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FIRST REPRINT

S.B. 263

SENATE BILL NO. 263—SENATORS RATTI,  
GANSERT, DONDERO LOOP AND PARKS

MARCH 12, 2019

Referred to Committee on Revenue and  
Economic Development

SUMMARY—Revises provisions relating to the regulation and taxation of certain vapor products, alternative nicotine products and tobacco products. (BDR 32-700)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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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 public health; requiring that certain vapor products and alternative nicotine products be taxed and regulated as other tobacco products; revising provisions related to the areas in which smoking is prohibited; revising provisions pertaining to the sale or distribution of cigarettes, cigarette paper, tobacco, products made or derived from tobacco, vapor products and alternative nicotine products to persons under the age of 18 years; providing penalties; making an appropriation; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law authorizes the Department of Taxation to regulate and collect a tax  
2 on cigarettes and other tobacco products. (Chapter 370 of NRS) **Sections 1.7 and 2**  
3 of this bill provide that certain alternative nicotine products and vapor products,  
4 including electronic cigarettes, cigars, cigarillos, pipes, hookahs, vape pens and  
5 similar products or devices and their components, are regulated and taxed as other  
6 tobacco products. Because this bill regulates and taxes such vapor products as other  
7 tobacco products, wholesale and retail dealers of those vapor products would be  
8 required to obtain a license from the Department and wholesale dealers of those  
9 vapor products would be required to pay a tax of 30 percent of the wholesale price  
10 of those products. (NRS 370.445, 370.450)

11 The Nevada Clean Indoor Air Act was proposed by an initiative petition and  
12 approved by the voters at the 2006 General Election. The Act generally prohibits  
13 smoking tobacco within indoor places of employment, within school buildings and



\* S B 2 6 3 R 1 \*

14 on school property, but allows smoking tobacco in certain areas or establishments.  
15 (NRS 202.2483) **Section 7.1** of this bill defines “smoking” and expressly applies  
16 the Nevada Clean Indoor Air Act to the use of an electronic smoking device.

17 Existing law prohibits a person from selling, distributing or offering to sell  
18 cigarettes, cigarette paper, tobacco of any description, products made or derived  
19 from tobacco, vapor products or alternative nicotine products to any person under  
20 the age of 18 years. (NRS 202.2493) For the purposes of this prohibition, existing  
21 law defines “vapor products” to include only products containing nicotine that  
22 produce a vapor from nicotine in a solution or other form. (NRS 202.2485) **Section**  
23 **7.3** of this bill extends this definition to include products containing other  
24 substances, the use or inhalation of which simulates smoking, and certain  
25 associated devices and components.

26 Under existing law, a person who sells, distributes or offers to sell cigarettes,  
27 cigarette paper, tobacco of any description, products made or derived from tobacco,  
28 vapor products or alternative nicotine products to a person under the age of 18  
29 years is punished by a criminal fine of not more than \$500 and a civil penalty of not  
30 more than \$500. (NRS 202.2493) **Sections 1 and 7.5** of this bill: (1) remove the  
31 criminal penalties for violating this prohibition and, instead, authorize the  
32 Department to impose a civil penalty on a person who sells, distributes or offers to  
33 sell cigarettes, cigarette paper, tobacco of any description, products made or  
34 derived from tobacco, vapor products and alternative nicotine products to a person  
35 under the age of 18 years; (2) revise the amount of such civil penalties; (3)  
36 authorize the imposition of penalties on a licensee whose employee or agent  
37 violates this prohibition; and (4) establishes the procedure for the issuance of a  
38 notice of infraction to a person who violates this prohibition and the requesting of a  
39 hearing before the Department. **Sections 1.3, 7.4 and 7.9** make conforming changes  
40 related to the removal of criminal penalties and the authorization for the  
41 Department to impose civil penalties.

