

Amendment No. 140

Assembly Amendment to Assembly Bill No. 59 (BDR 15-420) Proposed by: Assembly Committee on Judiciary Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 59 (§§ 4, 5 + NRS 370.450, 370.567, 370.587).

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	Receded <input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DAN/BAW



Date: 4/12/2021

A.B. No. 59—Revises various provisions relating to tobacco. (BDR 15-420)



ASSEMBLY BILL NO. 59—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to tobacco. (BDR 15-420)

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

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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; increasing the minimum **legal sales** age ~~to purchase~~ **for** tobacco products; revising the punishment for certain prohibited acts relating to the sale of tobacco products; revising certain definitions relating to tobacco products for the purposes of the regulation and taxation of tobacco products; eliminating certain duplicative requirements concerning the sale of cigarettes; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits a person from selling, distributing or offering to sell cigarettes, cigarette paper or other tobacco products to a child under the age of 18 years. (NRS 202.24935, 370.521) **Sections 1, 2 and 8** of this bill prohibit a person from selling, distributing or offering to sell cigarettes, cigarette paper or other tobacco products to a person under 21 years of age. **Section 3** of this bill revises the provisions governing the random, unannounced inspection of locations that sell tobacco products to make conforming changes which are necessary because of the increase in the minimum **legal sales** age ~~to purchase~~ **for** tobacco products. **Section 3 also requires that, to the extent possible, an inspection of each location must be conducted at least once every 3 years.**

Section 2 removes the existing penalty for a person who knowingly distributes cigarettes, cigarette paper or other tobacco products to a person under 21 years of age through a telephonic, computer or electronic network, and **sections 2 and 6** of this bill instead make distributing cigarettes, cigarette paper or other tobacco products to a person under 21 years of age through a telephonic, computer or electronic network punishable by certain administrative, civil or criminal penalties.

Existing law requires a person who sells cigarettes, cigarette paper or other tobacco products through an electronic network to use an independent, third-party age verification service to establish the age of the customer before sending the items to the customer. A seller may alternatively require the customer to create an online account which requires the customer to provide certain personal information or a copy of a government-issued identification card. (NRS 202.24935) Section 2 eliminates the authorization for sellers to require a customer to create an online account, thereby requiring sellers to use an independent, third-party age verification system to establish the age of a customer for each sale.

25 Existing law generally defines tobacco products to include cigarettes, cigarette paper,
 26 tobacco of any description, products made or derived from tobacco, vapor products and
 27 alternative nicotine products. (NRS 370.007-370.055) **Sections 4 and 5** of this bill revise
 28 certain definitions relating to the regulation and taxation of tobacco products to standardize
 29 the terminology found throughout NRS.

30 **Section 9** of this bill eliminates a requirement of existing law relating to the mailing or
 31 shipment of cigarettes that conflict with requirements regarding the sale of cigarettes through
 32 a computer, telephonic or electronic network. ~~{Section 7 of this bill makes conforming~~
 33 ~~changes to remove a reference to the requirements eliminated by section 9.}~~ **(NRS 370.323)**
 34 **Section 9 also repeals the statutory provision creating criminal penalties for the: (1) sale**
 35 **of tobacco without a proper license; (2) sale of tobacco without confirming the age of the**
 36 **buyer; and (3) failure to submit a report of sales of tobacco to the Department of**
 37 **Taxation. (NRS 370.395) Sections 3.5 and 8.5 of this bill make conforming changes by**
 38 **removing references to the repealed section.**

