer may purchase cigarettes for sale within the borders of this State or sell cigarettes within the borders of this State except as authorized pursuant to subsection 1.

Sec. 1.5. NRS 370.255 is hereby amended to read as follows:
370.255 1. Each:

(a) Wholesale dealer shall maintain copies of invoices or equivalent documentation for each of its facilities for every transaction in which the wholesale dealer is the seller, purchaser, consignor, consignee or recipient of cigarettes. The invoices or documentation must indicate the name and address of the consignor, seller, purchaser or consignee, and the quantity by brand and style of the cigarettes involved in the transaction.

(b) Retail dealer shall maintain copies of invoices or equivalent documentation for every transaction in which the retail dealer receives or purchases cigarettes at each of its facilities. The invoices or documentation must indicate the name and address of the wholesale dealer from whom, or the address of another facility of the same retail dealer from which, the cigarettes were received, and the quantity of each brand and style of the cigarettes received in the transaction.

(c) Manufacturer shall maintain copies of invoices or equivalent documentation for each of its facilities for every transaction in which the manufacturer is the seller, purchaser, consignor, consignee or recipient of cigarettes. The invoices or documentation must indicate the name and address of the consignor, seller, purchaser or consignee, and the quantity by brand and style of the cigarettes involved in the transaction.

2. The records required by this section must be preserved on the premises described in the license of the manufacturer, wholesale dealer or retail dealer in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the Department. With the permission of the Department, manufacturers, wholesale dealers and retail dealers



with multiple places of business may retain centralized records, but shall transmit duplicates of the invoices or the equivalent documentation to each place of business within 24 hours after the request of the Executive Director or his or her designee.

3. The records required by this section must be retained for not less than ~~3~~ 5 years after the date of the transaction unless the Department authorizes, in writing, their earlier removal or destruction.

Sec. 2. NRS 370.257 is hereby amended to read as follows:

370.257 1. Each manufacturer, wholesale dealer and retail dealer shall provide to the Executive Director and his or her designees and to the Secretary or his or her designee, upon request, access to all the reports and records required by ~~NRS 370.001 to 370.430, inclusive.~~ *this chapter or chapter 370A of NRS.*

2. The Department ~~at its sole discretion~~, *the Nevada Tax Commission and the Attorney General* may share the records and reports required by ~~those sections with law~~ *this chapter or chapter 370A of NRS:*

(a) With law enforcement officials of the Federal Government, this State, other states, Indian tribes ~~or~~ *or* international authorities ~~for any data clearinghouse or similar entity established~~ for the purposes of enforcing the provisions of ~~NRS 370.600 to 370.705, inclusive,~~ *this chapter* or chapter 370A of NRS ~~1.~~

~~2. Except as otherwise provided in this subsection, the reports submitted by licensees pursuant to NRS 370.001 to 370.430, inclusive, are public records. Unless otherwise directed or ordered by a court of competent jurisdiction, any information contained in those reports about quantities of cigarettes by brand must not be released to anyone other than persons permitted access to those reports pursuant to subsection 1.~~

~~3.~~ *or corresponding provisions of federal law or the laws of other states, Indian tribes or nations.*

(b) With a court, an arbitrator or any data clearinghouse or similar entity established for the purpose of making calculations required by the Master Settlement Agreement and related settlement agreements.

(c) Upon the issuance of a protective order to prevent the disclosure of confidential information approved by the Attorney General, with the attorney for a party who appears before a data clearinghouse or similar entity established for the purpose of making calculations required by the Master Settlement Agreement and related settlement agreements.



