

ASSEMBLY BILL NO. 221—ASSEMBLYMEN OCEGUERA, MANENDO,
LESLIE, PARKS, ANDERSON, ANGLE, BUCKLEY,
CHRISTENSEN, CLABORN, CONKLIN, DENIS, GERHARDT,
HOGAN, HORNE, MUNFORD AND PIERCE

MARCH 17, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to sale and disposition of
intoxicating liquor. (BDR 20-270)

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 intoxicating liquor; requiring that certain
persons employed at certain establishments where
alcoholic beverages are sold must successfully complete a
program of training relating to alcoholic beverages;
requiring the Department of Taxation to impose
administrative fines upon the owners or operators of
certain establishments for certain violations; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under local ordinances adopted by certain counties and cities, persons who
serve, sell or distribute alcoholic beverages must complete an alcohol awareness
training course. (Clark County Code § 8.20.055, Las Vegas Municipal Code §
6.5.520, North Las Vegas Municipal Code § 5.26.520)

This bill requires by state statute that employees of certain establishments
which sell alcoholic beverages complete an alcoholic beverage awareness program
certified by the Commission on Postsecondary Education. This requirement is
phased in over the next several years and applies only in a jurisdiction that: (1) is
located in a county whose population is 400,000 or more (currently Clark County);
and (2) has established requirements and standards for the education of persons
who sell or serve alcoholic beverages at such an establishment.

This bill requires the owner or operator of such an establishment to ensure that
by July 1, 2006, at least one employee who has successfully completed the program
is on the premises during the hours that the establishment is open for business. In
addition, after January 1, 2008, this bill requires that every existing (continuing)
employee of such an establishment who sells or serves alcoholic beverages or



performs the duties of a security guard must, on or before January 31, 2008, successfully complete an alcoholic beverage awareness program certified by the Commission.

In the jurisdictions to which this bill applies, the bill prohibits any other agency, board, commission, local government or other political subdivision of this State from adopting any additional requirements or standards for the education of persons employed to sell or serve alcoholic beverages at such an establishment. This bill defines an "establishment" subject to the provisions of the bill as a business that sells alcoholic beverages by the drink for consumption on the premises or that sells alcoholic beverages in corked or sealed containers for consumption off the premises. Wholesale liquor distributors and private clubs and other facilities that are not open to the public are not included in the definition.

Existing law establishes the authority of county liquor boards and incorporated cities to regulate and license the sale of intoxicating liquor. (NRS 244.350, 268.090) Existing law authorizes an incorporated city to fix, impose and collect a license tax on the sale of beer, wines or other alcoholic beverages and requires the Department of Taxation to administer and enforce laws related to the importation and sale of intoxicating liquors. (NRS 268.090, 369.150) Existing law also requires sheriffs and police officers to assist in the enforcement of the licensing and tax laws related to intoxicating liquor. (NRS 369.540)

This bill authorizes a county liquor board or incorporated city to deny a license to, or refuse to renew the license of, an owner or operator of an establishment who has willfully violated the provisions of this bill more than three times during any 24-month period. The Department of Taxation is also required to impose an administrative fine against an owner or operator for violating the provisions of this bill. This bill further provides that a law enforcement agency whose officer discovers a violation of the provisions of this bill is required to report the violation to the Department of Taxation.

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

Section 1. NRS 244.350 is hereby amended to read as follows:

244.350 1. The board of county commissioners, and in a county whose population is less than 400,000, the sheriff of that county constitute a liquor board. The liquor board may, without further compensation, grant or refuse liquor licenses, and revoke those licenses whenever there is, in the judgment of a majority of the board, sufficient reason for revocation. The board shall elect a chairman from among its members.

2. The liquor board in each of the several counties shall enact ordinances:

(a) Regulating the sale of intoxicating liquors in their respective counties.

(b) Fixing the hours of each day during which liquor may be sold or disposed of.

(c) Prescribing the conditions under which liquor may be sold or disposed of.



(d) Prohibiting the employment or service of minors in the sale or disposition of liquor.

(e) Prohibiting the sale or disposition of liquor in places where, in the judgment of the board, the sale or disposition may tend to create or constitute a public nuisance, or where by the sale or disposition of liquor a disorderly house or place is maintained.

3. In a county whose population is 400,000 or more, the liquor board shall refer any petition for a liquor license to the metropolitan police department. The department shall conduct an investigation relating to the petition and report its findings to the liquor board at the next regular meeting of the board.

4. All liquor dealers within any incorporated city are exempt from the effect of this section, and are to be regulated only by the government of that city.

5. The liquor board may deny or refuse to renew the license of a person who has willfully violated the provisions of section 9 of this act more than three times in any 24-month period.

6. The liquor board shall not deny a license to a person solely because he is not a citizen of the United States.

Sec. 2. NRS 268.090 is hereby amended to read as follows:

268.090 1. In addition to any authority or power now provided by the charter of any incorporated city in this State, whether incorporated by general or special act, or otherwise, there is hereby granted to each of the cities incorporated under any law of this State the power and authority to fix, impose and collect a license tax on, and regulate the sale of, beer, wines or other beverages now or hereafter authorized to be sold by act of Congress.

2. An incorporated city may deny or refuse to renew the license of a person who has willfully violated the provisions of section 9 of this act more than three times in any 24-month period.

3. An incorporated city shall not deny a license to a person solely because he is not a citizen of the United States.

Sec. 3. Chapter 369 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 11, inclusive, of this act.