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

1 **Section 1.** NRS 202.2493 is hereby amended to read as follows:
 2 202.2493 1. A person shall not sell, distribute or offer to sell cigarettes, any
 3 smokeless product made or derived from tobacco or any alternative nicotine
 4 product in any form other than in an unopened package which originated with the
 5 manufacturer and bears any health warning required by federal law. A person who
 6 violates this subsection shall be punished ~~{by a fine of \$100 and a civil penalty of~~
 7 ~~\$100.}~~ *as provided in chapter 370 of NRS.* As used in this subsection, “smokeless
 8 product made or derived from tobacco” means any product that consists of cut,
 9 ground, powdered or leaf tobacco and is intended to be placed in the oral or nasal
 10 cavity.
 11 2. The owner of a retail establishment shall, whenever any product made or
 12 derived from tobacco, vapor product or alternative nicotine product is being sold or
 13 offered for sale at the establishment, display prominently at the point of sale:
 14 (a) A notice indicating that:
 15 (1) The sale of cigarettes, other tobacco products, vapor products and
 16 alternative nicotine products to ~~{minors}~~ *persons under 21 years of age* is
 17 prohibited by law; and
 18 (2) The retailer may ask for proof of age to comply with this prohibition;
 19 and
 20 (b) At least one sign that complies with the requirements of NRS 442.340.
 21 ➤ A person who violates this subsection shall be punished by a fine of not more
 22 than \$100.
 23 3. It is unlawful for any retailer to sell cigarettes through the use of any type
 24 of display:
 25 (a) Which contains cigarettes and is located in any area to which customers are
 26 allowed access; and
 27 (b) From which cigarettes are readily accessible to a customer without the
 28 assistance of the retailer,
 29 ➤ except a vending machine used in compliance with NRS 202.2494. A person
 30 who violates this subsection shall be punished by a fine of not more than \$500.

31 **Sec. 2.** NRS 202.24935 is hereby amended to read as follows:
 32 202.24935 1. It is unlawful for a person to knowingly sell or distribute
 33 cigarettes, cigarette paper, tobacco of any description, products made or derived
 34 from tobacco, vapor products or alternative nicotine products to a ~~{child}~~ *person*

1 under the age of ~~18~~ 21 years through the use of a computer network, telephonic
2 network or other electronic network.

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

7 ~~— 3.]~~ Every person who sells or distributes cigarettes, cigarette paper, tobacco of
8 any description, products made or derived from tobacco, vapor products or
9 alternative nicotine products to an ultimate consumer in this State through the use
10 of a computer network, telephonic network or electronic network shall:

11 (a) Ensure that the packaging or wrapping of the items when they are shipped
12 is clearly marked with the word “cigarettes” or, if the items being shipped are not
13 cigarettes, the words “tobacco ~~[products.]~~ products” or “vapor products,” as
14 applicable.

15 (b) ~~[Perform]~~ Obtain the full name, date of birth and residential address of
16 the purchaser and perform an age verification through an independent, third-party
17 age verification service that compares information available from public records to
18 the personal information entered by the person during the ordering process that
19 establishes that the person is over the age of ~~18~~ 21 years. ~~[and use a method of~~
20 ~~mail, shipping or delivery that requires the signature of a person over the age of 18~~
21 ~~21 years before the items are released to the purchaser, unless the person:~~

22 ~~(1) Requires the customer to:~~

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

26 ~~(II) Upload a copy of a government issued identification card that~~
27 ~~includes a photograph of the customer; and~~

28 ~~(2) Sends the package containing the items to the name and address of the~~
29 ~~customer who ordered the items.]~~

30 ~~3. [A person who violates this section shall be punished as provided in~~
31 ~~chapter 370 of NRS.]~~ Every person who makes sales as described in subsection 2
32 must certify annually to the Attorney General that the person uses an
33 independent, third-party age verification service as described in paragraph (b) of
34 subsection 2.

35 4. In addition to or in lieu of any other civil or criminal remedy provided by
36 law, a person who violates this section is subject to:

37 (a) A civil penalty in an amount not more than \$1,000 for each violation;
38 and

39 (b) The suspension or revocation of the license of the person by the
40 Department of Taxation, if the person is licensed pursuant to chapter 370 of
41 NRS.

42 5. Any violation of subsection 2 constitutes a deceptive trade practice for the
43 purpose of NRS 598.0903 to 598.0999, inclusive.