3. *Any data relating to sales of cigarettes provided by an outside party and received by the Department, the Nevada Tax Commission or the Attorney General pursuant to the Master Settlement Agreement or any related settlement agreement is confidential. The Department, the Nevada Tax Commission and the Attorney General:*

(a) *Shall not disclose any such data; and*

(b) *May not be required to produce any such data for inspection by any person or governmental entity or for use in any action or proceeding.*

4. The Department may audit the records *and investigate the facilities* of each ~~dealer~~ *licensee or applicant for a license* to determine whether the manufacturer, wholesale dealer or retail dealer, *as applicable*, has complied with the provisions of ~~NRS 370.001 to 370.430, inclusive~~ *this chapter and chapter 370A of NRS.*

5. *As used in this section, "Master Settlement Agreement" has the meaning ascribed to it in NRS 370.635.*

Sec. 3. NRS 370.327 is hereby amended to read as follows:

370.327 ~~Not~~

1. *Except as otherwise provided in subsection 3, not later than the 10th day of each calendar month, each person who ~~has mailed, shipped~~ sells, transfers, ships or otherwise ~~delivered cigarettes in connection with a delivery sale during the previous calendar month,~~ delivers cigarettes, roll-your-own tobacco or smokeless tobacco into this State, except a ~~delivery service, shall create and maintain records containing~~ common carrier, shall submit to the Department a report for the immediately preceding calendar month that includes the information required by subsection 2.*

2. *Each report submitted pursuant to subsection 1 must:*

(a) *Be on the form prescribed by the Attorney General;*

(b) *Include a certification by the person who submits the report that the information provided in the report is complete and accurate;*

(c) *Include the total number of cigarettes or amount of roll-your-own tobacco or smokeless tobacco sold, transferred, shipped or otherwise delivered by the person in or into this State; and*

(d) *Include for each sale, transfer, shipment or other delivery of cigarettes, roll-your-own tobacco or smokeless tobacco the following information ~~relating to every such delivery sale:~~*

~~1.~~ :



(1) *The quantity of cigarettes, roll-your-own tobacco or smokeless tobacco sold, transferred, shipped or otherwise delivered, identified by manufacturer and brand family;*

(2) *The invoice date and number;*

(3) *The name and address of the person to whom the [delivery sale was made; and*

~~2. The quantity and brands of~~ cigarettes ~~[that]~~, *roll-your-own tobacco or smokeless tobacco* were sold ~~[in the delivery sale.~~

~~→ The records]~~, *transferred, shipped or otherwise delivered; and*

(4) *The name and address of the person who transferred, shipped or otherwise delivered the cigarettes, roll-your-own tobacco or smokeless tobacco.*

3. *Any person who, in the 24 calendar months immediately preceding the date on which a report required by subsection 1 must be submitted, sold, transferred, shipped or otherwise delivered cigarettes, roll-your-own tobacco or smokeless tobacco into this State, other than a common carrier, must submit the report even if the person did not sell, transfer, ship or otherwise deliver cigarettes, roll-your-own tobacco or smokeless tobacco into this State in the calendar month covered by the report.*

4. *A manufacturer or importer shall, upon request, provide to the Attorney General a copy of each report filed by the manufacturer or importer in another state and that is similar to the report required by subsection 1.*

5. *Each nonparticipating manufacturer or importer shall:*

(a) *Submit to the Attorney General a copy of the federal tax return of the manufacturer or importer and a copy of all monthly operational reports on Alcohol and Tobacco Tax and Trade Bureau Forms 5210.5, 5220.6 or any subsequent corresponding form, and all adjustments, changes and amendments to such reports not later than 60 days after the close of the quarter in which the return or report is filed; or*

(b) *Submit to the United States Department of the Treasury a request or consent pursuant to 26 U.S.C. § 6103(c) authorizing the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury and, in the case of a foreign manufacturer or importer, United States Customs and Border Protection of the United States Department of Homeland Security, to disclose to the Attorney General the federal tax return of the manufacturer or importer not later than 60 days after the close of the quarter in which the return is filed.*

6. *Except as otherwise provided in this subsection, any information received by the Attorney General pursuant to this*



section is confidential. The Attorney General may share any information received pursuant to this section with the Department, the Nevada Tax Commission, a taxing authority or law enforcement agency of another state or with any other entity authorized by the Attorney General to aggregate such information.

