

EMERGENCY REQUEST OF ASSEMBLY MINORITY LEADER

ASSEMBLY BILL NO. 544—ASSEMBLYMEN WHEELER,  
HAMBRICK, KRAMER; AND HARDY

JUNE 2, 2019

Referred to Committee on Taxation

SUMMARY—Revises provisions governing the age at which certain tobacco and vapor products may be purchased. (BDR 32-1294)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public health; 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 certain persons; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law prohibits a person from selling, distributing or offering to sell
- 2 cigarettes, cigarette paper, tobacco of any description, products made or derived
- 3 from tobacco, vapor products or alternative nicotine products to any person under
- 4 the age of 18 years. (NRS 202.2493) For the purposes of this prohibition, existing
- 5 law defines “vapor products” to include only products containing nicotine that
- 6 produce a vapor from nicotine in a solution or other form. (NRS 202.2485) **Section**
- 7 **2** of this bill extends this definition to include products containing other substances,
- 8 the use or inhalation of which simulates smoking, and certain associated devices
- 9 and components. **Sections 3 and 9** of this bill raise the age of persons to whom
- 10 such items may be sold, distributed or offered from 18 years of age to 21 years of
- 11 age, with the exception of persons who are active duty servicemembers and who
- 12 are at least 18 years of age. **Sections 1 and 4-8** of this bill make conforming
- 13 changes relating to raising the age of persons to whom such items may be sold.
- 14 Existing law prohibits a person from knowingly selling or distributing
- 15 cigarettes, cigarette paper, tobacco of any description or products made or derived
- 16 from tobacco to a child under the age of 18 years through the use of the Internet.
- 17 Existing law further requires a person who sells or distributes such products
- 18 through the use of the Internet to adopt a policy to prevent a child under the age of



18 years from obtaining such products from the person through the use of the Internet, which policy is required to include: (1) a method to ensure that the person who delivers the products to obtain the signature of a person who is over the age of 18 years; (2) a requirement that the packaging or wrapping of the items when they are shipped is clearly marked with the words "cigarettes" or the words "tobacco products"; and (3) a requirement to comply with certain federal law relating to the remote sale of cigarettes and certain tobacco products. (NRS 202.24935) **Sections 5 and 6** of this bill remove the requirement for such a policy. Instead, **sections 5 and 6** require a person who sells or distributes cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products through a computer network, telephonic network or other electronic network to: (1) ensure that the packaging in which the items are shipped is labeled "cigarettes" or "tobacco products"; and (2) use certain age verification procedures.

**Section 10** of this bill provides that this bill becomes effective on July 1, 2021.

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

**Section 1.** NRS 370.323 is hereby amended to read as follows:

370.323 1. A person shall not cause the mailing or shipment of cigarettes in connection with an order for a delivery sale unless the person accepting the order first:

(a) Obtains from the prospective purchaser a certification which includes:

(1) Reliable confirmation that the purchaser *is at least 21 years of age or is an active duty servicemember who* is at least 18 years of age; and

(2) A statement signed by the prospective purchaser in writing and under penalty of perjury which:

(I) Certifies the prospective purchaser's address and date of birth;

(II) Confirms that the prospective purchaser understands that signing another person's name to such certification is illegal and that sales of cigarettes to ~~children~~ *persons* under ~~18~~ *21* years of age, *except for active duty servicemembers who are at least 18 years of age*, are illegal under the laws of this State; and

(III) Confirms that the prospective purchaser desires to receive mailings from a tobacco company.

(b) Makes a good faith effort to verify the information contained in the certification provided by the prospective purchaser pursuant to paragraph (a) against any federal or commercially available database established for that purpose.

(c) Sends to the prospective purchaser, by electronic mail or other means, a notice which meets the requirements of subsection 2 and requests confirmation that the order for the delivery sale was placed by the prospective purchaser.



1 (d) Receives from the prospective purchaser confirmation,  
2 pursuant to the request described in paragraph (c), that such person  
3 placed the order for the delivery sale.

4 (e) Receives payment for the delivery sale from the prospective  
5 purchaser by a credit or debit card that has been issued in that  
6 purchaser's name.