42 Existing law prohibits a person from knowingly selling or distributing  
43 cigarettes, cigarette paper, tobacco of any description or products made or derived  
44 from tobacco to a child under the age of 18 years through the use of the Internet.  
45 Existing law further requires a person who sells or distributes such products  
46 through the use of the Internet to adopt a policy to prevent a child under the age of  
47 18 years from obtaining such products from the person through the use of the  
48 Internet, which policy is required to include: (1) a method to ensure that the person  
49 who delivers the products to obtain the signature of a person who is over the age of  
50 18 years; (2) a requirement that the packaging or wrapping of the items when they  
51 are shipped is clearly marked with the words “cigarettes” or the words “tobacco  
52 products;” and (3) a requirement to comply with certain federal law relating to the  
53 remote sale of cigarettes and certain tobacco products. (NRS 202.24935) **Section**  
54 **7.7** of this bill removes the requirement for such a policy. Instead, **section 7.7**  
55 requires a person who sells or distributes cigarettes, cigarette paper, tobacco of any  
56 description, products made or derived from tobacco, vapor products or alternative  
57 nicotine products through a computer network, telephonic network or other  
58 electronic network to: (1) ensure that the packaging in which the items are shipped  
59 is labeled “cigarettes” or “tobacco products;” and (2) use certain age verification  
60 procedures.

61 **Section 14.5** of this bill makes an appropriation to the Department of Health  
62 and Human Services for programs to control and prevent the use of tobacco in the  
63 amount of \$2.5 million for Fiscal Year 2019-2020 and \$2.5 million for Fiscal Year  
64 2020-2021.



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

1       **Section 1.** Chapter 370 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

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

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

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

15       (b) *Is presented a valid driver's license, permanent resident*  
16 *card, tribal identification card or other written or documentary*  
17 *evidence which shows that the other person is 18 years of age or*  
18 *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. *The employer of a child who is under 18 years of age may,*  
23 *for the purpose of allowing the child to handle or transport*  
24 *cigarettes, cigarette paper or other tobacco products, in the course*  
25 *of the child's lawful employment, provide cigarettes, cigarette*  
26 *paper or other tobacco products to the child.*

27       4. *A person who violates this section is liable for a civil*  
28 *penalty of:*

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

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

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

33       5. *If an employee or agent of a licensee has violated this*  
34 *section:*

35       (a) *For the first and second violation within a 24-month period*  
36 *at the same premises, the licensee must be issued a warning.*

37       (b) *For the third violation within a 24-month period at the*  
38 *same premises, the licensee is liable for a civil penalty of \$500.*

39       (c) *For the fourth violation within a 24-month period at the*  
40 *same premises, the licensee is liable for a civil penalty of \$1,250.*



1 (d) For the fifth and any subsequent violation within a 24-  
2 month period at the same premises, the licensee is liable for a civil  
3 penalty of \$2,500.

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

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

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

10 (c) The name of the establishment at which the violation  
11 occurred;

12 (d) The signature of the person who issued the notice of  
13 infraction;

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

15 (f) Information advising the person to whom the notice of  
16 infraction is issued of the manner in which, and the time within  
17 which, the person must submit an answer to the notice of  
18 infraction; and

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

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

27 8. A person to whom a notice of infraction is issued pursuant  
28 to subsection 6 shall respond to the notice by:

29 (a) Admitting the violation stated in the notice and paying to  
30 the Department the applicable civil penalty set forth in subsection  
31 4 or 5.

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

38 9. Any money collected by the Department from a civil  
39 penalty pursuant to this section must be deposited in a separate  
40 account in the State General Fund to be used for the enforcement  
41 of this section and NRS 202.2493 and 202.2494.

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



1       **Sec. 1.3.** NRS 370.001 is hereby amended to read as follows:  
2       370.001 As used in NRS 370.001 to 370.430, inclusive, and  
3       370.505 to 370.530, inclusive, *and section 1 of this act*, unless the  
4       context otherwise requires, the words and terms defined in NRS  
5       370.003 to 370.055, inclusive, have the meanings ascribed to them  
6       in those sections.

7       **Sec. 1.7.** NRS 370.0318 is hereby amended to read as  
8       follows:

9       370.0318 “Other tobacco product” means any tobacco of any  
10       description ~~[or]~~ , *any vapor product, any alternative nicotine*  
11       *product or any product made from tobacco, other than cigarettes .* ~~[~~  
12       ~~alternative nicotine products and vapor products.]~~

13       **Sec. 2.** NRS 370.054 is hereby amended to read as follows:

14       370.054 “Vapor product”:

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

21       2. Includes, without limitation:

22       (a) An electronic cigarette, cigar, cigarillo , ~~[or]~~ pipe , *hookah,*  
23       *or vape pen*, or a similar product or device; and

