PROPOSED REGULATION OF THE

NEVADA TAX COMMISSION

LCB File No. R086-26

August 21, 2026

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

AUTHORITY: §§ 1, 5, 9-12 and 15, NRS 360.090 and 370.510; § 2, NRS 360.090, 370.50336, 370.510 and 370.597; § 3, NRS 360.090, 370.5032, 370.50321, 370.5034 and 370.510; § 4, NRS 360.090, 370.5033 and 370.510; § 6, NRS 360.090, 370.50331 and 370.510; § 7, NRS 360.090, 370.5034, 370.50341 and 370.510; § 8, NRS 360.090, 370.50335, 370.5034 and 370.510; §§ 13, 14 and 16, NRS 360.090, 370.50336, 370.510, 370.597 and 370.675.

A REGULATION relating to taxation; revising provisions governing administrative proceedings for the suspension or revocation of licenses relating to the distribution or sale of cigarettes or other tobacco products; establishing certain requirements for an application for a license as a remote retail seller to make remote retail sales of cigars or pipe tobacco to ultimate consumers in this State; establishing requirements for the sale of cigars or pipe tobacco by a remote retail seller located in this State; adopting requirements for a remote retail seller to verify that a purchaser of cigars or pipe tobacco is at least 21 years of age; establishing certain requirements relating to the monthly reports which a remote retail seller is required to submit to the Department of Taxation; requiring a remote retail seller to maintain and make available certain records for inspection by the Department; revising certain requirements governing operators of cigarette vending machines; establishing the time at which an electronically filed report, return or remittance is deemed to be received by the Department; revising provisions governing certain credits and refunds of the tax on other tobacco products; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain businesses that distribute or sell cigarettes and other tobacco products in this State to obtain a license from the Department of Taxation and pay a tax on the receipt, purchase or sale in this State of cigarettes and other tobacco products. (NRS 370.0318, 370.165, 370.350, 370.440, 370.450, 370.567) Assembly Bill No. 471 of the 2025 Legislative Session (A.B. 471) provided for the licensure and taxation of remote retail sellers that engage in the remote sale of cigars and pipe tobacco through means by which the cigars or pipe tobacco are delivered to the consumer through a remote sale. (NRS 370.5031-370.50341) Under A.B. 471, the tax on a remote retail sale of cigars or pipe tobacco is based on the actual price paid by the remote retail seller for an individual stock-keeping unit of cigars or pipe tobacco sold to an ultimate consumer in this State. (NRS 370.50311, 370.5034) Existing law authorizes the Department to adopt regulations: (1) establishing a procedure for the suspension and revocation of any tobacco license issued by the Department; and (2) for the administration and enforcement of existing law governing the licensing and taxation of businesses engaged in the distribution and sale of tobacco products. (NRS 370.50336, 370.510, 370.597)

Section 2 of this regulation defines the terms "license" and "licensee" for the purposes of existing regulations so that the same administrative procedures that apply to the suspension or revocation of a tobacco license issued by the Department will apply to the suspension or revocation of a license as a remote retail seller of cigars or pipe tobacco. (NAC 370.500-370.595) **Section 13** of this regulation applies the procedure for the Department to give notice of its intent to suspend or revoke certain tobacco licenses to all tobacco licenses, including, without limitation, remote retail seller licenses, issued by the Department. (NAC 370.540) **Section 13** also revises the period within which any tobacco licensee or manufacturer of tobacco products may demonstrate compliance with the law after the Department has provided certain notice of a violation. (NAC 370.540) **Section 16** of this regulation: (1) provides that a final order suspending or revoking a license as a remote retail seller of cigars or pipe tobacco becomes effective 20 days after the issuance of the final order; and (2) requires the remote retail seller to notify certain customers of the suspension or revocation of its license.

Section 3 of this regulation interprets the terms "stock-keeping unit" and "ultimate consumer" for the purposes of the tax imposed on a remote retail sale of cigars or pipe tobacco.

Section 4 of this regulation: (1) requires an applicant for a license as a remote retail seller to submit the information required by existing law to be included in the application and proof that the applicant has a permit or registration with the Department to collect and remit sales and use taxes for its sales to ultimate consumers in this State; and (2) establishes grounds on which the Department may refuse to issue a license to the remote retail seller.

Section 5 of this regulation prohibits a remote retail seller located in this State from making a remote retail sale of cigars or pipe tobacco unless the cigars or pipe tobacco being sold were acquired from a wholesale dealer licensed in this State or manufactured, produced, fabricated, assembled, processed, labelled or finished in this State by the remote retail seller.