7 2. The notice required by paragraph (c) of subsection 1 must  
8 include:

9 (a) A prominent and clearly legible statement that the sale of  
10 cigarettes to ~~children~~ *persons* under ~~18~~ *21* years of age, *except*  
11 *active duty servicemembers who are at least 18 years of age*, is  
12 illegal;

13 (b) A prominent and clearly legible statement that the sale of  
14 cigarettes is restricted to persons who provide verifiable proof of  
15 age in accordance with this section; and

16 (c) A prominent and clearly legible statement that sales of  
17 cigarettes are taxable under this chapter, and an explanation of how  
18 the tax has been or is to be paid with respect to the delivery sale.

19 3. Persons accepting orders for delivery sales may request that  
20 prospective purchasers provide their electronic mail addresses.

21 *4. As used in this section "active duty servicemember" has*  
22 *the meaning ascribed to it in NRS 202.2485.*

23 **Sec. 2.** NRS 202.2485 is hereby amended to read as follows:

24 202.2485 As used in NRS 202.2485 to 202.2497, inclusive:

25 1. *"Active duty servicemember" means a person who is on*  
26 *full-time duty status in the Armed Forces of the United States,*  
27 *including members of the National Guard and Reserve on active*  
28 *duty orders.*

29 2. "Alternative nicotine product" means any noncombustible  
30 product containing nicotine that is intended for human consumption,  
31 whether chewed, absorbed, dissolved or ingested by any other  
32 means. The term does not include:

33 (a) A vapor product;

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

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

38 ~~2.~~ 3. "Distribute" includes furnishing, giving away or  
39 providing products made or derived from tobacco or samples thereof  
40 at no cost to promote the product, whether or not in combination  
41 with a sale.

42 ~~3.~~ 4. "Health authority" means the district health officer in a  
43 district, or his or her designee, or, if none, the Chief Medical  
44 Officer, or his or her designee.



1 ~~[4.]~~ 5. “Product made or derived from tobacco” does not  
2 include any product regulated by the United States Food and Drug  
3 Administration pursuant to Subchapter V of the Federal Food, Drug,  
4 and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

5 ~~[5.]~~ 6. “Vapor product”:

6 (a) Means any noncombustible product containing nicotine *or*  
7 *any other substance* that employs a heating element, power source,  
8 electronic circuit or other electronic, chemical or mechanical means,  
9 regardless of the shape or size thereof, that can be used to produce  
10 vapor from nicotine *or any other substance* in a solution or other  
11 form ~~[.]~~, *the use of which simulates smoking*.

12 (b) Includes, without limitation:

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

15 (2) ~~[A.]~~ *The components of such a product or device,*  
16 *whether or not sold separately, including, without limitation,* vapor  
17 ~~[cartridge]~~ *cartridges* or other container of nicotine *or any other*  
18 *substance* in a solution or other form that is intended to be used  
19 with or in an electronic cigarette, cigar, cigarillo, ~~[or]~~ pipe, *hookah*  
20 *or vape pen*, or a similar product or device ~~[.]~~, *atomizers,*  
21 *cartomizers, digital displays, clearomizers, tank systems, flavors,*  
22 *programmable software or other similar products or devices. As*  
23 *used in this subparagraph, “component” means a product or*  
24 *device intended primarily or exclusively to be used with or in an*  
25 *electronic cigarette, cigar, cigarillo, pipe, hookah or vape pen, or a*  
26 *similar product or device.*

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

30 **Sec. 3.** NRS 202.2493 is hereby amended to read as follows:

31 202.2493 1. A person shall not sell, distribute or offer to sell  
32 cigarettes, any smokeless product made or derived from tobacco or  
33 any alternative nicotine product in any form other than in an  
34 unopened package which originated with the manufacturer and  
35 bears any health warning required by federal law. A person who  
36 violates this subsection shall be punished by a fine of \$100 and a  
37 civil penalty of \$100. As used in this subsection, “smokeless  
38 product made or derived from tobacco” means any product that  
39 consists of cut, ground, powdered or leaf tobacco and is intended to  
40 be placed in the oral or nasal cavity.

41 2. Except as otherwise provided in subsections 3, 4 and 5, it is  
42 unlawful for any person to sell, distribute or offer to sell cigarettes,  
43 cigarette paper, tobacco of any description, products made or  
44 derived from tobacco, vapor products or alternative nicotine  
45 products to any ~~[child]~~ *person* under the age of ~~[18]~~ *21* years ~~[.]~~,



1 *except an active duty servicemember who is at least 18 years of*  
2 *age.* A person who violates this subsection shall be punished by a  
3 fine of not more than \$500 and a civil penalty of not more than  
4 \$500.