24       (b) ~~[A]~~ *The components of such a product or device, whether*  
25       *or not sold separately, including, without limitation, vapor*  
26       ~~[cartridge]~~ *cartridges or other container of nicotine or any other*  
27       *substance in a solution or other form that is intended to be used*  
28       *with or in an electronic cigarette, cigar, cigarillo ,* ~~[or]~~ *pipe ,*  
29       *hookah, or vape pen*, or a similar product or device ~~[ ]~~ , *atomizers,*  
30       *cartomizers, digital displays, clearomizers, tank systems, flavors,*  
31       *programmable software or other similar products or devices. As*  
32       *used in this paragraph, “component” means a product intended*  
33       *primarily or exclusively to be used with or in an electronic*  
34       *cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar*  
35       *product or device.*

36       3. Does not include any product ~~[regulated]~~ :

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

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

42       (c) *Purchased by a person who holds a current, valid*  
43       *registration certificate to operate a medical marijuana*  
44       *establishment pursuant to chapter 453A of NRS.*



1     **Sec. 3.** (Deleted by amendment.)

2     **Sec. 4.** (Deleted by amendment.)

3     **Sec. 5.** (Deleted by amendment.)

4     **Sec. 6.** (Deleted by amendment.)

5     **Sec. 7.** (Deleted by amendment.)

6     **Sec. 7.1.** NRS 202.2483 is hereby amended to read as follows:  
7     202.2483 1. Except as otherwise provided in subsection 3,  
8     smoking ~~tobacco~~ in any form is prohibited within indoor places of  
9     employment including, but not limited to, the following:

- 10    (a) Child care facilities;
- 11    (b) Movie theatres;
- 12    (c) Video arcades;
- 13    (d) Government buildings and public places;
- 14    (e) Malls and retail establishments;
- 15    (f) All areas of grocery stores; and
- 16    (g) All indoor areas within restaurants.

17    2. Without exception, smoking ~~tobacco~~ in any form is  
18    prohibited within school buildings and on school property.

19    3. Smoking ~~tobacco~~ is not prohibited in:

20    (a) Areas within casinos where loitering by minors is already  
21    prohibited by state law pursuant to NRS 463.350;

22    (b) Completely enclosed areas with stand-alone bars, taverns  
23    and saloons in which patrons under 21 years of age are prohibited  
24    from entering;

25    (c) Age-restricted stand-alone bars, taverns and saloons;

26    (d) Strip clubs or brothels;

27    (e) Retail tobacco stores;

28    (f) The area of a convention facility in which a meeting or trade  
29    show is being held, during the time the meeting or trade show is  
30    occurring, if the meeting or trade show:

31      (1) Is not open to the public;

32      (2) Is being produced or organized by a business relating to  
33    tobacco or a professional association for convenience stores; and

34      (3) Involves the display of tobacco products; and

35    (g) Private residences, including private residences which may  
36    serve as an office workplace, except if used as a child care, an adult  
37    day care or a health care facility.

38    4. A supervisor on duty or employee of an age-restricted stand-  
39    alone bar, tavern or saloon or a stand-alone bar, tavern or saloon  
40    shall not allow a person who is under 21 years of age to loiter in an  
41    age-restricted stand-alone bar, tavern or saloon or an area of a stand-  
42    alone bar, tavern or saloon where smoking is allowed pursuant to  
43    this section. A person who violates the provisions of this subsection  
44    is guilty of a misdemeanor.



1 5. If a supervisor on duty or employee of an age-restricted  
2 stand-alone bar, tavern or saloon or a stand-alone bar, tavern or  
3 saloon violates the provisions of subsection 4, the age-restricted  
4 stand-alone bar, tavern or saloon or stand-alone bar, tavern or saloon  
5 is liable for a civil penalty of:

6 (a) For the first offense, \$1,000.

7 (b) For a second or subsequent offense, \$2,000.

8 6. In any prosecution or other proceeding for a violation of the  
9 provisions of subsection 4 or 5, it is no excuse for a supervisor,  
10 employee, age-restricted bar, tavern or saloon, or stand-alone bar,  
11 tavern or saloon alleged to have committed the violation to plead  
12 that a supervisor or employee believed that the person who was  
13 permitted to loiter was 21 years of age or older.

14 7. In areas or establishments where smoking is not prohibited  
15 by this section, nothing in state law shall be construed to prohibit  
16 the owners of said establishments from voluntarily creating  
17 nonsmoking sections or designating the entire establishment as  
18 smoke free.