Section 6 of this regulation establishes the requirements for the remote retail seller to verify that the purchaser of cigars or pipe tobacco is at least 21 years of age.

Section 7 of this regulation requires that: (1) a remote retail seller submit the required monthly report of its remote retails sales to ultimate consumers in this State on the form provided by the Department; (2) the monthly report include information concerning the number of remote retail sales and gross receipts from such sales in addition to certain information required by existing law; and (3) if the remote retail seller made not taxable sales for the month covered by the report, the retail seller submit the monthly report indicating that fact. (NRS 370.50341)

Section 8 of this regulation requires a remote retail seller, upon request, to provide access to and allow the Department to inspect the records required to be maintained by the remote seller. (NRS 370.50335)

Section 9 of this regulation clarifies terminology regarding employees of operators of cigarette vending machines who may be required by the Department to allow an inspection of a cigarette vending machine by an authorized representative of the Department. (NAC 370.100)

Section 10 of this regulation establishes that if any tobacco licensee electronically submits a report, return or remittance of a tax or fee payment to the Department using the Department's online portal, the report, return or remittance is deemed to be received by the Department on the date on which the report, return or remittance is submitted through the online portal.

Section 11 of this regulation clarifies a provision of existing regulations that provides for a credit or refund of taxes paid by a wholesaler dealer of tobacco products, other than cigarettes, when existing law authorizes certain credits or refunds of such taxes. (NRS 370.490, 370.503; NAC 370.165)

Sections 12 and 14 of this regulation revise terminology relating to the hearing officers appointed by the Nevada Tax Commission to conduct administrative proceedings relating to tobacco licensees and manufacturers of tobacco products.

Section 14 of this regulation requires notice of a hearing conducted as part of an administrative proceeding relating to a tobacco licensee or a manufacturer of tobacco products to be sent by electronic means unless the tobacco licensee or manufacturer of tobacco products has opted out of receiving notices from the Department by electronic means. **Section 15** further requires such notice to be provided not less than 10 days before the hearing rather than not less than 20 business days before the hearing.

Section 1. Chapter 370 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. ***For the purposes of this chapter, the term:***

1. "License" includes a license issued pursuant to NRS 370.5033 and a license issued pursuant to NRS 370.531 to 370.597, inclusive.

2. "Licensee" includes the holder of a licensed issued pursuant to NRS 370.5033 and the holder of a license issued pursuant to NRS 370.531 to 370.597, inclusive.

Sec. 3. ***As used in NRS 370.5031 to 370.50341, inclusive, and sections 2 to 8, inclusive, of this regulation, the Department will interpret the phrase:***

1. "Stock keeping unit" to mean a distinct item of cigars or pipe tobacco that is:

(a) Identified by a remote retail seller for the purposes of tracking, inventory, pricing, cost or sales; and

(b) Differentiated from other items by one or more characteristics, including, without limitation, brand, size, packaging or type of product.

2. "Ultimate consumer" to mean a person who purchases a cigar or pipe tobacco for personal use or consumption and not for resale.

Sec. 4. *1. In addition to satisfying the requirements of NRS 370.5033, an application for a license as a remote retail seller must be accompanied by proof that the applicant has:*

(a) Obtained from the Department a permit to engage in or conduct business as a seller within this State pursuant to NRS 360.5971; or

(b) Registered with the Department to collect and remit sales and use taxes pursuant to NRS 360B.200.

2. The Department may refuse to issue a license as a remote retail seller to an applicant if:

(a) The Department is prohibited from issuing the license pursuant to NRS 370.50331;

(b) The applicant for the license or any combination of persons directly or indirectly owning, in the aggregate, more than 10 percent of the ownership interests in the applicant:

(1) Is delinquent in the payment of any tax, penalty or fee administered by the Department;

(2) Is delinquent in any return that is required to be filed with the Department;

(3) Had a license revoked or had an equivalent license revoked in another jurisdiction within the past 2 years; or

(4) Has been convicted of a crime relating to the manufacture, distribution or sale of cigarettes or other tobacco products or a crime relating to the avoidance or evasion of taxes; or

(c) The issuance would result in the applicant conducting operations from a residential address, storage facility, mailbox or post office box.