44 6. For the purposes of this section, any sale of cigarettes, cigarette paper,
45 tobacco of any description, products made or derived from tobacco, vapor
46 products or alternative nicotine products to a natural person in this State who
47 does not intend to resell the item constitutes a sale to an ultimate consumer.

48 **Sec. 3.** NRS 202.2496 is hereby amended to read as follows:

49 202.2496 1. As necessary to comply with any applicable federal law, the
50 Attorney General shall conduct random, unannounced inspections at locations
51 where tobacco, products made or derived from tobacco, vapor products and
52 alternative nicotine products are sold, distributed or offered for sale to inspect for
53 and enforce compliance with NRS 202.2493, 202.2494 and 370.521, as applicable.

1 *To the extent possible, an inspection of each location must be conducted*
2 *pursuant to this section at least once every 3 years.* For assistance in conducting
3 any such inspection, the Attorney General may contract with:

4 (a) Any sheriff's department;
5 (b) Any police department; or
6 (c) Any other person who will, in the opinion of the Attorney General, perform
7 the inspection in a fair and impartial manner.

8 2. If the inspector desires to enlist the assistance of a child under the age of 18
9 for such an inspection, the inspector shall obtain the written consent of the child's
10 parent for such assistance.

11 3. A **[child] person** assisting in an inspection pursuant to this section shall, if
12 questioned about his or her age, state his or her true age . ~~and that he or she is~~
13 ~~under 18 years of age.~~

14 4. If a **[child] person under 21 years of age** is assisting in an inspection
15 pursuant to this section, the person supervising the inspection shall:

16 (a) Refrain from altering or attempting to alter the **[child's]** appearance *of the*
17 *person* to make the **[child] person** appear to be ~~18~~ 21 years of age or older.

18 (b) Photograph the **[child] person attempting to purchase tobacco, products**
19 ***made or derived from tobacco, vapor products or alternative nicotine products***
20 immediately before the inspection is to occur and retain any photographs taken of
21 the **[child] person** pursuant to this paragraph.

22 5. The person supervising an inspection using the assistance of a **[child]**
23 ***person under 21 years of age*** shall, within a reasonable time after the inspection is
24 completed:

25 (a) Inform a representative of the business establishment from which the
26 **[child] person** attempted to purchase tobacco, products made or derived from
27 tobacco, vapor products or alternative nicotine products that an inspection has been
28 performed and the results of that inspection.

29 (b) Prepare a report regarding the inspection. The report must include the
30 following information:

31 (1) The name of the person who supervised the inspection and that
32 person's position;

33 (2) The age and date of birth of the **[child] person** who assisted in the
34 inspection;

35 (3) The name and position of the person from whom the **[child] person**
36 ***who assisted in the inspection*** attempted to purchase tobacco, products made or
37 derived from tobacco, vapor products or alternative nicotine products;

38 (4) The name and address of the establishment at which the **[child] person**
39 attempted to purchase tobacco, products made or derived from tobacco, vapor
40 products or alternative nicotine products;

41 (5) The date and time of the inspection; and

42 (6) The result of the inspection, including whether the inspection resulted
43 in the sale, distribution or offering for sale of tobacco, products made or derived
44 from tobacco, vapor products or alternative nicotine products to the **[child] person**
45 ***under 21 years of age.***

46 6. No administrative, civil or criminal action based upon an alleged violation
47 of NRS 202.2493, 202.2494 or 370.521 may be brought as a result of an inspection
48 for compliance in which the assistance of a **[child] person under 21 years of age**
49 has been enlisted ***to attempt to purchase tobacco, products made or derived from***
50 ***tobacco, vapor products or alternative nicotine products*** unless the inspection has
51 been conducted in accordance with the provisions of this section.