5 3. A person shall be deemed to be in compliance with the  
6 provisions of subsection 2 if, before the person sells, distributes or  
7 offers to sell to another, cigarettes, cigarette paper, tobacco of any  
8 description, products made or derived from tobacco, vapor products  
9 or alternative nicotine products, the person:

10 (a) Demands that the other person present a valid driver's  
11 license, permanent resident card, tribal identification card or other  
12 written or documentary evidence which shows that the other person  
13 is ~~18~~ 21 years of age or older ~~;~~ *or is an active duty*  
14 *servicemember who is at least 18 years of age;*

15 (b) Is presented a valid driver's license, permanent resident card,  
16 tribal identification card or other written or documentary evidence  
17 which shows that the other person is ~~18~~ 21 years of age or older ~~;~~  
18 *or is an active duty servicemember who is at least 18 years of age;*  
19 and

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

23 4. The employer of a ~~child~~ *person* who is under ~~18~~ 21 years  
24 of age may, for the purpose of allowing the ~~child~~ *person* to handle  
25 or transport tobacco, products made or derived from tobacco, vapor  
26 products or alternative nicotine products, in the course of the  
27 ~~child's~~ *person's* lawful employment, provide tobacco, products  
28 made or derived from tobacco, vapor products or alternative  
29 nicotine products to the ~~child.~~ *person.*

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

33 (a) Had no actual knowledge of the sale; and

34 (b) Establishes and carries out a continuing program of training  
35 for employees which is reasonably designed to prevent violations of  
36 subsection 2.

37 6. The owner of a retail establishment shall, whenever any  
38 product made or derived from tobacco, vapor product or alternative  
39 nicotine product is being sold or offered for sale at the  
40 establishment, display prominently at the point of sale:

41 (a) A notice indicating that:

42 (1) The sale of cigarettes, other tobacco products, vapor  
43 products and alternative nicotine products to ~~minors~~ *persons*  
44 *under 21 years of age, except active duty servicemembers who are*  
45 *at least 18 years of age,* is prohibited by law; and



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

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

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

7 7. It is unlawful for any retailer to sell cigarettes through the  
8 use of any type of display:

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

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

13 ↪ except a vending machine used in compliance with NRS  
14 202.2494. A person who violates this subsection shall be punished  
15 by a fine of not more than \$500.

16 8. Any money recovered pursuant to this section as a civil  
17 penalty must be deposited in a separate account in the State General  
18 Fund to be used for the enforcement of this section and  
19 NRS 202.2494.

20 **9. As used in this section, "active duty servicemember" has**  
21 **the meaning ascribed to it in NRS 202.2485.**

22 **Sec. 4.** NRS 202.2493 is hereby amended to read as follows:

23 202.2493 1. A person shall not sell, distribute or offer to sell  
24 cigarettes, any smokeless product made or derived from tobacco or  
25 any alternative nicotine product in any form other than in an  
26 unopened package which originated with the manufacturer and  
27 bears any health warning required by federal law. A person who  
28 violates this subsection shall be punished by a fine of \$100 and a  
29 civil penalty of \$100. As used in this subsection, "smokeless  
30 product made or derived from tobacco" means any product that  
31 consists of cut, ground, powdered or leaf tobacco and is intended to  
32 be placed in the oral or nasal cavity.

33 2. ~~Except as otherwise provided in subsections 3, 4 and 5, it is~~  
34 ~~unlawful for any person to sell, distribute or offer to sell cigarettes,~~  
35 ~~cigarette paper, tobacco of any description, products made or~~  
36 ~~derived from tobacco, vapor products or alternative nicotine~~  
37 ~~products to any child under the age of 18 years. A person who~~  
38 ~~violates this subsection shall be punished by a fine of not more than~~  
39 ~~\$500 and a civil penalty of not more than \$500.~~

40 ~~—3. A person shall be deemed to be in compliance with the~~  
41 ~~provisions of subsection 2 if, before the person sells, distributes or~~  
42 ~~offers to sell to another, cigarettes, cigarette paper, tobacco of any~~  
43 ~~description, products made or derived from tobacco, vapor products~~  
44 ~~or alternative nicotine products, the person:~~



