
SENATE BILL NO. 79—COMMITTEE ON REVENUE
AND ECONOMIC DEVELOPMENT

(ON BEHALF OF THE DEPARTMENT OF TAXATION)

PREFILED DECEMBER 20, 2014

Referred to Committee on Revenue and
Economic Development

SUMMARY—Provides for the regulation and taxation of liquid
nicotine. (BDR 32-307)

FISCAL NOTE: 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.

~

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

AN ACT relating to nicotine products; providing for the regulation
and taxation of liquid nicotine; providing penalties; and
providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes the Department of Taxation to regulate and collect a tax
2 on cigarettes and other tobacco products. (Chapter 370 of NRS) This bill provides
3 for the regulation and taxation of liquid nicotine. This bill further revises provisions
4 governing the regulation and taxation of cigarettes and other tobacco products to
5 clarify that the undefined term “product made from tobacco, other than cigarettes”
6 is synonymous with the defined term “other tobacco product” by replacing each
7 instance of the former term with the latter throughout the provisions governing the
8 regulation and taxation of cigarettes and other tobacco products.

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

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

3 *“Liquid nicotine” means any liquid or other solution*
4 *containing any form of nicotine, including, without limitation, any*



1 *salt or complex thereof, regardless of whether the nicotine is*
2 *naturally or synthetically derived.*

3 **Sec. 2.** NRS 370.001 is hereby amended to read as follows:
4 370.001 As used in NRS 370.001 to 370.430, inclusive, *and*
5 *section 1 of this act, and 370.505 to 370.530, inclusive,* unless the
6 context otherwise requires, the words and terms defined in NRS
7 370.005 to 370.055, inclusive, *and section 1 of this act* have the
8 meanings ascribed to them in those sections.

9 **Sec. 3.** NRS 370.025 is hereby amended to read as follows:
10 370.025 “Contraband tobacco products” means any:

11 1. Counterfeit cigarettes;
12 2. Other counterfeit tobacco product;
13 3. Cigarettes or “roll-your-own” tobacco offered for sale in this
14 State by a manufacturer, or cigarettes or “roll-your-own” tobacco of
15 a brand family, that is not listed in the directory created pursuant to
16 NRS 370.675;

17 4. Cigarettes bearing a tribal stamp issued by the Department
18 which are sold or offered for sale at a retail location that is not
19 located on qualified tribal land; or

20 5. Cigarettes, ~~or~~ other tobacco product ~~or~~ *or liquid nicotine:*
21 (a) Exported from or imported into this State, or mailed,
22 shipped, delivered, sold, exchanged, transported, distributed or held
23 for distribution within the borders of this State by any person in
24 violation of any of the provisions of this chapter;

25 (b) In any way held in the possession or constructive possession
26 of any person not authorized under this chapter to possess or
27 constructively possess the cigarettes, ~~or~~ other tobacco product ~~or~~
28 *or liquid nicotine; or*

29 (c) Being offered for sale in any form other than in an unopened
30 package in violation of subsection 1 of NRS 202.2493.

31 **Sec. 4.** NRS 370.0317 is hereby amended to read as follows:
32 370.0317 “Other counterfeit tobacco product” means any other
33 tobacco product, *liquid nicotine* or tobacco product package
34 bearing a false manufacturing label.

35 **Sec. 5.** NRS 370.052 is hereby amended to read as follows:
36 370.052 “Tobacco product package” means the individual
37 pack, box or other container that contains any other tobacco product
38 ~~or~~ *or liquid nicotine.* The term does not include a container that
39 itself contains other containers.

40 **Sec. 6.** NRS 370.085 is hereby amended to read as follows:
41 370.085 The Department shall create and maintain on its
42 Internet website and otherwise make available for public inspection
43 a list of all:

44 1. Currently valid licenses and the identity of the licensees
45 holding those licenses; and



2. Indian tribes on whose reservations or colonies cigarettes , ~~for~~ other *tobacco* products ~~made from tobacco are~~ *or liquid nicotine is* sold and, pursuant to NRS 370.515, from which the Department does not collect the tax imposed by this chapter on such cigarettes , ~~for~~ other *tobacco* products ~~made from tobacco~~ *or liquid nicotine* sold on the reservations or colonies.

