

ASSEMBLY BILL NO. 360—ASSEMBLYMEN HAFEN; AND HARDY

MARCH 22, 2021

Referred to Committee on Revenue

SUMMARY—Revises provisions relating to tobacco products.
(BDR 32-864)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to tobacco products; requiring a person to conduct age verification through enhanced controls before selling cigarettes, cigarette paper or other tobacco products to a person under 40 years of age; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits a person from selling, distributing or offering to sell
2 cigarettes, cigarette paper or other tobacco products to a child under the age of 18
3 years. (NRS 202.24935, 370.521) **Section 5** of this bill prohibits a person from
4 selling, distributing or offering to sell cigarettes, cigarette paper or other tobacco
5 products to a person under 40 years of age without first conducting age verification
6 through enhanced controls to verify that the person is at least 18 years of age and
7 imposes a civil penalty of \$100 on a person who fails to do so.
8 **Section 6** of this bill makes a conforming change.

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

1 **Section 1.** (Deleted by amendment.)
2 **Sec. 2.** (Deleted by amendment.)
3 **Sec. 3.** (Deleted by amendment.)
4 **Sec. 4.** (Deleted by amendment.)
5 **Sec. 5.** NRS 370.521 is hereby amended to read as follows:
6 370.521 1. Except as otherwise provided in subsections 2 and
7 ~~3, 4~~, a person shall not sell, distribute or offer to sell cigarettes,



1 cigarette paper or other tobacco products to any child under the age
2 of 18 years.

3 2. A person shall be deemed to be in compliance with the
4 provisions of subsection 1 if, before the person sells, distributes or
5 offers to sell to another, cigarettes, cigarette paper or other tobacco
6 products, the person:

7 (a) Demands that the other person present a valid driver's
8 license, permanent resident card, tribal identification card or other
9 written or documentary evidence which shows that the other person
10 is 18 years of age or older;

11 (b) Is presented a valid driver's license, permanent resident card,
12 tribal identification card or other written or documentary evidence
13 which shows that the other person is 18 years of age or older; and

14 (c) Reasonably relies upon the driver's license, permanent
15 resident card, tribal identification card or other written or
16 documentary evidence presented by the other person.

17 3. *A person shall not sell, distribute or offer to sell cigarettes,
18 cigarette paper or other tobacco products to any person under 40
19 years of age without first performing age verification through
20 enhanced controls that utilize a scanning technology or other
21 automated, software-based system to verify that the person is 18
22 years of age or older. A person who violates this subsection is
23 liable for a civil penalty of \$100 for each offense.*

24 4. The employer of a child who is under 18 years of age may,
25 for the purpose of allowing the child to handle or transport
26 cigarettes, cigarette paper or other tobacco products, in the course of
27 the child's lawful employment, provide cigarettes, cigarette paper or
28 other tobacco products to the child.

29 ~~[4.]~~ 5. A person who violates ~~[this-section]~~ *subsection 1* is
30 liable for a civil penalty of:

31 (a) For the first violation within a 24-month period, \$100.

32 (b) For the second violation within a 24-month period, \$250.

33 (c) For the third and any subsequent violation within a 24-month
34 period, \$500.

35 ~~[5.]~~ 6. If an employee or agent of a licensee has violated ~~[this
36 section:]~~ *subsection 1*:

37 (a) For the first and second violation within a 24-month period
38 at the same premises, the licensee must be issued a warning.

39 (b) For the third violation within a 24-month period at the same
40 premises, the licensee is liable for a civil penalty of \$500.

41 (c) For the fourth violation within a 24-month period at the same
42 premises, the licensee is liable for a civil penalty of \$1,250.

43 (d) For the fifth and any subsequent violation within a 24-month
44 period at the same premises, the licensee is liable for a civil penalty
45 of \$2,500.



~~6.1~~ 7. A peace officer or any person performing an inspection pursuant to NRS 202.2496 may issue a notice of infraction for a violation of this section. A notice of infraction must be issued on a form prescribed by the Department and must contain:

- (a) The location at which the violation occurred;
- (b) The date and time of the violation;
- (c) The name of the establishment at which the violation occurred;
- (d) The signature of the person who issued the notice of infraction;
- (e) A copy of the section which allegedly is being violated;
- (f) Information advising the person to whom the notice of infraction is issued of the manner in which, and the time within which, the person must submit an answer to the notice of infraction; and

(g) Such other pertinent information as the peace officer or person performing the inspection pursuant to NRS 202.2496 determines is necessary.

~~7.1~~ 8. A notice of infraction issued pursuant to subsection ~~6.1~~ 7 or a facsimile thereof must be filed with the Department and retained by the Department and is deemed to be a public record of matters which are observed pursuant to a duty imposed by law and is prima facie evidence of the facts alleged in the notice.

~~8.1~~ 9. A person to whom a notice of infraction is issued pursuant to subsection ~~6.1~~ 7 shall respond to the notice by:

(a) Admitting the violation stated in the notice and paying to the Department the applicable civil penalty set forth in subsection ~~4.1 or 5.1~~ 3, 5 ~~or 6.1~~ or 6.

(b) Denying liability for the infraction by notifying the Department and requesting a hearing in the manner indicated on the notice of infraction. Upon receipt of a request for a hearing pursuant to this paragraph, the Department shall provide the person submitting the request an opportunity for a hearing pursuant to chapter 233B of NRS.

~~9.1~~ 10. Any money collected by the Department from a civil penalty pursuant to this section must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2493 and 202.2494.

~~10.1~~ 11. As used in this section, "licensee" means a person who holds a license issued by the Department pursuant to this chapter.

Sec. 6. NRS 202.24935 is hereby amended to read as follows:

202.24935 1. It is unlawful for a person to knowingly sell or distribute cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or



1 alternative nicotine products to a child under the age of 18 years
2 through the use of a computer network, telephonic network or other
3 electronic network.

4 2. A person who violates the provisions of subsection 1 shall
5 be punished by a fine of not more than \$500 and a civil penalty of
6 not more than \$500. Any money recovered pursuant to this section
7 as a civil penalty must be deposited in the same manner as money is
8 deposited pursuant to subsection ~~9~~ 10 of NRS 370.521.

9 3. Every person who sells or distributes cigarettes, cigarette
10 paper, tobacco of any description, products made or derived from
11 tobacco, vapor products or alternative nicotine products through the
12 use of a computer network, telephonic network or electronic
13 network shall:

14 (a) Ensure that the packaging or wrapping of the items when
15 they are shipped is clearly marked with the word "cigarettes" or, if
16 the items being shipped are not cigarettes, the words "tobacco
17 products."

18 (b) Perform an age verification through an independent, third-
19 party age verification service that compares information available
20 from public records to the personal information entered by the
21 person during the ordering process that establishes that the person is
22 over the age of 18 years and use a method of mail, shipping or
23 delivery that requires the signature of a person over the age of 18
24 years before the items are released to the purchaser, unless the
25 person:

26 (1) Requires the customer to:

27 (I) Create an online profile or account with personal
28 information, including, without limitation, a name, address, social
29 security number and a valid phone number, that is verified through
30 publicly available records; or

31 (II) Upload a copy of a government-issued identification
32 card that includes a photograph of the customer; and

33 (2) Sends the package containing the items to the name and
34 address of the customer who ordered the items.

35 **Sec. 7.** This act becomes effective on January 1, 2023.