7. A copy of each report required by ~~§ 3.3.1~~ subsection 1 must be ~~provided to the Department at the Department's request and must be~~ retained for not less than ~~3~~ 5 years after the date ~~of the applicable transaction~~ *on which the report must be submitted* unless the Department, in writing, authorizes the ~~records~~ report to be removed or destroyed at an earlier time.

Sec. 3.3. NRS 370.480 is hereby amended to read as follows:

370.480 1. Every wholesale dealer must keep at its place of business complete and accurate records for that place of business, including copies of all invoices of other tobacco products which the wholesale dealer holds, purchases and delivers, distributes or sells in this State. All records must be preserved for at least ~~3~~ 5 years after the date of purchase or after the date of the last entry made on the record.

2. Every retail dealer shall keep at its place of business complete and accurate records for that place of business, including copies of all itemized invoices or purchases of other tobacco products purchased and delivered from wholesale dealers. The invoices must show the name and address of the wholesale dealer and the date of the purchase. All records must be preserved for at least ~~3~~ 5 years after the date of the purchase.

Sec. 3.6. NRS 370.610 is hereby amended to read as follows:

370.610 "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, ~~including, but not limited to, "menthol," "lights," "kings" and "100s,"~~ and includes any brand name, whether or not occurring alone or in conjunction with any other word, any trademark, logo, symbol, motto, selling message or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

Sec. 4. NRS 370.665 is hereby amended to read as follows:

370.665 1. A manufacturer of tobacco products whose cigarettes are sold in this State, whether or not directly or through a distributor, retailer or similar intermediary or intermediaries shall, not later than April 30 of each year, execute and deliver to the Attorney General and the Department, on a form provided by the ~~Department,~~ *Attorney General*, a certification which certifies



under penalty of perjury that, as of the date of that certification, the manufacturer of tobacco products is:

(a) A participating manufacturer; or

(b) In full compliance with subsection 2 of NRS 370A.140, including any quarterly installment payments required pursuant to NRS 370.690.

2. Except as otherwise provided in NRS 370.670:

(a) A participating manufacturer shall include in its certification pursuant to this section a list of its brand families. The participating manufacturer shall update that list at least 30 calendar days before it adds to or modifies its brand families by executing and delivering a supplemental certification to the Attorney General and the Department.

(b) A nonparticipating manufacturer shall, in its certification pursuant to this section:

(1) Include:

(I) A list of all of its brand families and the number of units sold for each brand family that were sold in the State during the preceding calendar year;

(II) A list of all of its brand families that have been sold in the State at any time during the current calendar year;

(III) The current mailing address of the nonparticipating manufacturer; and

(IV) A valid electronic mail address of the nonparticipating manufacturer;

(2) Indicate any brand family sold in the State during the preceding calendar year that is no longer being sold in the State as of the date of the certification; and

(3) Identify, by name and address:

(I) Any other manufacturer of those brand families in the preceding or current calendar year; and

(II) Each wholesale dealer that sells or offers for sale in this State any brand family of the nonparticipating manufacturer.

↪ A nonparticipating manufacturer shall update the information required by this paragraph at least 30 calendar days before it adds to or modifies its brand families or sells or distributes cigarettes in this State through a new wholesale dealer by executing and delivering a supplemental certification to the Attorney General and the Department.

3. In addition to the requirements of subsection 2, the certification of a nonparticipating manufacturer pursuant to this section must certify:



(a) That the nonparticipating manufacturer is registered to do business in the State or has appointed an agent for service of process and provided notice thereof as required by NRS 370.680;

(b) That the nonparticipating manufacturer has:

(1) Established and continues to maintain a qualified escrow fund; and

(2) Executed a qualified escrow agreement governing the qualified escrow fund that has been reviewed and approved by the Attorney General;

(c) That the nonparticipating manufacturer is in full compliance with chapter 370A of NRS and any regulations adopted pursuant thereto;

(d) The name, address and telephone number of the financial institution where the nonparticipating manufacturer has established the qualified escrow fund required pursuant to chapter 370A of NRS and any regulations adopted pursuant thereto;