19 8. Nothing in state law shall be construed to restrict local  
20 control or otherwise prohibit a county, city or town from adopting  
21 and enforcing local ~~to tobacco~~ **smoking** control measures that meet  
22 or exceed the minimum applicable standards set forth in this section.

23 9. "No Smoking" signs or the international "No Smoking"  
24 symbol shall be clearly and conspicuously posted in every public  
25 place and place of employment where smoking is prohibited by this  
26 section. Each public place and place of employment where smoking  
27 is prohibited shall post, at every entrance, a conspicuous sign clearly  
28 stating that smoking is prohibited. All ashtrays and other smoking  
29 paraphernalia shall be removed from any area where smoking is  
30 prohibited.

31 10. Health authorities, police officers of cities or towns,  
32 sheriffs and their deputies shall, within their respective jurisdictions,  
33 enforce the provisions of this section and shall issue citations for  
34 violations of this section pursuant to NRS 202.2492 and 202.24925.

35 11. No person or employer shall retaliate against an employee,  
36 applicant or customer for exercising any rights afforded by, or  
37 attempts to prosecute a violation of, this section.

38 12. For the purposes of this section, the following terms have  
39 the following definitions:

40 (a) "Age-restricted stand-alone bar, tavern or saloon" means an  
41 establishment:

42 (1) Devoted primarily to the sale of alcoholic beverages to be  
43 consumed on the premises;



1 (2) In which food service or sales may or may not be  
2 incidental food service or sales, in the discretion of the operator of  
3 the establishment;

4 (3) In which patrons under 21 years of age are prohibited at  
5 all times from entering the premises; and

6 (4) That must be located within:

7 (I) A physically independent building that does not share  
8 a common entryway or indoor area with a restaurant, public place or  
9 any other indoor workplace where smoking is prohibited by this  
10 section; or

11 (II) A completely enclosed area of a larger structure,  
12 which may include, without limitation, a strip mall or an airport,  
13 provided that indoor windows must remain closed at all times and  
14 doors must remain closed when not actively in use.

15 (b) "Casino" means an entity that contains a building or large  
16 room devoted to gambling games or wagering on a variety of  
17 events. A casino must possess a nonrestricted gaming license as  
18 described in NRS 463.0177 and typically uses the word 'casino' as  
19 part of its proper name.

20 (c) "Child care facility" has the meaning ascribed to it in NRS  
21 441A.030.

22 (d) "Completely enclosed area" means an area that is enclosed  
23 on all sides by any combination of solid walls, windows or doors  
24 that extend from the floor to the ceiling.

25 (e) "Government building" means any building or office space  
26 owned or occupied by:

27 (1) Any component of the Nevada System of Higher  
28 Education and used for any purpose related to the System;

29 (2) The State of Nevada and used for any public purpose; or

30 (3) Any county, city, school district or other political  
31 subdivision of the State and used for any public purpose.

32 (f) "Health authority" has the meaning ascribed to it in NRS  
33 202.2485.

34 (g) "Incidental food service or sales" means the service of  
35 prepackaged food items including, but not limited to, peanuts,  
36 popcorn, chips, pretzels or any other incidental food items that are  
37 exempt from food licensing requirements pursuant to subsection 2  
38 of NRS 446.870.

39 (h) "Place of employment" means any enclosed area under the  
40 control of a public or private employer which employees frequent  
41 during the course of employment including, but not limited to, work  
42 areas, restrooms, hallways, employee lounges, cafeterias, conference  
43 and meeting rooms, lobbies and reception areas.

44 (i) "Public places" means any enclosed areas to which the public  
45 is invited or in which the public is permitted.





1 (j) "Restaurant" means a business which gives or offers for sale  
2 food, with or without alcoholic beverages, to the public, guests or  
3 employees, as well as kitchens and catering facilities in which food  
4 is prepared on the premises for serving elsewhere.

5 (k) "Retail tobacco store" means a retail store utilized primarily  
6 for the sale of tobacco products and accessories and in which the  
7 sale of other products is merely incidental.

8 (l) "School building" means all buildings on the grounds of any  
9 public school described in NRS 388.020 and any private school as  
10 defined in NRS 394.103.