52 **Sec. 3.5. NRS 179.121 is hereby amended to read as follows:**

1 179.121 1. All personal property, including, without limitation, any tool,
2 substance, weapon, machine, computer, money or security, which is used as an
3 instrumentality in any of the following crimes is subject to forfeiture:

4 (a) The commission of or attempted commission of the crime of murder,
5 robbery, kidnapping, burglary, invasion of the home, grand larceny or theft if it is
6 punishable as a felony;

7 (b) The commission of or attempted commission of any felony with the intent
8 to commit, cause, aid, further or conceal an act of terrorism;

9 (c) A violation of NRS 202.445 or 202.446;

10 (d) The commission of any crime by a criminal gang, as defined in NRS
11 213.1263; or

12 (e) A violation of NRS 200.463 to 200.468, inclusive, 201.300, 201.320,
13 201.395, 202.265, 202.287, 205.473 to 205.513, inclusive, 205.610 to 205.810,
14 inclusive, 370.380, 370.382, ~~370.395~~, 370.405, 465.070 to 465.086, inclusive,
15 630.400, 630A.600, 631.400, 632.285, 632.291, 632.315, 633.741, 634.227,
16 634A.230, 635.167, 636.145, 637.090, 637B.290, 639.100, 639.2813, 640.169,
17 640A.230, 644A.900 or 654.200.

18 2. Except as otherwise provided for conveyances forfeitable pursuant to NRS
19 453.301 or 501.3857, all conveyances, including aircraft, vehicles or vessels, which
20 are used or intended for use during the commission of a felony or a violation of
21 NRS 202.287, 202.300 or 465.070 to 465.086, inclusive, are subject to forfeiture
22 except that:

23 (a) A conveyance used by any person as a common carrier in the transaction of
24 business as a common carrier is not subject to forfeiture under this section unless it
25 appears that the owner or other person in charge of the conveyance is a consenting
26 party or privy to the felony or violation;

27 (b) A conveyance is not subject to forfeiture under this section by reason of
28 any act or omission established by the owner thereof to have been committed or
29 omitted without the owner's knowledge, consent or willful blindness;

30 (c) A conveyance is not subject to forfeiture for a violation of NRS 202.300 if
31 the firearm used in the violation of that section was not loaded at the time of the
32 violation; and

33 (d) A forfeiture of a conveyance encumbered by a bona fide security interest is
34 subject to the interest of the secured party if the secured party neither had
35 knowledge of nor consented to the felony. If a conveyance is forfeited, the
36 appropriate law enforcement agency may pay the existing balance and retain the
37 conveyance for official use.

38 3. For the purposes of this section, a firearm is loaded if:

39 (a) There is a cartridge in the chamber of the firearm;

40 (b) There is a cartridge in the cylinder of the firearm, if the firearm is a
41 revolver; or

42 (c) There is a cartridge in the magazine and the magazine is in the firearm or
43 there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

44 4. As used in this section, "act of terrorism" has the meaning ascribed to it in
45 NRS 202.4415.

46 **Sec. 4.** NRS 370.0285 is hereby amended to read as follows:

47 370.0285 1. "Delivery sale" means any sale of cigarettes, *cigarette paper or*
48 *other tobacco products*, whether the seller is located within or outside of the
49 borders of this State, to a consumer in this State for which:

50 (a) The purchaser submits the order for the sale by means of a telephonic or
51 other method of voice transmission, the mail or any other delivery service, or the
52 Internet or any other on-line service; or

1 (b) The cigarettes, *cigarette paper or other tobacco products* are delivered by
2 mail or the use of another delivery service.

3 2. For the purpose of this section, any sale of cigarettes, *cigarette paper or*
4 *other tobacco products* to a natural person in this State who does not hold a current
5 license as a wholesale or retail dealer constitutes a sale to a consumer.

6 **Sec. 5.** NRS 370.0318 is hereby amended to read as follows:

7 370.0318 "Other tobacco product" means any tobacco of any description, any
8 vapor product, any alternative nicotine product or any product made *or derived*
9 from tobacco, other than cigarettes.