(e) The account number of that qualified escrow fund and any subaccount number for this State;

(f) The amount the nonparticipating manufacturer placed in that qualified escrow fund for cigarettes sold in the State during the preceding calendar year, the date and amount of each such deposit, and such evidence or verification as may be deemed necessary by the Department *or the Attorney General* to confirm the information required by this paragraph; *and*

(g) The amount and date of any withdrawal or transfer of money the nonparticipating manufacturer made at any time from that qualified escrow fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to chapter 370A of NRS and any regulations adopted pursuant ~~thereto; and~~

~~—(h) That the nonparticipating manufacturer has submitted to the Attorney General a request or consent to the United States Department of the Treasury pursuant to 26 U.S.C. § 6103(e) authorizing the Alcohol and Tobacco Tax and Trade Bureau of the Department, or in the case of a foreign manufacturer, United States Customs and Border Protection of the United States Department of Homeland Security, to disclose to the Attorney General the federal excise tax returns of the manufacturer and each monthly operational report of the manufacturer reported on Alcohol and Tobacco Tax and Trade Bureau Form 5210.5, and all adjustments, changes and other amendments} thereto.~~



Sec. 5. NRS 370.682 is hereby amended to read as follows:

370.682 1. A nonparticipating manufacturer shall post a bond approved by the Attorney General for the benefit of the State of Nevada. ~~if:~~

~~—(a) The cigarettes of the nonparticipating manufacturer have not been sold in this State during any of the 4 immediately preceding calendar quarters;~~

~~—(b) The nonparticipating manufacturer or an affiliate failed to make a full and timely escrow deposit due under this chapter or chapter 370A of NRS during any of the immediately preceding 5 calendar years, unless the failure was neither knowing nor reckless and was promptly cured upon notice; or~~

~~—(c) The nonparticipating manufacturer or an affiliate, or any of the brand families of the nonparticipating manufacturer or an affiliate, were removed from the directory of this or any other state during any of the immediately preceding 5 calendar years, unless the removal is determined to have been erroneous or illegal.]~~

2. The bond must be posted not less than 10 days before the beginning of each calendar quarter as a condition of the nonparticipating manufacturer and its brand families being included in the directory for that quarter. The amount of the bond must be the greater of ~~[\$25,000]~~ **\$50,000** or the ~~[largest]~~ **greatest** required escrow amount due from the nonparticipating manufacturer or its predecessor for any of the immediately preceding 12 calendar quarters.

3. If a nonparticipating manufacturer ~~[that posted a bond]~~ has failed to make or have made on its behalf escrow deposits equal to the full amount due for a calendar quarter within 15 business days after the due date for that calendar quarter, the State of Nevada may execute upon the bond **posted by the nonparticipating manufacturer pursuant to subsection 1** in an amount equal to any remaining escrow amount due.

4. Any amount that the State of Nevada collects on a bond posted by a nonparticipating manufacturer pursuant to this section:

(a) Must be deposited into a special escrow account established and maintained by the State of Nevada and used for purposes authorized for the use of money in the qualified escrow fund of the nonparticipating manufacturer pursuant to this chapter and chapter 370A of NRS; and

(b) Reduces the escrow amount due from the nonparticipating manufacturer in the dollar amount collected.

5. Escrow obligations above the amount collected on the bond remain due from the nonparticipating manufacturer and, as provided



in NRS 370.683 ~~{}~~ and 370.684, from wholesale dealers *and importers, respectively*, that sold the cigarettes of the nonparticipating manufacturer during that calendar quarter.

6. The withholding, use or return of amounts deposited into the special escrow account must be handled in the same manner as amounts deposited in the qualified escrow fund of the nonparticipating manufacturer pursuant to the provisions of this chapter and chapter 370A of NRS.

