

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Senate Committee on Revenue and Economic Development
This measure may be considered for action during today's work session.
May 14, 2015

ASSEMBLY BILL 83 (1st Reprint)

Revises provisions relating to tobacco. (BDR 32-175)

**Sponsored by: Assembly Committee on Taxation
(on behalf of the Attorney General)**

Date Heard: May 8, 2015

**Fiscal Impact: Effect on Local Government: Increases or Newly Provides
for Term of Imprisonment in County or City Jail or
Detention Facility.
Effect on the State: Yes.**

Summary

Assembly Bill 83, in its first reprint, expands the definition of "manufacturer" for the purposes of the regulation of cigarettes and other tobacco products to include certain persons who produce, fill, roll, dispense, or otherwise manufacture cigarettes using certain commercial-grade cigarette rolling machines. The bill requires that a manufacturer must obtain a license from the Department of Taxation in order to operate a rolling machine for commercial purposes, and additionally provides for the seizure and destruction of a rolling machine that is operated illegally.

Assembly Bill 83 also removes provisions requiring certain tobacco manufacturers who are required to maintain a registered agent in Nevada solely to comply with the provisions of NRS 370.680 from the requirement to obtain a state business license from the Secretary of State's Office.

Testimony

Brett Kandt, Special Assistant Attorney General, and Hillary Bunker, Senior Deputy Attorney General, provided introductory remarks and testified in support of Assembly Bill 83.

Additional testimony in support of Assembly Bill 83 was provided by:

- Michael Hackett, representing the Nevada Tobacco Prevention Coalition

There was no testimony presented in opposition to the bill, and there was also no testimony offered as neutral to the bill.

Amendments

Subsequent to the hearing on the bill, staff received the attached proposed amendment submitted by Mr. Kandt and Ms. Bunker on behalf of the Attorney General's Office. Pursuant to the proposed amendment, NRS 370A.157 would be deleted in its entirety

for the purpose of maintaining consistency with the remaining statutes in NRS Chapters 370 and 370A for tobacco manufacturers.

The provisions of NRS 370A.157, enacted pursuant to SB 516 of the 2013 Legislative Session, are as follows:

NRS 370A.157 Release of money deposited into escrow to Indian tribes.

1. The State may release to an Indian tribe, pursuant to a compact with that tribe, not more than 50 percent of the amounts deposited into a qualified escrow fund pursuant to [NRS 370A.140](#) for cigarettes sold on or after January 1, 2015, in a retail transaction to a consumer on the qualified tribal land of the tribe, if:

(a) The tribe is a federally recognized tribe or a tribe that was recognized by the State on or before January 1, 2012, and, in each case, has a reservation or colony in the State;

(b) The money to be released was timely deposited into escrow in compliance with [NRS 370A.140](#);

(c) State excise tax or tribal excise tax was paid on the cigarettes;

(d) The release occurs not earlier than 1 year after the money is deposited into escrow;

(e) The money released is provided to the tribe itself and used only for the purpose of public safety on the qualified tribal land of the tribe or for social services for tribal members, including, without limitation, health care or education, and not used for any function that could directly or indirectly promote or reduce the costs of cigarette production, marketing or sales;

(f) The money released is not used in any way for the benefit of any manufacturer of tobacco products that is not a participating manufacturer under the Master Settlement Agreement or to facilitate cigarette sales by any such manufacturer of tobacco products; and

(g) The compact with the tribe provides that the taxing and stamping requirements and policies for cigarettes sold on the qualified tribal land of the tribe, including the applicability, amount, collection and refund of taxes, will not be different for any cigarettes of participating manufacturers than for any cigarettes of manufacturers of tobacco products that are not participating manufacturers, and the tribe is in compliance with these provisions of the compact.

2. The total amount released to all Indian tribes from escrow pursuant to this section in any 1 year must not exceed \$1 million in the aggregate.

3. This section applies only to:

(a) The cigarettes of a manufacturer of tobacco products that existed in the United States market on or before June 1, 2012; and

(b) A manufacturer of tobacco products involved in the production, distribution or sale of the cigarettes for which money would be released that is not a manufacturer, or an affiliate or successor of such manufacturer, affiliated with the Indian tribe or any member of the tribe to which the money would be released.

4. For the purposes of this section, an Indian tribe with qualified tribal land located in more than one state or territory of the United States is considered to have a reservation or colony in, and to be eligible for the release of money pursuant to this section from, this State only if the largest portion of the qualified tribal land of the tribe is located within this State.

5. The Attorney General may withdraw from a qualified escrow fund the money released pursuant to this section. The manufacturers of tobacco products that elect to deposit money into a qualified escrow fund pursuant to [NRS 370A.140](#) and the financial institutions in which such qualified escrow funds are maintained shall make such amendments to their qualified escrow agreements as may be necessary to effectuate a withdrawal of money from the qualified escrow funds pursuant to this section.

6. Notwithstanding the provisions of [NRS 370A.150](#), a manufacturer of tobacco products does not have any right to reversion of the money, including, without limitation, the interest or other appreciation earned on the money, released from escrow pursuant to this section.

7. If a court of competent jurisdiction invalidates the provisions of subsection 5, the money authorized to be released to Indian tribes pursuant to this section may be paid to the appropriate tribes out of the State General Fund, subject to all conditions and limits provided in this section.

8. The Attorney General is authorized to enter into compacts on behalf of the State as provided in this section. Any compact so entered into must require the Indian tribe to verify that the conditions set forth in paragraphs (e), (f) and (g) of subsection 1 are met.

(Added to NRS by [2013, 2664](#))

ATTACHMENT (1 PAGE)

PROPOSED AMENDMENTS TO AB 83

Contact information:

Brett Kandt
Special Assistant Attorney General
688-1966 or bkandt@ag.nv.gov
100 N. Carson Street
Carson City, NV 89701

Hillary Bunker
Deputy Attorney General
Office of the Nevada Attorney General
Bureau of Litigation
Tobacco Enforcement Unit
684-1209 or hbunker@ag.nv.gov
100 N. Carson Street
Carson City, NV 89701

PROPOSE TO AMEND BILL AS FOLLOWS:

Amendment #1:

Amend the bill by adding a new section thereto deleting NRS 370A.157 in its entirety.

Purpose of amendment: Maintain consistency with the remaining statutes in NRS Chapters 370 and 370A for tobacco manufacturers.