↳ The Department shall update the list at least once each month.

Sec. 7. NRS 370.415 is hereby amended to read as follows:

370.415 1. The Department, its agents, sheriffs within their respective counties and all other peace officers of the State of Nevada shall seize any counterfeit stamps and any contraband tobacco products and machinery used to manufacture contraband tobacco products, found or located in the State of Nevada.

2. A sheriff or other peace officer who seizes stamps, contraband tobacco products or machinery pursuant to this section shall provide written notification of the seizure to the Department not later than 5 working days after the seizure. The notification must include the reason for the seizure.

3. After consultation with the Department, the sheriff or other peace officer shall transmit the contraband tobacco products to the Department if:

(a) The contraband tobacco products consist of cigarettes and:

(1) Except for revenue stamps or metered machine impressions being properly affixed as required by this chapter, the cigarettes comply with all state and federal statutes and regulations; and

(2) The Department approves the transmission of the cigarettes; or

(b) The contraband tobacco products consist of any other tobacco products *or liquid nicotine* and the Department approves the transmission of the other tobacco products ~~and~~ *or liquid nicotine*.

4. Upon the receipt of any:

(a) Cigarettes pursuant to subsection 3, the Department shall dispose of the cigarettes as provided in subsection 4 of NRS 370.270; or

(b) Other tobacco products *or liquid nicotine* pursuant to subsection 3, the Department shall:

(1) Sell the other tobacco products *or liquid nicotine* to the highest bidder among the licensed wholesale dealers in this State after due notice to all licensed Nevada wholesale dealers has been given by mail to the addresses contained in the Department's records; or

(2) If there is no bidder, or in the opinion of the Department the quantity of the other tobacco products *or liquid nicotine* is insufficient, or for any other reason such disposition would be



1 impractical, destroy or dispose of the other tobacco products *or*
2 *liquid nicotine* as the Department may see fit.

3 ↪ The proceeds of all sales pursuant to this paragraph must be
4 classed as revenues derived under the provisions of NRS 370.440 to
5 370.503, inclusive.

6 5. The sheriff or other peace officer who seizes any stamps,
7 contraband tobacco products or machinery pursuant to this section
8 shall:

9 (a) Destroy the stamps and machinery; and

10 (b) If he or she does not transmit the contraband tobacco
11 products to the Department, destroy the contraband tobacco
12 products.

13 **Sec. 8.** NRS 370.440 is hereby amended to read as follows:

14 370.440 As used in NRS 370.440 to 370.503, inclusive, unless
15 the context otherwise requires:

16 1. "*Liquid nicotine*" has the meaning ascribed to it in section
17 *1 of this act.*

18 2. "*Other tobacco product*" has the meaning ascribed to it in
19 *NRS 370.0318.*

20 3. "Retail dealer" means any person who is engaged in selling
21 *other tobacco* products ~~[made from tobacco, other than cigarettes, to~~
22 ~~customers.~~
23 ~~—2.] or liquid nicotine.~~

24 4. "Sale" means any transfer, exchange, barter, gift, offer for
25 sale, or distribution for consideration of *other tobacco* products
26 ~~[made from tobacco, other than cigarettes.~~
27 ~~—3.] or liquid nicotine.~~

28 5. "Ultimate consumer" means a person who purchases ~~[a]~~ *an*
29 *other tobacco* product ~~[made from tobacco, other than cigarettes,] or~~
30 *liquid nicotine* for his or her household or personal use and not for
31 resale.