7. ~~{As used in this section, "affiliate" has the meaning ascribed to it in NRS 370A.030.}~~ *The Attorney General shall adopt regulations to carry out the provisions of this section.*

Sec. 6. NRS 370.684 is hereby amended to read as follows:

370.684 1. An importer is jointly and severally liable for ~~the~~ :

(a) *The* escrow deposit due pursuant to NRS 370A.140 for each cigarette which is intended for sale in this State which the importer causes to be sent to a person who holds a license as a wholesale dealer or license as a retail dealer issued by the Department ~~{}~~; *and*

(b) *The reports required by subsection 1 of NRS 370.327.*

2. A nonparticipating manufacturer located outside the United States that conducts business in this State shall provide to the Attorney General on a form prescribed by the Attorney General a declaration from each importer that imports the cigarettes of the nonparticipating manufacturer which are intended for sale in this State stating that the importer accepts liability pursuant to subsection 1 and consents to the jurisdiction of the courts of this State for the purposes of enforcing this section.

3. As used in this section, "importer" has the meaning ascribed to it in NRS 370.0295.

Sec. 7. NRS 370.685 is hereby amended to read as follows:

370.685 1. Not later than 20 calendar days after the end of each calendar quarter, and more frequently if so directed by the Department, each distributor shall submit such information as the Department requires to facilitate compliance with the provisions of ~~{NRS 370.600 to 370.705, inclusive,}~~ *this chapter and chapter 370A of NRS*, including, without limitation, a list by brand family of the total number of cigarettes or, in the case of "roll-your-own" tobacco, the equivalent unit count, for which the distributor affixed stamps during the previous calendar quarter or otherwise paid the tax due for those cigarettes. The distributor shall maintain for at least 5 years, and make available to the Department, all invoices and documentation of sales of all cigarettes of nonparticipating



manufacturers and any other information relied upon in reporting to the Department.

2. The Department may disclose to the Attorney General any information received pursuant to ~~NRS 370.600 to 370.705, inclusive,~~ *this chapter or chapter 370A of NRS* and requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of ~~NRS 370.600 to 370.705, inclusive,~~ *this chapter and chapter 370A of NRS*. The Department and Attorney General shall share with each other the information received pursuant to the provisions of ~~NRS 370.600 to 370.705, inclusive,~~ *this chapter and chapter 370A of NRS* and may share such information with other federal, state or local agencies only for purposes of enforcement of those provisions ~~the provisions of chapter 370A of NRS~~ or the corresponding laws of other states.

3. The Department *or the Attorney General* may require at any time from a nonparticipating manufacturer proof, from the financial institution in which that manufacturer has established a qualified escrow fund for the purpose of compliance with chapter 370A of NRS, of the amount of money in that fund, exclusive of interest, the amount and date of each deposit to that fund, and the amount and date of each withdrawal from that fund.

4. In addition to the information otherwise required to be submitted pursuant to ~~NRS 370.600 to 370.705, inclusive,~~ *this chapter and chapter 370A of NRS*, the Department *or the Attorney General* may, at any time, require a distributor or manufacturer of tobacco products to submit any additional information or documentation as is necessary to ~~enable the Department to~~ determine whether a manufacturer of tobacco products is or will continue to be in compliance with the provisions of this chapter and chapter 370A of NRS.

Sec. 8. NRS 370.698 is hereby amended to read as follows:

370.698 1. The license of a wholesale dealer may be suspended or revoked if a similar license of the wholesale dealer is suspended or revoked in any other state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the suspension or revocation of the license of the wholesale dealer pursuant to NRS 370.379, unless the wholesale dealer demonstrates that the suspension or revocation of its license in the other state was effected without due process. A wholesale dealer whose license is suspended or revoked in this State pursuant to this subsection is eligible for reinstatement upon the earlier of the date on which the violation in the other state is cured or the date on



which the license of the wholesale dealer is reinstated in the other state.

2. A nonparticipating manufacturer and its brand families may be denied listing in the directory or removed from the directory for any of the following reasons:

(a) The nonparticipating manufacturer is removed from the directory of another state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the removal of the nonparticipating manufacturer from the directory of this State pursuant to NRS 370.675, unless the nonparticipating manufacturer demonstrates that its removal from the directory of the other state was effected without due process. A nonparticipating manufacturer that is removed from the directory of this State pursuant to this paragraph is eligible for reinstatement to the directory upon the earlier of the date on which the violation in the other state is cured or the date on which the nonparticipating manufacturer is reinstated to the directory of the other state.

