SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY NRS 233B.0608 and NRS 233B.0609

LCB File No. R082-26

1. Background

LCB File No. R082-26, establishes requirements related to taxation; creates provisions governing certain contested cases relating to holders of licenses relating to cigarette or other tobacco products and manufacturers of tobacco products; eliminates procedures for refunding precollected cigarette and other tobacco product taxes to Indian tribes; revises provisions governing administrative proceedings for the suspension or revocation of licenses relating to cigarette or other tobacco products or the removal of manufacturers of cigarettes and brand families from the directory of manufacturers and brand families maintained by the Department of Taxation; eliminates certain definitions and other provisions relating to cigarettes and other tobacco products; and provides other matters properly relating thereto.

Existing law requires the members of the Nevada Tax Commission to prescribe regulations for carrying on the business of the Commission and the Department of Taxation. (NRS 360.090) Existing regulations set forth various provisions governing the practice and procedure in contested cases before the Commission and Department. (NAC 360.043-360.200) **Section 2** of this regulation provides that, notwithstanding those provisions, each hearing of a contested case heard by the Commission and Department relating to disciplinary proceedings, disputes over property seized by or transmitted to the Department and appeals of civil penalties under existing law relating to tobacco licensees and manufacturers will be conducted in accordance with the provisions of the Nevada Administrative Procedure Act and regulations relating to contested cases involving tobacco licensees and manufacturers. **Sections 2-17** of this regulation set forth various provisions governing contested cases relating to tobacco licensees and manufacturers.

Sections 3 and 5 establish requirements governing pleadings and acknowledgments of service for certain documents, respectively. **Sections 4, 10 and 11** set forth evidentiary procedures in such proceedings. **Section 6** establishes requirements governing transcripts of proceedings, including, without limitation, stating the party responsible for furnishing a reporter and bearing associated costs. **Section 7** sets forth requirements governing ethical and courteous conduct during a proceeding. **Section 8** authorizes a hearing officer to hold a prehearing conference.

Section 9: (1) authorizes a hearing officer to issue a subpoena subject to certain restrictions; and (2) provides certain requirements that must be satisfied to obtain the subpoena. **Section 12** requires the Commission to assign a hearing officer to hear any appeal to the Commission in which certain parties have not received an evidentiary hearing. **Section 13**: (1) authorizes certain parties to request a closed hearing; and (2) sets forth requirements for making such a request. **Section 14** sets forth provisions governing the rehearing or reconsideration of a matter.

Sections 15 and 16 set forth the procedure for disputing the seizure of property seized by or transmitted to the Department under provisions of existing law authorizing the seizure and disposition of certain counterfeit, contraband or unlawfully used property relating to tobacco. **Section 17** sets forth the procedure for a tobacco licensee or manufacturer to appeal a civil penalty issued by the Department. **Section 21** of this regulation applies certain definitions to **sections 2-17**.

Existing law imposes a tax on cigarettes and other tobacco products. (Chapter 370 of NRS) Existing law authorizes a refund for the taxes paid on cigarettes or other tobacco products for cigarettes or other tobacco products that are sold to: (1) any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed that is equal to or greater than the rate of tax imposed pursuant to provisions of existing law; or (2) an Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the tax imposed pursuant to provisions of existing law. (NRS 370.280, 370.503; NAC 370.230) Existing law prohibits the Department from collecting the tax on cigarettes and other tobacco products sold on an Indian reservation or Indian colony if the governing body of the reservation or colony imposes an excise tax on cigarettes and other tobacco products that is equal to or greater than the tax imposed by provisions of existing law and the governing body submits a copy of the ordinance imposing the tax to the Department. (NRS 370.515) **Sections 20 and 32** of this regulation eliminate provisions which set forth procedures for an Indian tribe to apply for and receive a refund from the Department of the tax on cigarettes and other tobacco products.

Existing law provides for the licensing by the Department of persons engaged in the manufacture, distribution and sale of cigarettes and other tobacco products, including persons who operate a warehouse or distribution center or who conduct business as a manufacturer, a wholesale dealer of cigarettes, a wholesale dealer of other tobacco products, a tobacco retail dealer, a cigarette vending machine operator or a logistics company. (NRS 370.531-370.597)

Existing law authorizes the Department to suspend or revoke such licenses and to adopt regulations establishing a procedure for the suspension and revocation of a license. (NRS 370.595, 370.597) Existing law also requires the Department to maintain a directory of manufacturers of tobacco products who have made current and accurate certifications to the Department concerning the manufacturer and its brand families. Existing law further requires the Department to update the directory and to remove from the directory any manufacturer and its brand families that do not conform to the requirements for listing in the directory. (NRS 370.675)