Sec. 5. ***A remote retail seller located in this State shall not make a remote retail sale of cigars or pipe tobacco unless the remote retail seller:***

1. Acquired the cigars or pipe tobacco from a licensed wholesale dealer of other tobacco products; or

2. Manufactured, produced, fabricated, assembled, processed, labelled or finished the cigars or pipe tobacco in this State.

Sec. 6. ***1. Before completing a remote retail sale, a remote retail seller shall verify that the purchaser of a cigar or pipe tobacco is at least 21 years of age in accordance with subsection 2.***

2. A remote retail seller shall complete the age verification required by subsection 1 through an independent, third-party age verification service that compares information available from a commercially available database, or an aggregate of such databases, that is regularly used by governmental agencies and businesses for the purposes of age and identity verification to the personal information entered by the person during the ordering process to establish that the person is at least 21 years of age.

Sec. 7. ***1. Each remote retail seller shall submit the report required by NRS 370.50431 on a form provided by the Department. In addition to the information required by NRS 370.50431, a remote retail seller shall provide information concerning:***

(a) The cumulative gross receipts of the remote retail seller from remote retail sales of cigars or pipe tobacco, or both, by the remote retail seller to ultimate consumers in this State; and

(b) The total number of remote retail sales of cigars or pipe tobacco, or both, to ultimate consumers in this State.

2. If a remote retail seller does not make a taxable sale during the preceding month, the remote retail seller shall file with the Department a report pursuant to NRS 370.50431 indicating this fact.

Sec. 8. ***1. In addition to containing the information required by NRS 370.50335, the records maintained by a remote seller pursuant to that section must contain information concerning:***

(a) The cumulative gross receipts of the remote retail seller from remote retail sales of cigars or pipe tobacco, or both, by the remote retail seller to ultimate consumers in this State; and

(b) The total number of remote retail sales of cigars or pipe tobacco, or both, to ultimate consumers in this State.

2. Upon request, a remote retail seller shall provide access to and permit the Department to inspect all records maintained by the remote retail seller pursuant to this section and NRS 370.50335.

Sec. 9. NAC 370.100 is hereby amended to read as follows:

370.100 1. All packages or packets of cigarettes in each vending machine which has an opening or transparent panel through which a sampling of all of the brands of cigarettes are visible must be placed in the machine so that the cigarette revenue stamp is visible from the front of the machine.

2. On demand, an operator of cigarette vending machines shall allow any authorized representative of the Department to accompany any employee of the operator on ~~[his or her]~~ ***the*** route ~~[,]~~ ***of the employee,*** during business hours and on working days, and the employee or

operator shall open vending machines in control of the operator for inspection by the representative of the Department.

Sec. 10. NAC 370.120 is hereby amended to read as follows:

370.120 1. Any report, return or remittance to cover a payment required by NRS ~~[370.001]~~ ***370.007*** to ~~[370.430,]~~ ***370.50341,*** inclusive, ***that is submitted electronically through the online portal of the Department is deemed to be received by the Department when the report, return or remittance, as applicable, is submitted through the online portal of the Department.***

2. Any report, return or remittance to cover a payment required by NRS 370.007 to 370.50341, inclusive, which is transmitted through the United States mail ~~[,]~~ shall be deemed filed or received on the date shown by the postmark stamped upon the envelope containing it, as provided in NRS 238.100, or on the date it was mailed if other proof satisfactory to the Commission establishes that it was timely deposited in the United States mail, postage prepaid and properly addressed to the Commission.

~~[2.]~~ ***3.*** The date on a receipt for material sent by certified or registered mail, if different from the postmark, prevails if the date on the receipt is earlier than the date of the postmark.

~~[3.]~~ ***4.*** A record authenticated by the post office that the postmark on certain batches of mail was erroneous is proof satisfactory to the Commission that the mailing was made on a date other than the date of the postmark.

~~[4.]~~ ***5.*** If it is known that the postal service was inoperative at a certain time because of a strike, riot, warfare or act of God or for some other reason, the Commission will consider the circumstances, and if there is other evidence of timely mailing, will accept the evidence and deem the return or payment timely.

~~[5.]~~ ***6.*** A postmark affixed by a postage meter in the possession of the taxpayer or other person outside the post office will be disregarded as proof of the date mailed whenever it is contradicted by an official postmark stamped upon the envelope containing the payment. Unless corroborated, statements by a taxpayer or the taxpayer's employees are not sufficient to refute the postmark as the date of mailing.

Sec. 11. NAC 370.165 is hereby amended to read as follows:

370.165 1. The Department will allow a wholesale dealer a credit authorized by NRS 370.490 or a refund authorized by NRS 370.503 only if the wholesale dealer who files the claim for the credit or refund is the wholesale dealer who originally reported and paid the tax to the Department.

