

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R086-02

June 14, 2002

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

AUTHORITY: §1, NRS 360.090 and 370.510; §§2-10, NRS 360.090 and 370A.130.

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

The department will not approve an application for a license pursuant to this chapter if the applicant is not in compliance with the provisions of chapter 370A of NRS.

Sec. 2. Chapter 370A of NAC is hereby amended by adding thereto the provisions set forth as sections 3 to 9, inclusive, of this regulation.

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 4. *“Brand family” means:*

1. A brand family identified on the list maintained pursuant to section 6 of this regulation; or

2. A group of cigarettes with the same name, including the same manufacturer, brand name and trade-mark, the only differentiating feature being additional descriptive information, including, without limitation, “menthol,” “lights,” “kings” or “100’s.”

Sec. 5. *“Wholesale dealer” means a wholesale dealer:*

1. As defined in:

(a) NRS 370.055; or

(b) NRS 370.440; and

2. Who is licensed pursuant to chapter 370 of NRS.

Sec. 6. 1. The department, in consultation with the attorney general, will maintain a list of participating manufacturers and, for each participating manufacturer, a list of the brand families produced by that participating manufacturer.

2. The department will make the list maintained pursuant to this section available on the Internet website of the department and at the office of the department.

Sec. 7. 1. Each wholesale dealer shall submit to the department each month a report indicating the number of cigarettes manufactured by a manufacturer of tobacco products who is not a participating manufacturer that were sold by the wholesale dealer during the previous month. The number of cigarettes sold during the previous month must be measured by the excise taxes collected by this state on packs, or containers of “roll-your-own” tobacco, containing cigarettes, in the manner set forth in NRS 370A.120 for determining the number of units sold. For each cigarette sold during the previous month, the report must indicate:

(a) The month the cigarette was sold;

(b) The brand family of the cigarette;

(c) The name and address of the manufacturer of tobacco products who manufactured the cigarette, if known;

(d) If the name and address of the manufacturer of tobacco products who manufactured the cigarette is not known, the name and address of the exclusive distributor or importer of the cigarette, if known; and

(e) The name and address of the person from whom the wholesale dealer purchased the cigarette, if that person was not listed pursuant to paragraph (c) or (d).

2. The report required pursuant to this section must also contain:

(a) The number of cigarettes contained in all packs, or containers of “roll-your-own” tobacco, upon which the wholesale dealer affixed a revenue stamp during the previous month;

(b) The number of revenue stamps the wholesale dealer has purchased but has not yet affixed to a pack, or container of “roll-your-own” tobacco, containing cigarettes; and

(c) If the wholesale dealer is a manufacturer of tobacco products, a statement that the wholesale dealer:

(1) Is in compliance with the requirements set forth in NRS 370A.140 and subsection 1 of NRS 370A.160; and

(2) Has, since May 24, 1999, for all times when NRS 370A.140 and subsection 1 of NRS 370A.160 applied to the wholesale dealer:

(I) Been in compliance with NRS 370A.140 and subsection 1 of NRS 370A.160; or

(II) Pursuant to subsection 2 of NRS 370A.160, been brought into compliance with NRS 370A.140 and subsection 1 of NRS 370A.160.

3. If the wholesale dealer affixed a revenue stamp to the pack, or container of “roll-your-own” tobacco, containing a cigarette, that cigarette must be included in the report required pursuant to this subsection whether, at the time the revenue stamp was affixed, that cigarette was owned by:

(a) The wholesale dealer; or

(b) A person other than the wholesale dealer.

4. The report required pursuant to this section must be submitted:

(a) On a form prescribed by the department; or

(b) Electronically, in a format prescribed by the department.

5. Except as otherwise provided in subsection 6, the report required pursuant to this section must be submitted:

(a) On the same date as a report submitted by the wholesale dealer pursuant to NRS 370.240 or 370.465, if the wholesale dealer submits a report pursuant to NRS 370.240 or 370.465; or

(b) Not later than the last date on which a report could be submitted pursuant to NRS 370.240 or 370.465, if the wholesale dealer does not submit a report pursuant to NRS 370.240 or 370.465.

6. If the number of cigarettes to be reported pursuant to subsection 1 for a month is less than 10,000, the wholesale dealer may make written application to the department to submit the report for that month on a date later than the date specified in subsection 5. The department may approve a written application pursuant to this subsection if the date requested by the wholesale dealer in the application for submitting the report is not later than 12 months after the date specified in subsection 5 for submitting the report.

7. Each wholesale dealer shall maintain a copy of each report submitted pursuant to this section for not less than 4 years after the date the report was submitted.

Sec. 8. 1. *If a wholesale dealer is owned in whole or in part by a manufacturer of tobacco products who is not in compliance with NRS 370A.140 and subsection 1 of NRS 370A.160, the wholesale dealer may not submit a report required pursuant to section 7 of this regulation until:*

(a) The manufacturer of tobacco products is in compliance with NRS 370A.140 and subsection 1 of NRS 370A.160; or

(b) The wholesale dealer is not owned in whole or in part by the manufacturer of tobacco products.

2. If a wholesale dealer submits a report in violation of subsection 1, the report will not be considered submitted for the purposes of section 9 of this regulation.

Sec. 9. *If a wholesale dealer fails to submit a report as required by section 7 of this regulation or submits incorrect information on a report submitted pursuant to section 7 of this regulation, the department may:*

1. Suspend the license of the wholesale dealer until:

(a) The wholesale dealer submits the report or resubmits the report with corrected information, as appropriate; and

(b) The department determines that the information in the report is correct; and

2. Impose a penalty on the wholesale dealer consisting of:

(a) For the first violation within 7 years, a fine of \$1,000;

(b) For a second or subsequent violation within 7 years, a fine of \$5,000; or

(c) For a third or subsequent violation within 7 years, revocation of the license of the wholesale dealer.

Sec. 10. 1. Except as otherwise provided in this section, each wholesale dealer licensed on the effective date of this regulation shall, not later than 60 days after the effective date of this regulation, submit to the department of taxation a report pursuant to section 7 of this regulation for each month beginning May 1999, and ending the month of the effective date of this

regulation, provided that no information relating to the period on or before May 24, 1999, be included in any report.

2. Except as otherwise provided in subsections 3 and 4, if a wholesale dealer fails to submit a report as required by this section or submits incorrect information on a report submitted pursuant to this section, the department of taxation may suspend the license of the wholesale dealer and impose a penalty as set forth in section 9 of this regulation.

3. If a wholesale dealer is unable to complete the reports required pursuant to this section because the wholesale dealer does not have the information necessary to complete the reports, the wholesale dealer shall submit to the department of taxation:

(a) The reports with as much required information as the wholesale dealer is able to provide; and

(b) A written application for a waiver or partial waiver of the requirements of this section.

4. The department of taxation will waive or partially waive the requirements of this section after receipt of a written application pursuant to subsection 3 if:

(a) The wholesale dealer has complied with all provisions of chapters 370 and 370A of NRS and chapters 370 and 370A of NAC; and

(b) The department of taxation finds good cause for the waiver or partial waiver.

5. For the purposes of this section, “wholesale dealer” has the meaning ascribed to it in section 5 of this regulation.