Existing regulations establish procedures for the suspension and revocation of the license of a retail dealer or wholesale dealer and the removal of a manufacturer of tobacco products and its brand families from the directory. (NAC 370.500-370.595) **Section 22** of this regulation applies the procedures for the suspension or revocation of the license of a retail dealer or wholesale dealer to the suspension or revocation of any of the licenses issued pursuant to chapter 370 of NRS. **Sections 22-26, 28 and 31** of this regulation revise the timeline for such procedures by changing: (1) the amount of time licensees and manufacturers have to demonstrate compliance with the law after the Department issues a notice of intent to suspend or revoke a license or remove a manufacturer and its brand families from the directory, as applicable; (2) when a notice of hearing must be served relative to the date of the hearing; (3) the deadline for a respondent to submit supporting documents before the hearing; (4) the deadline for serving any motion not made at the hearing; (5) the deadline for a hearing officer to issue **their** ~~his or her~~ decision and for a party to appeal that decision; and (6) when a final order suspending or revoking a license of a wholesale dealer of cigarettes or a wholesale dealer of other tobacco products becomes effective and the amount of time a wholesale dealer has to notify the retail dealers and manufacturers with whom the wholesale dealer does business of the suspension or revocation.

Existing regulations prescribe the order of proceedings for a hearing conducted to suspend or revoke the license of a licensee or to remove a manufacturer of tobacco products and its brand families from the directory. (NAC 370.580) **Section 28** provides that evidence at the hearing may be received in any manner ordered by the hearing officer, but that a hearing will ordinarily proceed in the prescribed order.

Existing regulations authorize a party to file a notice of appeal with the **Department** ~~Commission~~ within 20 business days after service of a decision issued by a hearing officer regarding the suspension or revocation of a license or the removal of a manufacturer of tobacco products and its brand families from the directory. Existing regulations authorize an opposing party to file a response to the notice of appeal. (NAC 370.585) Existing regulations provide that, in hearing such an appeal, the Commission will consider only evidence which was submitted to the hearing officer and identified in the notice of appeal or response to the notice of appeal. (NAC 370.590) **Section 29** of this regulation requires a notice of appeal, if any, to be filed within 30 days after service of the decision of the hearing officer and revises the information which is required to be included in a notice of appeal. **Section 29** requires an appellant to file, within 30 days after filing the notice of appeal, an opening brief which includes certain information previously required to be included in the notice of appeal. **Sections 29 and 30** of this regulation make conforming changes to provide that an opposing party may respond, in the form of an answering brief, to issues raised in the opening brief of the appellant rather than the notice of appeal. **Section 30** provides that the Commission will consider only evidence which was identified in the opening brief or answering brief. **Section 30** increases the amount of time each party has for oral argument before the Commission.

Sections 18, 19 and 20 of this regulation replace references to “other products made from tobacco” and “products made from tobacco, other than cigarettes” with the term “other tobacco products” to conform with the terminology used in provisions of existing law. (NRS 370.0318, as amended by section 4 of Assembly Bill No. 471, chapter 477, Statutes of Nevada 2025, at page 3131)

2. **A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

   The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R082-26. The proposed language and questionnaire were dispersed to the following:

   - Emailed by the Department 212 members of its interested parties list.
   - Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

   The content responses are summarized below:

   - One response was received for LCB Draft of Proposed Regulation - File No. R082-26. The respondent commented their support of the adoption of R082-26 as proposed and acknowledged there is no negative impact.

   Anyone interested in obtaining a copy of the completed small business impact questionnaire used for this summary can contact:

   Kari Skalsky
   Nevada Department of Taxation
   3850 Arrowhead Drive
   Carson City, NV 89706
   kskalsky@tax.state.nv.us
   Phone: (775) 684-2041

3. **The manner in which the analysis was conducted, including the methods used to determine the impacts of the proposed regulation on small businesses.**

   One response was received for LCB Draft of Proposed Regulation R082-26 for the questionnaire regarding the impact of the regulation on small businesses. The respondent commented their support of the adoption of R082-26 as proposed and acknowledged there is no negative impact. Accordingly, the Department analyzed the proposed language and used informed, reasonable judgment in determining that there will not be an impact on small businesses.

4. **The estimated economic effect of the proposed regulation on the small businesses which it is to regulate:**

   <u>Adverse and Beneficial Effects</u>

   The Department finds that there is no reasonable, foreseeable or anticipated adverse or beneficial economic effect on small businesses.

Direct and Indirect Effects

The Department finds that there is no reasonable, foreseeable or anticipated direct or indirect economic effect on small businesses.

5. **A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R082-26. The proposed language and questionnaire were dispersed to the following:

- Emailed by the Department 212 members of its interested parties list.
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

One response was received for LCB Draft of Proposed Regulation R082-26 for the questionnaire regarding the impact of the regulation on small businesses. The respondent commented their support of the adoption of R082-26 as proposed and acknowledged there is no negative impact. The Department determined there was no impact on small businesses.

6. **The estimated cost to the agency for enforcement of the proposed regulation.**

The proposed regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement.

7. **If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The proposed permanent regulation does not include new fees or increase an existing fee.

8. **If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions arc necessary.**

The proposed regulation does not overlap or duplicate any regulation of other federal, state or local government entities.

9. **The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

The Department has determined that there will be no adverse impacts to small businesses based on its analysis of the proposed regulations.

I hereby certify, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was properly prepared, and the information contained herein is accurate.

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Shellie Hughes, Executive Director
August 26, 2026