1 ~~—(a) Demands that the other person present a valid driver's~~  
2 ~~license, permanent resident card, tribal identification card or other~~  
3 ~~written or documentary evidence which shows that the other person~~  
4 ~~is 18 years of age or older;~~

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

8 ~~—(c) Reasonably relies upon the driver's license, permanent~~  
9 ~~resident card, tribal identification card or written or documentary~~  
10 ~~evidence presented by the other person.~~

11 ~~—4. The employer of a child who is under 18 years of age may,~~  
12 ~~for the purpose of allowing the child to handle or transport tobacco,~~  
13 ~~products made or derived from tobacco, vapor products or~~  
14 ~~alternative nicotine products, in the course of the child's lawful~~  
15 ~~employment, provide tobacco, products made or derived from~~  
16 ~~tobacco, vapor products or alternative nicotine products to the child.~~

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

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

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

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

28 (a) A notice indicating that:

29 (1) The sale of cigarettes, other tobacco products, vapor  
30 products and alternative nicotine products to ~~{minors}~~ *persons*  
31 *under 21 years of age, except active duty servicemembers who are*  
32 *at least 18 years of age,* is prohibited by law; and

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

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

37 ➤ A person who violates this subsection shall be punished by a fine  
38 of not more than \$100.

39 ~~[7.]~~ **3.** It is unlawful for any retailer to sell cigarettes through  
40 the use of any type of display:

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

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





1 ↪ except a vending machine used in compliance with NRS  
2 202.2494. A person who violates this subsection shall be punished  
3 by a fine of not more than \$500.

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

8 **Sec. 5.** NRS 202.24935 is hereby amended to read as follows:

9 202.24935 1. It is unlawful for a person to knowingly sell or  
10 distribute cigarettes, cigarette paper, tobacco of any description ,  
11 ~~[or]~~ products made or derived from tobacco , *vapor products or*  
12 *alternative nicotine products* to a ~~[child]~~ *person* under the age of  
13 ~~[18]~~ *21* years , *except an active duty servicemember who is at least*  
14 *18 years of age*, through the use of ~~[the Internet.]~~ *a computer*  
15 *network, telephonic network or other electronic network.*

16 2. A person who violates the provisions of subsection 1 shall  
17 be punished by a fine of not more than \$500 and a civil penalty of  
18 not more than \$500. Any money recovered pursuant to this section  
19 as a civil penalty must be deposited in the same manner as money is  
20 deposited pursuant to subsection 8 of NRS 202.2493.

21 3. Every person who sells or distributes cigarettes, cigarette  
22 paper, tobacco of any description , ~~[or]~~ products made or derived  
23 from tobacco , *vapor products or alternative nicotine products*  
24 through the use of ~~[the Internet]~~ *a computer network, telephonic*  
25 *network or electronic network* shall ~~[adopt a policy to prevent a~~  
26 ~~child under the age of 18 years from obtaining cigarettes, cigarette~~  
27 ~~paper, tobacco of any description or products made or derived from~~  
28 ~~tobacco from the person through the use of the Internet. The policy~~  
29 ~~must include, without limitation, a method for ensuring] :~~

30 (a) *Ensure* that ~~[the person who delivers such items obtains the~~  
31 ~~signature of a person who is over the age of 18 years when~~  
32 ~~delivering the items, that]~~ the packaging or wrapping of the items  
33 when they are shipped is clearly marked with the word “cigarettes”  
34 or , *if the items being shipped are not cigarettes*, the words  
35 “tobacco products .” ~~[” and that the person complies with the~~  
36 ~~provisions of 15 U.S.C. § 376. A person who fails to adopt a policy~~  
37 ~~pursuant to this subsection is guilty of a misdemeanor and shall be~~  
38 ~~punished by a fine of not more than \$500.]~~

39 (b) *Perform an age verification through an independent, third-*  
40 *party age verification service that compares information available*  
41 *from public records to the personal information entered by the*  
42 *person during the ordering process that establishes that the person*  
43 *is at least 21 years of age, or is an active duty servicemember who*  
44 *is at least 18 years of age, and use a method of mail, shipping or*  
45 *delivery that requires the signature of a person who is at least 21*





