



STATE OF NEVADA
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May 5, 2015

The Honorable Michael Roberson, Chair
Senate Committee on Revenue and Economic Development
Nevada Senate
401 South Carson Street
Carson City, NV 89701-4747

Re: AB 83

Dear Mr. Roberson:

The Office of the Attorney General requests your support for AB 83. This bill revises NRS Chapter 370, which regulates the manufacture and sale of tobacco products in Nevada. By way of a very brief background, in 1998 Nevada entered into the Tobacco Master Settlement Agreement, or MSA, which resolved health-related lawsuits between the nation's largest tobacco manufacturers and fifty-two U.S. states and territories. In exchange for the receipt of annual MSA payments, the State of Nevada must demonstrate diligence in the regulation and enforcement of the manufacture and sale of tobacco products in our state.

Sections 2, 5, 7 and 9 of this bill expand the statutory definition of "manufacturer" to provide for the licensing and regulation of persons manufacturing cigarettes using commercial grade cigarette rolling machines. Nevada law currently does not mirror federal law with regard to 'Roll Your Own' (RYO) machines. These are commercial grade machines where the paper and loose tobacco are inserted into the machine and output is generally 1 pack of cigarettes per minute. The rolled cigarettes that come from RYO machines avoid the federal excise tax placed on cigarettes, the state excise tax placed on cigarettes, and payments owed as manufacturers under the MSA. Since 2012, in order to operate commercial grade RYO machines a person must be licensed as a manufacturer of tobacco products with the Alcohol and Tobacco Tax and Trade Bureau. Nevada does not currently have any similar law, although there are still commercial RYO machines operating in the State. These amendments will allow Nevada investigators to inspect establishments operating RYO machines and seize equipment if it is not in compliance with state law. This licensing requirement will apply

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to commercial grade machines only and will exclude those smaller machines used at private residences for personal consumption.

Sections 3 and 10 of the bill create an exception to the business license requirement for those tobacco companies who are required by law to maintain a registered agent in the State, but otherwise have no contacts. Under NRS 76.100(6), a person is deemed to be conducting business in the State of Nevada if they have a registered agent and as such, needs to obtain a Nevada business license. Tobacco manufacturers are required under state law, specifically NRS 370.680, to either register as a foreign corporation or other business entity or appoint a registered agent in the State. These two statutes conflict in that NRS 370.680 allows for a tobacco manufacturer to have either a registered agent or business license in the State and NRS 76.100 requires a business license if a registered agent is named. The current reading of NRS 76.100 would compel tobacco manufacturers to obtain a Nevada business license because they have a registered agent, as required under NRS 370.680, although they have no contacts with the State, to include physical buildings or employees. The proposed exception does not apply to those tobacco manufacturers who ship directly into the State or otherwise have minimum contacts with the State which necessitate a business license.

The remaining sections of the bill do not make substantive changes but merely revise existing statutes to comport with the changes identified above.

Thank you for your consideration of this bill. If you have any questions, please do not hesitate to contact me at 688-1966 or bkandt@ag.nv.gov.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By:



Brett Kandt
Special Assistant Attorney General

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cc: Senate Committee on Revenue and Economic Development