2. If, pursuant to subsection 1 of NRS 370.490, a wholesale dealer claims a credit for other tobacco products that may no longer be sold, the Department will allow the credit only if the wholesale dealer has not made a sale of the other tobacco products for which the credit is claimed.

3. If ~~[the basis for a claim by]~~ a wholesale dealer ~~[for]~~ ***claims*** a credit ~~[authorized by]~~ ***pursuant to*** NRS 370.490 or a refund ~~[authorized by]~~ ***pursuant to*** NRS 370.503 ~~[is]~~ ***based on*** a sale of other tobacco products ***,*** ~~[for which a credit is authorized by subsection 2 of NRS 370.490 or a refund is authorized by NRS 370.503,]~~ the Department will allow the credit or refund, as applicable, ***for*** only ~~[if the sale is]~~ the first sale of the other tobacco products by the wholesale dealer who originally reported and paid the tax to the Department. ~~[The Department will not allow such a]~~ ***No*** credit or refund ***shall be allowed*** for any subsequent sale of ~~[the]~~ other tobacco products.

Sec. 12. NAC 370.515 is hereby amended to read as follows:

370.515 "Hearing officer" means an administrative law judge appointed by the Commission ***to hear a case*** pursuant to ~~[subsection 4 of NAC 370.545.]~~ ***NAC 370.500 to 370.595, inclusive.***

Sec. 13. NAC 370.540 is hereby amended to read as follows:

370.540 1. When the Department has cause to believe that:

(a) ~~[The]~~ ***A*** license ~~[of a retail dealer or wholesale dealer]~~ should be temporarily suspended or permanently revoked; or

(b) A manufacturer of tobacco products and its brand families should be removed from the directory,

➥ the Department may issue a notice of intent to suspend or revoke the license or a notice of intent to remove the manufacturer and its brand families from the directory, as applicable.

2. A notice issued pursuant to subsection 1 must include:

(a) A statement of the legal authority for the suspension or revocation of the license or removal of the manufacturer and its brand families from the directory, as applicable;

(b) A statement of the facts which support the belief of the Department that the license should be suspended or revoked or that the manufacturer and its brand families should be removed from the directory, as applicable; and

(c) Except as otherwise provided in subsection 6, if the notice issued is:

(1) A notice of intent to suspend or revoke a license, a statement that the Department may issue a notice of hearing pursuant to NAC 370.545 if the licensee does not, within 10 ~~[business]~~ days after receipt of the notice issued pursuant to subsection 1, demonstrate to the satisfaction of the Department that the licensee is in full compliance with all lawful requirements for retention of the license; or

(2) A notice of intent to remove a manufacturer and its brand families from the directory, a statement that the Department may issue a notice of hearing pursuant to NAC 370.545 if the manufacturer does not, within 10 ~~[business]~~ days after receipt of the notice issued pursuant to subsection 1, demonstrate to the satisfaction of the Department that the manufacturer is in compliance with all applicable legal requirements necessary to remain listed in the directory.

3. A notice of intent to suspend or revoke a license must be served on the licensee by certified mail at the location mailing address identified by the licensee on the license application submitted by the licensee to the Department.

4. A notice of intent to remove a manufacturer of tobacco products and its brand families from the directory must be served on the manufacturer by certified mail at the address identified by the manufacturer in the most recent annual certification made by the manufacturer to the Attorney General pursuant to NRS 370A.160.

5. Any evidence to demonstrate compliance offered by a licensee or a manufacturer of tobacco products within the period described in subparagraph (1) or (2) of paragraph (c) of subsection 2 must be delivered in person or by certified mail to the employee of the Department identified in the notice served on the licensee or manufacturer.

6. If a licensee or manufacturer of tobacco products has received a notice issued pursuant to subsection 1, for any subsequent alleged violation of the same statutory provision during the 2-year period immediately following the issuance of such notice, the licensee or manufacturer is not entitled to the 10-day period to demonstrate compliance described in subparagraphs (1) and (2) of paragraph (c) of subsection 2 and the Department may immediately issue a notice of hearing pursuant to NAC 370.545.

Sec. 14. NAC 370.545 is hereby amended to read as follows:

370.545 1. If a licensee or manufacturer of tobacco products does not demonstrate compliance within the 10-day period described in subparagraph (1) or (2) of paragraph (c) of subsection 2 of NAC 370.540, or if, pursuant to subsection 6 of NAC 370.540, a licensee or manufacturer of tobacco products is not entitled to the 10-day period to demonstrate compliance, the Department may issue a notice of hearing.