1 *years of age or is an active duty servicemember who is at least 18*  
2 *years of age before the items are released to the purchaser, unless*  
3 *the person:*

4 (1) *Requires the customer to:*

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

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

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

13 **Sec. 6.** NRS 202.24935 is hereby amended to read as follows:

14 202.24935 1. It is unlawful for a person to knowingly sell or  
15 distribute cigarettes, cigarette paper, tobacco of any description ,  
16 ~~for~~ products made or derived from tobacco *vapor products or*  
17 *alternative nicotine products* to a ~~child~~ *person* under the age of  
18 ~~18~~ *21* years , *except an active duty servicemember who is at least*  
19 *18 years of age*, through the use of ~~the Internet~~ *a computer*  
20 *network, telephonic network or other electronic network.*

21 2. A person who violates the provisions of subsection 1 shall  
22 be punished by a fine of not more than \$500 and a civil penalty of  
23 not more than \$500. Any money recovered pursuant to this section  
24 as a civil penalty must be deposited in the same manner as money is  
25 deposited pursuant to subsection ~~8~~ *9* of ~~NRS 202.2493~~ *section 1*  
26 *of Senate Bill No. 263 of this session.*

27 3. Every person who sells or distributes cigarettes, cigarette  
28 paper, tobacco of any description , ~~for~~ products made or derived  
29 from tobacco , *vapor products or alternative nicotine products*  
30 through the use of ~~the Internet~~ *a computer network, telephonic*  
31 *network or electronic network* shall ~~adopt a policy to prevent a~~  
32 ~~child under the age of 18 years from obtaining cigarettes, cigarette~~  
33 ~~paper, tobacco of any description or products made or derived from~~  
34 ~~tobacco from the person through the use of the Internet. The policy~~  
35 ~~must include, without limitation, a method for ensuring~~ :

36 (a) *Ensure* that ~~the person who delivers such items obtains the~~  
37 ~~signature of a person who is over the age of 18 years when~~  
38 ~~delivering the items, that~~ the packaging or wrapping of the items  
39 when they are shipped is clearly marked with the word “cigarettes”  
40 or , *if the items being shipped are not cigarettes*, the words  
41 “tobacco products .” ~~and that the person complies with the~~  
42 ~~provisions of 15 U.S.C. § 376. A person who fails to adopt a policy~~  
43 ~~pursuant to this subsection is guilty of a misdemeanor and shall be~~  
44 ~~punished by a fine of not more than \$500.~~



1 (b) Perform an age verification through an independent, third-  
2 party age verification service that compares information available  
3 from public records to the personal information entered by the  
4 person during the ordering process that establishes that the person  
5 is at least 21 years of age, or is an active duty servicemember who  
6 is at least 18 years of age, and use a method of mail, shipping or  
7 delivery that requires the signature of a person who is at least 21  
8 years of age or is an active duty servicemember who is at least 18  
9 years of age before the items are released to the purchaser, unless  
10 the person:

11 (1) Requires the customer to:

12 (I) Create an online profile or account with personal  
13 information, including, without limitation, a name, address, social  
14 security number and a valid phone number, that is verified  
15 through publicly available records; or

16 (II) Upload a copy of a government-issued identification  
17 card that includes a photograph of the customer; and

18 (2) Sends the package containing the items to the name and  
19 address of the customer who ordered the items.

20 **Sec. 7.** NRS 202.2496 is hereby amended to read as follows:

21 202.2496 1. As necessary to comply with any applicable  
22 federal law, the Attorney General shall conduct random,  
23 unannounced inspections at locations where tobacco, products made  
24 or derived from tobacco, vapor products and alternative nicotine  
25 products are sold, distributed or offered for sale to inspect for and  
26 enforce compliance with NRS 202.2493 and 202.2494, as  
27 applicable. For assistance in conducting any such inspection, the  
28 Attorney General may contract with:

29 (a) Any sheriff's department;

30 (b) Any police department; or

31 (c) Any other person who will, in the opinion of the Attorney  
32 General, perform the inspection in a fair and impartial manner.

33 2. If the inspector desires to enlist the assistance of a ~~[child]~~  
34 **person** under the age of ~~[18]~~ **21** for such an inspection, the inspector  
35 shall obtain the written consent of the child's parent for such  
36 assistance.