32 ~~[4.]~~ 6. "Wholesale dealer" means any person who:

33 (a) Brings or causes to be brought into this State *other tobacco*
34 products ~~[made from tobacco, other than cigarettes,] or liquid~~
35 *nicotine* purchased from the manufacturer or a wholesale dealer and
36 who stores, sells or otherwise disposes of ~~[those]~~ *such other*
37 *tobacco* products *or liquid nicotine* within this State;

38 (b) Manufactures or produces *other tobacco* products ~~[made~~
39 ~~from tobacco, other than cigarettes,] or liquid nicotine~~ within this
40 State and who sells or distributes ~~[those]~~ *such other tobacco*
41 products *or liquid nicotine* within this State to other wholesale
42 dealers, retail dealers or ultimate consumers; or

43 (c) Purchases *other tobacco* products ~~[made from tobacco, other~~
44 ~~than cigarettes,] or liquid nicotine~~ solely for the purpose of bona



1 fide resale to retail dealers or to other persons for the purpose of
2 resale only.

3 ~~[5.]~~ 7. "Wholesale price" means:

4 (a) Except as otherwise provided in paragraph (b), the
5 established price for which ~~[a]~~ *an other tobacco* product ~~[made~~
6 ~~from tobacco, other than cigarettes,]~~ *or liquid nicotine* is sold to a
7 wholesale dealer before any discount or other reduction is made.

8 (b) For ~~[a]~~ *an other tobacco* product ~~[made from tobacco, other~~
9 ~~than cigarettes,]~~ *or liquid nicotine* sold to a retail dealer or an
10 ultimate consumer by a wholesale dealer described in paragraph (b)
11 of subsection ~~[4.]~~ 6, the established price for which the *other*
12 *tobacco* product *or liquid nicotine* is sold to the retail dealer or
13 ultimate consumer before any discount or other reduction is made.

14 **Sec. 9.** NRS 370.450 is hereby amended to read as follows:

15 370.450 1. Except as otherwise provided in subsection 2,
16 there is hereby imposed upon the purchase or possession of *other*
17 *tobacco* products ~~[made from tobacco, other than cigarettes,]~~ *and*
18 *liquid nicotine* by a customer in this State a tax of 30 percent of the
19 wholesale price of ~~[those]~~ *such other tobacco* products ~~[.]~~ *and*
20 *liquid nicotine*.

21 2. The provisions of subsection 1 do not apply to ~~[those]~~ *other*
22 *tobacco* products *or liquid nicotine* which ~~[are:]~~ *is*:

23 (a) Shipped out of the State for sale and use outside the State;

24 (b) Displayed or exhibited at a trade show, convention or other
25 exhibition in this State by a manufacturer or wholesale dealer who is
26 not licensed in this State; or

27 (c) Acquired free of charge at a trade show, convention or other
28 exhibition or public event in this State, and which do not have
29 significant value as determined by the Department by regulation.

30 3. This tax must be collected and paid by the wholesale dealer
31 to the Department, in accordance with the provisions of NRS
32 370.465, after the sale or distribution of ~~[those]~~ *the other tobacco*
33 *products or liquid nicotine* by the wholesale dealer. The wholesale
34 dealer is entitled to retain 0.25 percent of the taxes collected to
35 cover the costs of collecting and administering the taxes if the taxes
36 are paid in accordance with the provisions of NRS 370.465.

37 4. Any wholesale dealer who sells or distributes ~~[any of those]~~
38 *other tobacco* products *or liquid nicotine* without paying the tax
39 provided for by this section is guilty of a misdemeanor.

40 **Sec. 10.** NRS 370.460 is hereby amended to read as follows:

41 370.460 It is unlawful for any person to sell or offer to sell
42 ~~[any]~~ *other tobacco* products ~~[made from tobacco, other than~~
43 ~~cigarettes,]~~ *or liquid nicotine* on which the tax is not paid as
44 provided for in NRS 370.450.



1 **Sec. 11.** NRS 370.465 is hereby amended to read as follows:
2 370.465 1. A wholesale dealer shall, not later than 20 days
3 after the end of each month, submit to the Department a report on a
4 form prescribed by the Department setting forth each sale of *other*
5 *tobacco* products ~~[made from tobacco, other than cigarettes,]~~ or
6 *liquid nicotine* that the wholesale dealer made during the previous
7 month.

