

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 appropriations; 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



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
40 changes 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. **Section 14.7** of this bill makes an appropriation to the Department of
65 Taxation to carry out the duties imposed by this bill on the Department of Taxation.



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*
32 *24-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 follows:
8 370.0318 “Other tobacco product” means any tobacco of any
9 description ~~[or]~~ , *any vapor product, any alternative nicotine*
10 *product or* any product made from tobacco, other than cigarettes . ~~[~~
11 ~~alternative nicotine products and vapor products.]~~

12 **Sec. 2.** NRS 370.054 is hereby amended to read as follows:
13 370.054 “Vapor product”:

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

20 2. Includes, without limitation:

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

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

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

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

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

41 (c) *Purchased by a person who holds a current, valid*
42 *registration certificate to operate a medical marijuana*
43 *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
21 NRS 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
33 NRS 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
13 NRS 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 ~~(h)~~ (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 ~~H~~, *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 and
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. 14.7. 1. There is hereby appropriated from the State General Fund to the Department of Taxation to carry out the duties imposed on the Department pursuant to the provisions of this act the following sums:

For Fiscal Year 2019-2020.....	\$513,684
For Fiscal Year 2020-2021.....	\$445,175

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years 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



1 money remaining must not be spent for any purpose after
2 September 18, 2020, and September 17, 2021, respectively, by
3 either the entity to which the appropriation is made or the entity to
4 which the money was subsequently granted or transferred, and must
5 be reverted to the State General Fund on or before September 18,
6 2020, and September 17, 2021, respectively.

7 **Sec. 15.** 1. This section and sections 14.5 and 14.7 of this act
8 become effective on July 1, 2019.

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