37 3. A ~~[child]~~ **person** assisting in an inspection pursuant to this  
38 section shall, if questioned about his or her age, state his or her true  
39 age. ~~[and that he or she is under 18 years of age.]~~

40 4. If a ~~[child]~~ **person** is assisting in an inspection pursuant to  
41 this section, the person supervising the inspection shall:

42 (a) Refrain from altering or attempting to alter the ~~[child's]~~  
43 **person's** appearance to make the ~~[child]~~ **person** appear to be ~~[18]~~  
44 **years of age or older.] of sufficient age to purchase tobacco,**



1 *products made or derived from tobacco, vapor products and*  
2 *alternative nicotine products.*

3 (b) Photograph the ~~child~~ *person* immediately before the  
4 inspection is to occur and retain any photographs taken of the ~~child~~  
5 *person* pursuant to this paragraph.

6 5. The person supervising an inspection using the assistance of  
7 a ~~child~~ *person* shall, within a reasonable time after the inspection  
8 is completed:

9 (a) Inform a representative of the business establishment from  
10 which the ~~child~~ *person* attempted to purchase tobacco, products  
11 made or derived from tobacco, vapor products or alternative  
12 nicotine products that an inspection has been performed and the  
13 results of that inspection.

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

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

18 (2) The age and date of birth of the ~~child~~ *person* who  
19 assisted in the inspection;

20 (3) The name and position of the person from whom the  
21 ~~child~~ *person* attempted to purchase tobacco, products made or  
22 derived from tobacco, vapor products or alternative nicotine  
23 products;

24 (4) The name and address of the establishment at which the  
25 ~~child~~ *person* attempted to purchase tobacco, products made or  
26 derived from tobacco, vapor products or alternative nicotine  
27 products;

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

29 (6) The result of the inspection, including whether the  
30 inspection resulted in the sale, distribution or offering for sale of  
31 tobacco, products made or derived from tobacco, vapor products or  
32 alternative nicotine products to the ~~child~~ *person*.

33 6. No civil or criminal action based upon an alleged violation  
34 of NRS 202.2493 or 202.2494 may be brought as a result of an  
35 inspection for compliance in which the assistance of a ~~child~~  
36 *person* has been enlisted unless the inspection has been conducted  
37 in accordance with the provisions of this section.

38 **Sec. 8.** NRS 202.2496 is hereby amended to read as follows:

39 202.2496 1. As necessary to comply with any applicable  
40 federal law, the Attorney General shall conduct random,  
41 unannounced inspections at locations where tobacco, products made  
42 or derived from tobacco, vapor products and alternative nicotine  
43 products are sold, distributed or offered for sale to inspect for and  
44 enforce compliance with NRS 202.2493 and 202.2494 ~~and~~ *and*  
45 *section 1 of Senate Bill No. 263 of this session*, as applicable. For



1 assistance in conducting any such inspection, the Attorney General  
2 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 *person* under the age of ~~[18]~~ 21 for such an inspection, the inspector  
9 shall obtain the written consent of the child's parent for such  
10 assistance.

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

14 4. If a ~~[child]~~ *person* is assisting in an inspection pursuant to  
15 this section, the person supervising the inspection shall:

16 (a) Refrain from altering or attempting to alter the ~~[child's]~~  
17 *person's* appearance to make the ~~[child]~~ *person* appear to be ~~[18~~  
18 *years of age or older.] of sufficient age to purchase tobacco,*  
19 *products made or derived from tobacco, vapor products and*  
20 *alternative nicotine products.*

21 (b) Photograph the ~~[child]~~ *person* immediately before the  
22 inspection is to occur and retain any photographs taken of the ~~[child]~~  
23 *person* pursuant to this paragraph.

24 5. The person supervising an inspection using the assistance of  
25 a ~~[child]~~ *person* shall, within a reasonable time after the inspection  
26 is completed:

27 (a) Inform a representative of the business establishment from  
28 which the ~~[child]~~ *person* attempted to purchase tobacco, products  
29 made or derived from tobacco, vapor products or alternative  
30 nicotine products that an inspection has been performed and the  
31 results of that inspection.