2. A notice of hearing issued pursuant to this section must:

(a) State the date, time and location of the hearing, which may be held at an office of the Department or at such other place in this State as is designated in the notice;

(b) Include a statement of the legal authority for the suspension or revocation of the license or removal of the manufacturer and its brand families from the directory, as applicable;

(c) Identify the specific provision or provisions of chapter 370 or 370A of NRS which the Department alleges the licensee or manufacturer of tobacco products has violated;

(d) Include a statement of the facts which support the belief of the Department that the license should be suspended or revoked or that the manufacturer and its brand families should be removed from the directory, as applicable; and

(e) Include as attachments all documentary evidence on which the Department intends to rely to demonstrate that the licensee or manufacturer of tobacco products, as applicable, is in violation of the provision or provisions of chapter 370 or 370A of NRS identified pursuant to paragraph (c).

3. A notice of hearing issued pursuant to this section must be served on:

(a) All parties at least ~~[20 business]~~ ***10*** days before the date of the hearing;

(b) ~~[A]~~ ***Except as otherwise provided in this paragraph, a*** licensee by ***electronic means pursuant to NRS 360.231. If, pursuant to NRS 360.231, the licensee has opted out of receiving***

notices from the Department through electronic means, the notice of hearing must be served on the licensee by certified mail at the location mailing address identified by the licensee on the license application submitted by the licensee to the Department; and

(c) ~~[A]~~ ***Except as otherwise provided in this paragraph, a*** manufacturer of tobacco products by ***electronic means pursuant to NRS 360.231. If, pursuant to NRS 360.231, the manufacturer has opted out of receiving notices from the Department through electronic means, the notice of hearing must be served on the manufacturer by*** certified mail at the address identified by the manufacturer in the most recent annual certification made by the manufacturer to the Attorney General pursuant to NRS 370A.160.

~~[4. Upon the issuance of a notice of hearing by the Department pursuant to this section, the Commission will appoint an administrative law judge to act as a hearing officer.]~~

Sec. 15. NAC 370.570 is hereby amended to read as follows:

370.570 A hearing officer may, in ~~[his or her]~~ ***the*** discretion ~~[,]~~ ***of the hearing officer,*** either before or during a hearing, grant continuances or recesses.

Sec. 16. NAC 370.595 is hereby amended to read as follows:

370.595 ***1.*** If a final order issued by a hearing officer or the Commission temporarily suspends or permanently revokes the license of a wholesale dealer ~~[:~~

~~1. The]~~ ***or a remote retail seller, the*** final order must not become effective and the license of the wholesale dealer ***or remote retail seller, as applicable,*** must not be suspended or revoked until 20 ~~[business]~~ days after the date of issuance of the final order.

2. ~~[The wholesale dealer shall, within 5 business]~~ ***Within 7*** days after the date on which ~~[the]~~ ***a*** final order is issued ~~[:]~~ ***pursuant to subsection 1:***

(a) ~~[Notify]~~ ***A wholesale dealer whose license is suspended or revoked shall notify*** each retail dealer that is a customer of the wholesale dealer of the revocation or suspension of the license of the wholesale dealer and the date on which the revocation or suspension becomes effective ***.*** ~~[; and]~~

(b) ~~[Notify]~~ ***A remote retail seller whose license is suspended or revoked shall notify each ultimate consumer who has purchased any cigars or pipe tobacco from the remote retail seller of the revocation or suspension of the license of the remote retail seller and the date on which the revocation or suspension becomes effective.***

(c) A wholesale dealer or remote retail seller whose license is suspended or revoked shall notify each manufacturer of tobacco products from whom the wholesale dealer ***or remote retail seller, as applicable,*** purchases tobacco products of the revocation or suspension of the license of the wholesale dealer ***or remote retail seller, as applicable,*** and the date on which the revocation or suspension becomes effective.

3. Until the date on which the revocation or suspension of the license is effective, the wholesale dealer ***or remote retail seller, as applicable,*** may continue to engage in any lawful activity otherwise authorized or permitted pursuant to chapters 370 and 370A of NRS.

4. As used in this section, "wholesale dealer" includes a "wholesale dealer," as defined in NRS 370.563, and a "wholesale dealer of other tobacco products," as defined in NRS 370.565.