10 **Sec. 6.** NRS 370.321 is hereby amended to read as follows:

11 370.321 1. ~~[A person shall not accept an order for a delivery sale unless the~~
12 ~~person first obtains a license as a retail dealer.~~

13 ~~— 2.]~~ A person who accepts an order for a delivery sale shall comply with all of
14 the requirements of this chapter and chapters 202, 370A, 372 and 374 of NRS, and
15 all other laws of this State generally applicable to sales of cigarettes, *cigarette*
16 *paper or other tobacco products* that occur entirely within this State.

17 2. *In addition to any other penalty authorized by law, the Attorney General*
18 *may seek civil penalties against any person engaging in delivery sales in violation*
19 *of this chapter or chapter 202 of NRS. Each violation is subject to a civil penalty*
20 *in an amount not to exceed \$1,000. Any civil penalty recovered pursuant to this*
21 *section for a violation of NRS 202.24935 must be deposited into a separate*
22 *account in the State General Fund to be used for the enforcement of this section*
23 *and NRS 202.2493 and 202.2494.*

24 **Sec. 7.** ~~[NRS 370.395 is hereby amended to read as follows:~~

25 ~~— 370.395 — A person who [~~

26 ~~1. Knowingly] knowingly violates any of the provisions of NRS 370.321 [~~
27 ~~370.323] or 370.327 [; or~~

28 ~~2. Knowingly and falsely submits a certification pursuant to paragraph (a) of~~
29 ~~subsection 1 of NRS 370.323 in the name of another person,~~

30 ~~—] is guilty of a category C felony and shall be punished as provided in NRS~~
31 ~~493.130.] (Deleted by amendment.)~~

32 **Sec. 8.** NRS 370.521 is hereby amended to read as follows:

33 370.521 1. Except as otherwise provided in subsections 2 and 3, a person
34 shall not sell, distribute or offer to sell cigarettes, cigarette paper or other tobacco
35 products to any ~~[child]~~ *person* under the age of ~~[18]~~ *21* years.

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

39 (a) Demands that the other person present a valid driver's license, permanent
40 resident card, tribal identification card or other written or documentary evidence
41 which shows that the other person is ~~[18]~~ *21* years of age or older;

42 (b) Is presented a valid driver's license, permanent resident card, tribal
43 identification card or other written or documentary evidence which shows that the
44 other person is ~~[18]~~ *21* years of age or older; and

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

48 3. The employer of a ~~[child]~~ *person* who is under ~~[18]~~ *21* years of age may,
49 for the purpose of allowing the ~~[child]~~ *person* to handle or transport cigarettes,
50 cigarette paper or other tobacco products, in the course of the ~~[child's]~~ *person's*
51 lawful employment, provide cigarettes, cigarette paper or other tobacco products to
52 the ~~[child]~~ *person under 21 years of age.*

53 4. A person who violates this section is liable for a civil penalty of:

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

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

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

4 5. If an employee or agent of a licensee has violated this section:

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

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

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

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

13 6. A peace officer or any person performing an inspection pursuant to NRS
14 202.2496 may issue a notice of infraction for a violation of this section. A notice of
15 infraction must be issued on a form prescribed by the Department and must contain:

16 (a) The location at which the violation occurred;

17 (b) The date and time of the violation;

18 (c) The name of the establishment at which the violation occurred;

19 (d) The signature of the person who issued the notice of infraction;

20 (e) A copy of the section which allegedly is being violated;

21 (f) Information advising the person to whom the notice of infraction is issued
22 of the manner in which, and the time within which, the person must submit an
23 answer to the notice of infraction; and

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

26 7. A notice of infraction issued pursuant to subsection 6 or a facsimile thereof
27 must be filed with the Department and retained by the Department and is deemed to
28 be a public record of matters which are observed pursuant to a duty imposed by law
29 and is prima facie evidence of the facts alleged in the notice.

30 8. A person to whom a notice of infraction is issued pursuant to subsection 6
31 shall respond to the notice by:

32 (a) Admitting the violation stated in the notice and paying to the ~~[Department]~~
33 *State of Nevada* the applicable civil penalty set forth in subsection 4 or 5.