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

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

36 (2) The age and date of birth of the ~~[child]~~ *person* who  
37 assisted in the inspection;

38 (3) The name and position of the person from whom the  
39 ~~[child]~~ *person* attempted to purchase tobacco, products made or  
40 derived from tobacco, vapor products or alternative nicotine  
41 products;

42 (4) The name and address of the establishment at which the  
43 ~~[child]~~ *person* attempted to purchase tobacco, products made or  
44 derived from tobacco, vapor products or alternative nicotine  
45 products;



- 1 (5) The date and time of the inspection; and
- 2 (6) The result of the inspection, including whether the
- 3 inspection resulted in the sale, distribution or offering for sale of
- 4 tobacco, products made or derived from tobacco, vapor products or
- 5 alternative nicotine products to the **[child.] person.**

6 6. No civil or criminal action based upon an alleged violation  
7 of NRS 202.2493 or 202.2494 **or section 1 of Senate Bill No. 263**  
8 **of this session** may be brought as a result of an inspection for  
9 compliance in which the assistance of a **[child] person** has been  
10 enlisted unless the inspection has been conducted in accordance  
11 with the provisions of this section.

12 **Sec. 9.** Section 1 of Senate Bill No. 263 of this session is  
13 hereby amended to read as follows:

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

16 1. Except as otherwise provided in subsections 2 and 3, a  
17 person shall not sell, distribute or offer to sell cigarettes,  
18 cigarette paper or other tobacco products to any **[child]**  
19 **person** under the age of **[18] 21** years **[;]**, **except an active**  
20 **duty servicemember who is at least 18 years of age.**

21 2. A person shall be deemed to be in compliance with  
22 the provisions of subsection 1 if, before the person sells,  
23 distributes or offers to sell to another, cigarettes, cigarette  
24 paper or other tobacco products, the person:

25 (a) Demands that the other person present a valid driver's  
26 license, permanent resident card, tribal identification card or  
27 other written or documentary evidence which shows that the  
28 other person is **[18] 21** years of age or older **[;]**, **or is an**  
29 **active duty servicemember who is at least 18 years of age;**

30 (b) Is presented a valid driver's license, permanent  
31 resident card, tribal identification card or other written or  
32 documentary evidence which shows that the other person is  
33 **[18] 21** years of age or older **[;]**, **or is an active duty**  
34 **servicemember who is at least 18 years of age;** and

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

38 3. The employer of a **[child] person** who is under **[18]**  
39 **21** years of age may, for the purpose of allowing the **[child]**  
40 **person** to handle or transport cigarettes, cigarette paper or  
41 other tobacco products, in the course of the **[child's] person's**  
42 lawful employment, provide cigarettes, cigarette paper or  
43 other tobacco products to the **[child.] person.**

44 4. A person who violates this section is liable for a civil  
45 penalty of:



1 (a) For the first violation within a 24-month period, \$100.  
2 (b) For the second violation within a 24-month period,  
3 \$250.

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

6 5. If an employee or agent of a licensee has violated this  
7 section:

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

11 (b) For the third violation within a 24-month period at the  
12 same premises, the licensee is liable for a civil penalty of  
13 \$500.

14 (c) For the fourth violation within a 24-month period at  
15 the same premises, the licensee is liable for a civil penalty of  
16 \$1,250.

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

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

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

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

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

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

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

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

37 (g) Such other pertinent information as the peace officer  
38 or person performing the inspection pursuant to NRS  
39 202.2496 determines is necessary.

40 7. A notice of infraction issued pursuant to subsection 6  
41 or a facsimile thereof must be filed with the Department and  
42 retained by the Department and is deemed to be a public  
43 record of matters which are observed pursuant to a duty  
44 imposed by law and is prima facie evidence of the facts  
45 alleged in the notice.



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

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

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

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

16 10. As used in this section [~~“licensee”~~]:

17 (a) *“Active duty servicemember” has the meaning*  
18 *ascribed to it in NRS 202.2485.*

19 (b) *“Licensee”* means a person who holds a license issued  
20 by the Department pursuant to this chapter.

21 **Sec. 10.** 1. Sections 1 and 2 of this act become effective on  
22 July 1, 2021.

23 2. Sections 4, 6, 8 and 9 of this act become effective on July 1,  
24 2021, if and only if Senate Bill No. 263 of this session becomes  
25 effective.

26 3. Sections 3, 5 and 7 of this act become effective on July 1,  
27 2021, if and only if Senate Bill No. 263 of this session does not  
28 become effective.