8 2. Each report submitted pursuant to this section on or after
9 August 20, 2001, must be accompanied by the tax owed pursuant to
10 NRS 370.450 for *other tobacco* products ~~[made from tobacco, other~~
11 ~~than cigarettes,]~~ and *liquid nicotine* that were sold by the wholesale
12 dealer during the previous month.

13 3. The Department may impose a penalty on a wholesale dealer
14 who violates any of the provisions of this section as follows:

- 15 (a) For the first violation within 7 years, a fine of \$1,000.
- 16 (b) For a second violation within 7 years, a fine of \$5,000.
- 17 (c) For a third or subsequent violation within 7 years, revocation
18 of the license of the wholesale dealer.

19 **Sec. 12.** NRS 370.470 is hereby amended to read as follows:

20 370.470 A wholesale dealer must obtain from each
21 manufacturer or wholesale dealer who is not licensed in this State
22 itemized invoices of all *other tobacco* products ~~[made from tobacco,~~
23 ~~other than cigarettes,]~~ and *liquid nicotine* purchased from and
24 delivered by the manufacturer or wholesale dealer who is not
25 licensed in this State. The wholesale dealer must obtain from the
26 manufacturer or wholesale dealer who is not licensed in this State
27 separate invoices for each purchase made. The invoice must include:

- 28 1. The name and address of the manufacturer or wholesale
29 dealer who is not licensed in this State;
- 30 2. The name and address of the wholesale dealer;
- 31 3. The date of the purchase; and
- 32 4. The quantity and wholesale price of ~~[those]~~ *the other*
33 *tobacco* products ~~[,]~~ and *liquid nicotine*.

34 **Sec. 13.** NRS 370.480 is hereby amended to read as follows:

35 370.480 1. Every wholesale dealer must keep at its place of
36 business complete and accurate records for that place of business,
37 including copies of all invoices of *other tobacco* products ~~[made~~
38 ~~from tobacco, other than cigarettes,]~~ and *liquid nicotine* which the
39 wholesale dealer holds, purchases and delivers, distributes or sells in
40 this State. All records must be preserved for at least 3 years after the
41 date of purchase or after the date of the last entry made on the
42 record.

43 2. Every retail dealer shall keep at its place of business
44 complete and accurate records for that place of business, including
45 copies of all itemized invoices or purchases of ~~[such]~~ *other tobacco*



1 products *and liquid nicotine* purchased and delivered from
2 wholesale dealers. The invoices must show the name and address of
3 the wholesale dealer and the date of the purchase. All records must
4 be preserved for at least 3 years after the date of the purchase.

5 **Sec. 14.** NRS 370.490 is hereby amended to read as follows:

6 370.490 1. The Department shall allow a credit of 30 percent
7 of the wholesale price, less a discount of 0.25 percent for the
8 services rendered in collecting the tax, for *other tobacco* products
9 ~~[made from tobacco, other than cigarettes, upon]~~ *and liquid nicotine*
10 *on* which the tax has been paid pursuant to NRS 370.450 and that
11 may no longer be sold. If the *other tobacco* products ~~[have]~~ *or*
12 *liquid nicotine has* been purchased and delivered, a credit memo of
13 the manufacturer is required for proof of returned merchandise.

14 2. A credit must also be granted for any *other tobacco* products
15 ~~[made from tobacco, other than cigarettes.]~~ *or liquid nicotine*
16 shipped from this State and destined for retail sale and consumption
17 outside the State on which the tax has previously been paid. A
18 duplicate or copy of the invoice is required for proof of the sale
19 outside the State.

20 3. A wholesale dealer may claim a credit by filing with the
21 Department the proof required by this section. The claim must be
22 made on a form prescribed by the Department.

23 **Sec. 15.** NRS 370.501 is hereby amended to read as follows:

24 370.501 1. The governing body of an Indian reservation or
25 Indian colony may impose an excise tax on any *other tobacco*
26 product ~~[made from tobacco, other than cigarettes.]~~ *or liquid*
27 *nicotine* sold on the reservation or colony.