Sec. 4. As used in sections 4 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 8, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 5. "Alcoholic beverage" has the meaning ascribed to it in NRS 202.015.

Sec. 6. "Alcoholic beverage awareness program" means a program designed to educate persons who sell or serve alcoholic



1 *beverages or perform the duties of a security guard at an*
2 *establishment.*

3 **Sec. 7. "Commission"** means the Commission on
4 *Postsecondary Education created by NRS 394.383.*

5 **Sec. 8. 1. "Establishment"** means a business that:

6 *(a) Sells alcoholic beverages by the drink for consumption on*
7 *the premises; or*

8 *(b) Sells alcoholic beverages in corked or sealed containers or*
9 *receptacles for consumption off the premises.*

10 **2.** *The term includes, without limitation, a retail liquor store.*

11 **3.** *The term does not include:*

12 *(a) A wholesale dealer; or*

13 *(b) A private club or other facility not in fact open to the*
14 *public.*

15 **Sec. 9. 1.** *Except as otherwise provided in subsection 2:*

16 *(a) On and after July 1, 2006, a person who owns or operates*
17 *an establishment shall ensure that at least one employee who has*
18 *successfully completed an alcoholic beverage awareness program*
19 *certified by the Commission pursuant to section 10 of this act is on*
20 *the premises during the hours the establishment is open for*
21 *business.*

22 *(b) On and after January 1, 2008, a person who owns or*
23 *operates an establishment shall not:*

24 *(1) Hire a person to sell or serve alcoholic beverages or*
25 *perform the duties of a security guard at the establishment unless:*

26 *(I) The person hired to sell or serve alcoholic beverages*
27 *or perform the duties of a security guard at the establishment has*
28 *already successfully completed an alcoholic beverage awareness*
29 *program certified by the Commission pursuant to section 10 of this*
30 *act; or*

31 *(II) The person who owns or operates the establishment*
32 *ensures that the person hired to sell or serve alcoholic beverages*
33 *or perform the duties of a security guard at the establishment*
34 *successfully completes, within 30 days after the date on which he*
35 *is hired, an alcoholic beverage awareness program certified by the*
36 *Commission pursuant to section 10 of this act; or*

37 *(2) Continue to employ a person who was hired before that*
38 *date to sell or serve alcoholic beverages or perform the duties of a*
39 *security guard at the establishment unless:*

40 *(I) The person who continues to be employed to sell or*
41 *serve alcoholic beverages or perform the duties of a security guard*
42 *at the establishment has already successfully completed an*
43 *alcoholic beverage awareness program certified by the*
44 *Commission pursuant to section 10 of this act; or*



(II) The person who owns or operates the establishment ensures that the person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment successfully completes, not later than January 31, 2008, an alcoholic beverage awareness program certified by the Commission pursuant to section 10 of this act.

(c) The Department shall impose upon an owner or operator of an establishment who violates any of the provisions of this section an administrative fine of not more than:

(1) For the first violation within a 24-month period, \$500.

(2) For the second violation within a 24-month period, \$1,000.

(3) For the third and any subsequent violation within a 24-month period, \$5,000.

(d) Any money collected by the Department from fines pursuant to paragraph (c) must be deposited with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime created by NRS 217.260.

(e) Any law enforcement agency whose officer discovers a violation of this section shall report the violation to the Department.

2. The provisions of this section apply only in a jurisdiction that:

(a) Is located in a county whose population is 400,000 or more; and

(b) Before October 1, 2005, has, by ordinance, rule or regulation, established requirements and standards for the education of persons who sell or serve alcoholic beverages at an establishment.

Sec. 10. 1. The Commission shall, in cooperation with state and local law enforcement agencies, develop a curriculum for an alcoholic beverage awareness program.

2. The curriculum described in subsection 1:

(a) Must consist of not fewer than 2 hours of instruction; and

(b) Must include, without limitation, instruction on the following topics:

(1) The clinical effects of alcohol on the human body;

(2) Methods of identifying intoxicated persons;

(3) Relevant provisions of state and local laws concerning the selling and serving of alcoholic beverages;

(4) Methods of preventing and halting fights, acts of affray and other disturbances of the peace; and

(5) Methods of preventing:

(I) The entry of minors into establishments in which minors are prohibited from loitering pursuant to NRS 202.030;



(II) The purchase, consumption and possession of alcoholic beverages by minors as prohibited pursuant to NRS 202.020, including, without limitation, the recognition of altered or falsified forms of identification; and

(III) The selling and furnishing of alcoholic beverages to minors as prohibited pursuant to NRS 202.055.

3. The Administrator of the Commission may certify an alcoholic beverage awareness program if the Administrator determines that:

(a) The program meets the curricular requirements set forth in subsection 2; and

(b) The persons who will serve as instructors for the program are competent and qualified to provide instruction in the curriculum of the program.

4. The Commission shall adopt such regulations:

(a) As the Commission determines to be necessary or advisable to carry out the provisions of this section; and

(b) As are necessary to ensure that a person who successfully completes an alcoholic beverage awareness program certified pursuant to this section receives a card which certifies that the person has successfully completed that program.

5. As used in this section, "minor" means a person who is under 21 years of age.

Sec. 11. 1. Except as otherwise provided in subsection 2 and sections 4 to 11, inclusive, of this act, no agency, board, commission, local government or other political subdivision of this State may adopt any requirements or standards for the education of persons employed to sell or serve alcoholic beverages at an establishment.

2. The prohibition set forth in subsection 1 does not apply with respect to a jurisdiction in which the provisions of section 9 of this act do not apply.