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

39 9. Any money collected by the ~~[Department]~~ *State of Nevada* from a civil
40 penalty pursuant to this section must be deposited in a separate account in the State
41 General Fund to be used for the enforcement of this section and NRS 202.2493 and
42 202.2494.

43 10. As used in this section, "licensee" means a person who holds a license
44 issued by the Department pursuant to this chapter.

45 **Sec. 8.5. NRS 370.525 is hereby amended to read as follows:**

46 370.525 1. Except as otherwise provided in subsection 2, a person may
47 institute a civil action in a court of competent jurisdiction for appropriate injunctive
48 relief if the person:

49 (a) Sells, distributes or manufactures cigarettes; and

50 (b) Sustains direct economic or commercial injury as a result of a violation of
51 NRS 370.090 to 370.327, inclusive, 370.380, 370.382, 370.385, ~~[370.395,]~~
52 370.405, 370.410 or 370.531 to 370.597, inclusive.

1 2. Nothing in this section authorizes an action against this State, a political
2 subdivision of this State, or an officer, employee or agency thereof.

3 **Sec. 9.** NRS 370.323 ~~and~~ and 370.395 are hereby repealed.

4 **Sec. 10.** 1. This section and sections 1 ~~1, 2, 3~~ to 3.5, inclusive, and 6 to 9,
5 inclusive, of this act become effective upon passage and approval.

6 2. Sections 4 and 5 of this act become effective on July 1, 2021.

TEXT OF REPEALED ~~SECTION~~ SECTIONS

370.323 Prerequisites to mailing or shipment of cigarettes; requests for electronic mail addresses of prospective purchasers.

1. A person shall not cause the mailing or shipment of cigarettes in connection with an order for a delivery sale unless the person accepting the order first:

(a) Obtains from the prospective purchaser a certification which includes:

(1) Reliable confirmation that the purchaser is at least 18 years of age; and

(2) A statement signed by the prospective purchaser in writing and under penalty of perjury which:

(I) Certifies the prospective purchaser's address and date of birth;

(II) Confirms that the prospective purchaser understands that signing another person's name to such certification is illegal and that sales of cigarettes to children under 18 years of age are illegal under the laws of this State; and

(III) Confirms that the prospective purchaser desires to receive mailings from a tobacco company.

(b) Makes a good faith effort to verify the information contained in the certification provided by the prospective purchaser pursuant to paragraph (a) against any federal or commercially available database established for that purpose.

(c) Sends to the prospective purchaser, by electronic mail or other means, a notice which meets the requirements of subsection 2 and requests confirmation that the order for the delivery sale was placed by the prospective purchaser.

(d) Receives from the prospective purchaser confirmation, pursuant to the request described in paragraph (c), that such person placed the order for the delivery sale.

(e) Receives payment for the delivery sale from the prospective purchaser by a credit or debit card that has been issued in that purchaser's name.

2. The notice required by paragraph (c) of subsection 1 must include:

(a) A prominent and clearly legible statement that the sale of cigarettes to children under 18 years of age is illegal;

(b) A prominent and clearly legible statement that the sale of cigarettes is restricted to persons who provide verifiable proof of age in accordance with this section; and

(c) A prominent and clearly legible statement that sales of cigarettes are taxable under this chapter, and an explanation of how the tax has been or is to be paid with respect to the delivery sale.

3. Persons accepting orders for delivery sales may request that prospective purchasers provide their electronic mail addresses.

370.395 Penalty for violation of NRS 370.321, 370.323 or 370.327. A person who:

1. Knowingly violates any of the provisions of NRS 370.321, 370.323 or 370.327; or

2. Knowingly and falsely submits a certification pursuant to paragraph (a) of subsection 1 of NRS 370.323 in the name of another person, who is guilty of a category C felony and shall be punished as provided in NRS 193.130.