11 (m) "School property" means the grounds of any public school  
12 described in NRS 388.020 and any private school as defined in NRS  
13 394.103.

14 (n) *"Smoking" means inhaling, exhaling, burning or carrying*  
15 *any liquid or heated cigar, cigarette or pipe or any other lighted or*  
16 *heated tobacco or plant product intended for inhalation, in any*  
17 *manner or in any form. The term includes the use of an electronic*  
18 *smoking device that creates an aerosol or vapor, in any manner or*  
19 *in any form, and the use of any oral smoking device. As used in*  
20 *this paragraph, "electronic smoking device":*

21 (1) *Means any product containing or delivering nicotine, a*  
22 *product made or derived from tobacco or any other substance*  
23 *intended for human consumption that can be used by a person to*  
24 *simulate smoking in the delivery of nicotine or any other*  
25 *substance through inhalation of vapor or aerosol from the*  
26 *product.*

27 (2) *Includes any component part of a product described in*  
28 *subparagraph (1), regardless of whether the component part is*  
29 *sold separately.*

30 (3) *Does not include any product regulated by the United*  
31 *States Food and Drug Administration pursuant to Subchapter V*  
32 *of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 352 et*  
33 *seq.*

34 (o) "Stand-alone bar, tavern or saloon" means an establishment:

35 (1) Devoted primarily to the sale of alcoholic beverages to be  
36 consumed on the premises;

37 (2) In which food service or sales may or may not be  
38 incidental food service or sales, in the discretion of the operator of  
39 the establishment;

40 (3) In which smoke from such establishments does not  
41 infiltrate into areas where smoking is prohibited under the  
42 provisions of this section; and

43 (4) That must be housed in either:

44 (I) A physically independent building that does not share  
45 a common entryway or indoor area with a restaurant, public place or



1 any other indoor workplaces where smoking is prohibited by this  
2 section; or

3 (II) A completely enclosed area of a larger structure, such  
4 as a strip mall or an airport, provided that indoor windows must  
5 remain shut at all times and doors must remain closed when not  
6 actively in use.

7 ~~(b)~~ (p) “Video arcade” has the meaning ascribed to it in  
8 paragraph (d) of subsection 3 of NRS 453.3345.

9 13. Any statute or regulation inconsistent with this section is  
10 null and void.

11 14. The provisions of this section are severable. If any  
12 provision of this section or the application thereof is declared by a  
13 court of competent jurisdiction to be invalid or unconstitutional,  
14 such declaration shall not affect the validity of the section as a  
15 whole or any provision thereof other than the part declared to be  
16 invalid or unconstitutional.

17 **Sec. 7.3.** NRS 202.2485 is hereby amended to read as follows:  
18 202.2485 As used in NRS 202.2485 to 202.2497, inclusive:

19 1. “Alternative nicotine product” means any noncombustible  
20 product containing nicotine that is intended for human consumption,  
21 whether chewed, absorbed, dissolved or ingested by any other  
22 means. The term does not include:

23 (a) A vapor product;

24 (b) A product made or derived from tobacco; or

25 (c) Any product regulated by the United States Food and Drug  
26 Administration under Subchapter V of the Federal Food, Drug, and  
27 Cosmetic Act, 21 U.S.C. §§ 351 et seq.

28 2. “Distribute” includes furnishing, giving away or providing  
29 products made or derived from tobacco or samples thereof at no cost  
30 to promote the product, whether or not in combination with a sale.

31 3. “Health authority” means the district health officer in a  
32 district, or his or her designee, or, if none, the Chief Medical  
33 Officer, or his or her designee.

34 4. “Product made or derived from tobacco” does not include  
35 any product regulated by the United States Food and Drug  
36 Administration pursuant to Subchapter V of the Federal Food, Drug,  
37 and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

38 5. “Vapor product”:

39 (a) Means any noncombustible product containing nicotine *or*  
40 *any other substance* that employs a heating element, power source,  
41 electronic circuit or other electronic, chemical or mechanical means,  
42 regardless of the shape or size thereof, that can be used to produce  
43 vapor from nicotine *or any other substance* in a solution or other  
44 form ~~(b)~~, *the use or inhalation of which simulates smoking.*

45 (b) Includes, without limitation:



1 (1) An electronic cigarette, cigar, cigarillo , ~~[or]~~ pipe ,  
2 *hookah or vape pen* or a similar product or device; and