(b) The nonparticipating manufacturer is convicted of any crime relating to the manufacture, sale or distribution of tobacco products in this State or another state.

(c) The nonparticipating manufacturer fails to report the existence or result, including any conviction, of any investigation of the nonparticipating manufacturer which is known to the nonparticipating manufacturer regarding the commission of any crime relating to the manufacture, sale or distribution of tobacco products in this State or another state.

(d) The nonparticipating manufacturer fails to report any investigation of the nonparticipating manufacturer which is known to the nonparticipating manufacturer regarding any violation of the laws of any other state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the removal of the nonparticipating manufacturer from the directory of this State pursuant to NRS 370.675.

(e) The nonparticipating manufacturer knowingly makes a false, material statement in any report, filing or other communication provided to this State pursuant to this chapter or chapter 370A of NRS.

(f) The nonparticipating manufacturer has a shortfall or fails to make an escrow deposit that is due in another state or territory of the United States, has been given reasonable notice of the shortfall or failure and has failed to cure the shortfall or make the deposit within 30 days after receiving notice of the shortfall or failure.



(g) In any calendar year the total nationwide sales of cigarettes on which federal excise tax is paid by the nonparticipating manufacturer exceeds by more than 5 percent the amount of such sales reported in:

(1) Any nationwide report made by the nonparticipating manufacturer or any importer pursuant to 15 U.S.C. §§ 375 et seq.;

(2) Any interstate report required by law; or

(3) Any intrastate report required by law,

↪ unless the nonparticipating manufacturer cures the discrepancy or provides a satisfactory explanation of the discrepancy within 30 days after receiving notice of the discrepancy.

3. The provisions of NRS 233B.121 to 233B.150, inclusive, apply to:

(a) The suspension or revocation of the license of a wholesale dealer pursuant to subsection 1; and

(b) The removal of a nonparticipating manufacturer and its brand families from the directory pursuant to subsection 2.

Sec. 9. NRS 370A.153 is hereby amended to read as follows:

370A.153 1. Notwithstanding the provisions of NRS 370A.150, a manufacturer that elects to deposit money into a qualified escrow fund pursuant to NRS 370A.140 may assign to the State the interest of the manufacturer in any money in the qualified escrow fund.

2. An assignment executed pursuant to subsection 1 is *permanent*, irrevocable and applies to ~~any~~ *all money in the qualified escrow fund, including all money deposited into the qualified escrow fund before the manufacturer executes the assignment, all money deposited into the qualified escrow fund after the manufacturer executes the assignment* and any interest or other appreciation earned on any money ~~for which the manufacturer executes the assignment.~~ *in the qualified escrow fund.*

3. The parties to a qualified escrow agreement may amend the agreement for the purposes of executing an assignment pursuant to subsection 1.

4. An assignment executed pursuant to subsection 1 must be in writing and be signed by the assignee and the assignor or by an authorized agent or representative of the assignor. An assignment in writing which is duly executed becomes enforceable after a copy of the assignment is delivered to the Attorney General and the financial institution where the qualified escrow fund is maintained.



5. *Notwithstanding the provisions of NRS 370A.150, money assigned to the State pursuant to an assignment executed pursuant to subsection 1:*

(a) Must be deposited in the State General Fund; and

(b) Must be credited on a dollar-for-dollar basis against any judgment or settlement described in NRS 370A.150 which may be obtained against the manufacturer who executes the assignment.

6. Nothing in this section operates to relieve a manufacturer from any obligation or duty imposed pursuant to this chapter or chapter 370 of NRS.

Sec. 10. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, **370.257, 370.327**, 372A.080, 378.290, 378.300, 379.008, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850, 394.167, 394.1698,



394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used



in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 11. This act becomes effective on July 1, 2017.