28 2. If an excise tax is imposed, the governing body may
29 establish procedures for collecting the excise tax from any retail
30 dealer authorized to do business on the reservation or colony.

31 **Sec. 16.** NRS 370.503 is hereby amended to read as follows:

32 370.503 1. Upon proof satisfactory to the Department and
33 subject to the requirements of NRS 360.236, a refund must be
34 allowed for the taxes paid pursuant to NRS 370.450 ~~[-, upon]~~ *on*
35 *other tobacco* products ~~[made from tobacco other than cigarettes.]~~
36 *and liquid nicotine* that are sold to:

37 (a) The United States Government for the purposes of the Army,
38 Air Force, Navy or Marine Corps and are shipped to a point within
39 this State to a place which has been lawfully ceded to the United
40 States Government for the purposes of the Army, Air Force, Navy
41 or Marine Corps;

42 (b) Veterans' hospitals for distribution or sale to service
43 personnel with disabilities or ex-service personnel with disabilities
44 interned therein, but not to civilians or civilian employees;



1 (c) Any person if sold and delivered on an Indian reservation
2 or colony where an excise tax has been imposed which is equal to or
3 greater than the rate of the tax imposed pursuant to NRS 370.501; or

4 (d) An Indian if sold and delivered on an Indian reservation
5 or colony where no excise tax has been imposed or the excise tax is
6 less than the rate of the tax imposed pursuant to NRS 370.501.

7 2. Any refund must be paid as other claims against the State
8 are paid.

9 **Sec. 17.** NRS 370.505 is hereby amended to read as follows:

10 370.505 1. A retail dealer shall pay a wholesale dealer for all
11 cigarettes , ~~and~~ other tobacco products *and liquid nicotine*
12 purchased from the wholesale dealer:

13 (a) If the cigarettes , ~~or~~ other tobacco products ~~were~~ *or liquid*
14 *nicotine was* delivered to the retail dealer on or after the 1st day of
15 the month but before the 16th day of the month, on or before the
16 29th day of the same month; and

17 (b) If the cigarettes or other tobacco products were delivered to
18 the retail dealer on or after the 16th day of the month but before the
19 1st day of the next month, on or before the 14th day of the next
20 month.

21 2. A wholesale dealer shall not extend credit or otherwise
22 allow a retail dealer to violate the provisions of subsection 1.

23 3. The Department may impose a penalty on a wholesale dealer
24 who violates the provisions of subsection 2 as follows:

25 (a) For the first violation, a penalty of \$500.

26 (b) For a second or subsequent violation, if paragraph (c) does
27 not apply, a penalty of \$1,000.

28 (c) For a third or subsequent violation within any 12-month
29 period, a penalty of \$5,000 or suspension or revocation of the
30 license of the wholesale dealer, or both.

31 4. Pursuant to a written complaint or upon its own motion, the
32 Department shall investigate an alleged violation of subsection 2.
33 The Department shall give notice to the alleged violator and conduct
34 a hearing, if warranted by the investigation. The Department may
35 assess a penalty pursuant to subsection 3, if it determines that the
36 wholesale dealer violated the provisions of subsection 2.

37 **Sec. 18.** NRS 370.515 is hereby amended to read as follows:

38 370.515 The Department shall not collect the tax imposed by
39 this chapter on cigarettes , ~~or~~ other *tobacco* products ~~made from~~
40 ~~tobacco~~ *or liquid nicotine* sold on an Indian reservation or Indian
41 colony if:

42 1. The governing body of the reservation or colony imposes an
43 excise tax pursuant to NRS 370.0751 or 370.501;

44 2. The excise tax imposed is equal to or greater than the tax
45 imposed pursuant to this chapter; and



1 3. The governing body of the colony or reservation submits a
2 copy of the ordinance imposing the excise tax to the Department.
3 **Sec. 19.** This act becomes effective on July 1, 2015.