3 (2) ~~[A]~~ *The components of such a product or device,*  
4 *whether or not sold separately, including, without limitation, vapor*  
5 *~~[cartridge]~~ cartridges* or other container of nicotine *or any other*  
6 *substance* in a solution or other form that is intended to be used  
7 with or in an electronic cigarette, cigar, cigarillo , ~~[or]~~ pipe ,  
8 *hookah, or vape pen,* or a similar product or device ~~[,]~~ *atomizers,*  
9 *cartomizers, digital displays, clearomizers, tank systems, flavors,*  
10 *programmable software or other similar products or devices. As*  
11 *used in this subparagraph, “component” means a product or*  
12 *device intended primarily or exclusively to be used with or in an*  
13 *electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or*  
14 *a similar product or device.*

15 (c) Does not include any product regulated by the United States  
16 Food and Drug Administration pursuant to Subchapter V of the  
17 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

18 **Sec. 7.4.** NRS 202.249 is hereby amended to read as follows:

19 202.249 1. It is the public policy of the State of Nevada as  
20 the purpose of NRS 202.2491, 202.24915 and 202.2492 to place  
21 restrictions on the smoking of tobacco in public places to protect  
22 human health and safety.

23 2. The quality of air is declared to be affected with the public  
24 interest and NRS 202.2491, 202.24915 and 202.2492 are enacted in  
25 the exercise of the police power of this state to protect the health,  
26 peace, safety and general welfare of its people.

27 3. Health authorities, police officers of cities or towns, sheriffs  
28 and their deputies and other peace officers of this state shall, within  
29 their respective jurisdictions, enforce the provisions of NRS  
30 202.2491, 202.24915 and 202.2492. Police officers of cities or  
31 towns, sheriffs and their deputies and other peace officers of this  
32 state shall, within their respective jurisdictions, enforce the  
33 provisions of NRS 202.2493, 202.24935 and 202.2494 ~~[,]~~ *and*  
34 *section 1 of this act.*

35 4. Except as otherwise provided in subsection 5, an agency,  
36 board, commission or political subdivision of this state, including,  
37 without limitation, any agency, board, commission or governing  
38 body of a local government, shall not impose more stringent  
39 restrictions on the smoking, use, sale, distribution, marketing,  
40 display or promotion of tobacco or products made or derived from  
41 tobacco than are provided by NRS 202.2491, 202.24915, 202.2492,  
42 202.2493, 202.24935 and 202.2494 ~~[,]~~ *and section 1 of this act.*

43 5. A school district may, with respect to the property,  
44 buildings, facilities and vehicles of the school district, impose more  
45 stringent restrictions on the smoking, use, sale, distribution,



1 marketing, display or promotion of tobacco or products made or  
2 derived from tobacco than are provided by NRS 202.2491,  
3 202.24915, 202.2492, 202.2493, 202.24935 and 202.2494 ~~and~~ **and**  
4 **section 1 of this act.**

5 **Sec. 7.5.** NRS 202.2493 is hereby amended to read as follows:

6 202.2493 1. A person shall not sell, distribute or offer to sell  
7 cigarettes, any smokeless product made or derived from tobacco or  
8 any alternative nicotine product in any form other than in an  
9 unopened package which originated with the manufacturer and  
10 bears any health warning required by federal law. A person who  
11 violates this subsection shall be punished by a fine of \$100 and a  
12 civil penalty of \$100. As used in this subsection, "smokeless  
13 product made or derived from tobacco" means any product that  
14 consists of cut, ground, powdered or leaf tobacco and is intended to  
15 be placed in the oral or nasal cavity.

16 2. ~~Except as otherwise provided in subsections 3, 4 and 5, it is~~  
17 ~~unlawful for any person to sell, distribute or offer to sell cigarettes,~~  
18 ~~cigarette paper, tobacco of any description, products made or~~  
19 ~~derived from tobacco, vapor products or alternative nicotine~~  
20 ~~products to any child under the age of 18 years. A person who~~  
21 ~~violates this subsection shall be punished by a fine of not more than~~  
22 ~~\$500 and a civil penalty of not more than \$500.~~

23 ~~3. A person shall be deemed to be in compliance with the~~  
24 ~~provisions of subsection 2 if, before the person sells, distributes or~~  
25 ~~offers to sell to another, cigarettes, cigarette paper, tobacco of any~~  
26 ~~description, products made or derived from tobacco, vapor products~~  
27 ~~or alternative nicotine products, the person:~~

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

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

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

38 ~~4. The employer of a child who is under 18 years of age may,~~  
39 ~~for the purpose of allowing the child to handle or transport tobacco,~~  
40 ~~products made or derived from tobacco, vapor products or~~  
41 ~~alternative nicotine products, in the course of the child's lawful~~  
42 ~~employment, provide tobacco, products made or derived from~~  
43 ~~tobacco, vapor products or alternative nicotine products to the child.~~



1 ~~—5. With respect to any sale made by an employee of a retail~~  
2 ~~establishment, the owner of the retail establishment shall be deemed~~  
3 ~~to be in compliance with the provisions of subsection 2 if the owner:~~

4 ~~—(a) Had no actual knowledge of the sale; and~~

5 ~~—(b) Establishes and carries out a continuing program of training~~  
6 ~~for employees which is reasonably designed to prevent violations of~~  
7 ~~subsection 2.~~

8 ~~—6.]~~ The owner of a retail establishment shall, whenever any  
9 product made or derived from tobacco, vapor product or alternative  
10 nicotine product is being sold or offered for sale at the  
11 establishment, display prominently at the point of sale:

12 (a) A notice indicating that:

13 (1) The sale of cigarettes, other tobacco products, vapor  
14 products and alternative nicotine products to minors is prohibited by  
15 law; and

16 (2) The retailer may ask for proof of age to comply with this  
17 prohibition; and

18 (b) At least one sign that complies with the requirements of  
19 NRS 442.340.

20 ↪ A person who violates this subsection shall be punished by a fine  
21 of not more than \$100.

22 ~~[7.]~~ 3. It is unlawful for any retailer to sell cigarettes through  
23 the use of any type of display:

24 (a) Which contains cigarettes and is located in any area to which  
25 customers are allowed access; and

26 (b) From which cigarettes are readily accessible to a customer  
27 without the assistance of the retailer,

28 ↪ except a vending machine used in compliance with NRS  
29 202.2494. A person who violates this subsection shall be punished  
30 by a fine of not more than \$500.

31 ~~[8.— Any money recovered pursuant to this section as a civil~~  
32 ~~penalty must be deposited in a separate account in the State General~~  
33 ~~Fund to be used for the enforcement of this section and~~  
34 ~~NRS 202.2494.]~~

35 **Sec. 7.7.** NRS 202.24935 is hereby amended to read as  
36 follows:

37 202.24935 1. It is unlawful for a person to knowingly sell or  
38 distribute cigarettes, cigarette paper, tobacco of any description ,  
39 ~~[or]~~ products made or derived from tobacco , *vapor products or*  
40 *alternative nicotine products* to a child under the age of 18 years  
41 through the use of ~~[the Internet.]~~ *a computer network, telephonic*  
42 *network or other electronic network.*

43 2. A person who violates the provisions of subsection 1 shall  
44 be punished by a fine of not more than \$500 and a civil penalty of  
45 not more than \$500. Any money recovered pursuant to this section



1 as a civil penalty must be deposited in the same manner as money is  
2 deposited pursuant to subsection ~~[8]~~ 9 of ~~[NRS 202.2493.]~~ *section 1*  
3 *of this act.*

4 3. Every person who sells or distributes cigarettes, cigarette  
5 paper, tobacco of any description , ~~[or]~~ products made or derived  
6 from tobacco, *vapor products or alternative nicotine products*  
7 through the use of ~~[the Internet]~~ *a computer network, telephonic*  
8 *network or electronic network* shall ~~[adopt a policy to prevent a~~  
9 ~~child under the age of 18 years from obtaining cigarettes, cigarette~~  
10 ~~paper, tobacco of any description or products made or derived from~~  
11 ~~tobacco from the person through the use of the Internet. The policy~~  
12 ~~must include, without limitation, a method for ensuring]~~ :

13 (a) *Ensure* that ~~[the person who delivers such items obtains the~~  
14 ~~signature of a person who is over the age of 18 years when~~  
15 ~~delivering the items, that]~~ the packaging or wrapping of the items  
16 when they are shipped is clearly marked with the word "cigarettes"  
17 or , *if the item being shipped are not cigarettes*, the words "tobacco  
18 products ." ~~[,]" and that the person complies with the provisions of~~  
19 ~~15 U.S.C. § 376. A person who fails to adopt a policy pursuant to~~  
20 ~~this subsection is guilty of a misdemeanor and shall be punished by~~  
21 ~~a fine of not more than \$500.]~~

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

30 (1) *Requires the customer to:*

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

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

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

39 **Sec. 7.9.** NRS 202.2496 is hereby amended to read as follows:

40 202.2496 1. As necessary to comply with any applicable  
41 federal law, the Attorney General shall conduct random,  
42 unannounced inspections at locations where tobacco, products made  
43 or derived from tobacco, vapor products and alternative nicotine  
44 products are sold, distributed or offered for sale to inspect for and  
45 enforce compliance with NRS 202.2493 and 202.2494 ~~[§]~~ *and*



1 *section 1 of this act*, as applicable. For assistance in conducting any  
2 such inspection, the Attorney General may contract with:

- 3 (a) Any sheriff's department;
- 4 (b) Any police department; or
- 5 (c) Any other person who will, in the opinion of the Attorney  
6 General, perform the inspection in a fair and impartial manner.

7 2. If the inspector desires to enlist the assistance of a child  
8 under the age of 18 for such an inspection, the inspector shall obtain  
9 the written consent of the child's parent for such assistance.

10 3. A child assisting in an inspection pursuant to this section  
11 shall, if questioned about his or her age, state his or her true age and  
12 that he or she is under 18 years of age.

13 4. If a child is assisting in an inspection pursuant to this  
14 section, the person supervising the inspection shall:

- 15 (a) Refrain from altering or attempting to alter the child's  
16 appearance to make the child appear to be 18 years of age or older.
- 17 (b) Photograph the child immediately before the inspection is to  
18 occur and retain any photographs taken of the child pursuant to this  
19 paragraph.

20 5. The person supervising an inspection using the assistance of  
21 a child shall, within a reasonable time after the inspection is  
22 completed:

23 (a) Inform a representative of the business establishment from  
24 which the child attempted to purchase tobacco, products made or  
25 derived from tobacco, vapor products or alternative nicotine  
26 products that an inspection has been performed and the results of  
27 that inspection.

28 (b) Prepare a report regarding the inspection. The report must  
29 include the following information:

30 (1) The name of the person who supervised the inspection  
31 and that person's position;

32 (2) The age and date of birth of the child who assisted in the  
33 inspection;

34 (3) The name and position of the person from whom the  
35 child attempted to purchase tobacco, products made or derived from  
36 tobacco, vapor products or alternative nicotine products;

37 (4) The name and address of the establishment at which the  
38 child attempted to purchase tobacco, products made or derived from  
39 tobacco, vapor products or alternative nicotine products;

40 (5) The date and time of the inspection; and

41 (6) The result of the inspection, including whether the  
42 inspection resulted in the sale, distribution or offering for sale of  
43 tobacco, products made or derived from tobacco, vapor products or  
44 alternative nicotine products to the child.



6. No *administrative*, civil or criminal action based upon an alleged violation of NRS 202.2493 or 202.2494 *or section 1 of this act* may be brought as a result of an inspection for compliance in which the assistance of a child has been enlisted unless the inspection has been conducted in accordance with the provisions of this section.

**Sec. 8.** (Deleted by amendment.)

**Sec. 9.** (Deleted by amendment.)

**Sec. 10.** (Deleted by amendment.)

**Sec. 11.** (Deleted by amendment.)

**Sec. 12.** (Deleted by amendment.)

**Sec. 13.** (Deleted by amendment.)

**Sec. 14.** (Deleted by amendment.)

**Sec. 14.5.** 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services for programs to control and prevent the use of tobacco the following sums:

For Fiscal Year 2019-2020.....	\$2,500,000
For Fiscal Year 2020-2021.....	\$2,500,000

2. Any remaining balance of the appropriation made by subsection 1 for Fiscal Year 2019-2020 must be added to the money appropriated for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the appropriation made by subsection 1 for Fiscal Year 2020-2021, including any such money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, 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 17, 2021, 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 17, 2021.

**Sec. 15.** 1. This section and section 14.5 of this act become effective on July 1, 2019.

2. Sections 1 to 2, inclusive, and 7.1 to 7.9, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2020, for all other purposes.

