

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—Makes various changes relating to intoxicating liquors. (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 liquors; revising various provisions governing the sale and disposition of intoxicating liquor; prohibiting the sale, purchase, possession or use of an alcohol vaporizing device; prohibiting the use of the brand name of any alcoholic beverage in an advertisement or other promotion of an alcohol vaporizing device; providing penalties; and providing other matters properly relating thereto.

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

Section 1. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in NRS 369.386 and 369.415, a supplier shall not engage in the business of importing, wholesaling or retailing alcoholic beverages in this State.

Sec. 2. NRS 369.111 is hereby amended to read as follows:

369.111 As used in this chapter, “supplier” means, with respect to liquor which is brewed, distilled, fermented, manufactured, *rectified*, produced or bottled:

1. Outside the United States:

(a) The brewer, distiller, manufacturer, producer, *rectifier*, vintner or bottler of the liquor, or his designated agent; or



(b) The owner of the liquor when it is first transported into any area under the jurisdiction of the United States Government, if the brewer, distiller, manufacturer, *rectifier*, producer, vintner or bottler of the liquor, or a designated agent of such a person, has not designated an importer to import the liquor into this State; ~~for~~

2. Within the United States but outside this State, the brewer, distiller, manufacturer, *rectifier*, producer, vintner or bottler of the liquor, or his designated agent ~~is~~; *or*

3. Within this State, the distiller, manufacturer, rectifier, producer or bottler of the liquor or his designated agent.

Sec. 3. NRS 369.386 is hereby amended to read as follows:

369.386 1. Except as otherwise provided in NRS 369.464, a supplier of liquor may sell to an importer ~~into~~ *or wholesaler in* this State only if:

(a) Their commercial relationship is of definite duration or continuing indefinite duration; and

(b) The importer is granted the right to offer, sell and distribute within this State or any designated area thereof such of the supplier's brands of packaged malt beverages, distilled spirits and wines, or all of them, as may be specified.

2. The supplier shall file with the Department a written notice indicating the name and address of each designated importer. Each importer shall file with the Department a written acceptance of the designation.

3. A brewer, distiller, manufacturer, producer, vintner or bottler of liquor who designates an agent to sell his products to importers into this State shall file with the Department a written designation indicating the name and address of the agent, and the agent shall file with the Department a written acceptance of the designation.

Sec. 4. NRS 369.430 is hereby amended to read as follows:

369.430 1. By regulation, the Department shall prescribe the form of application for and the form of a certificate of compliance, which must be printed and distributed to exporters of liquor into this State to assist them in legally exporting liquor into this State.

2. An intending importer may not legally receive or accept any shipment of liquor except from a holder of a certificate of compliance.

3. Before a person may engage in business as a supplier, he must obtain a certificate of compliance from the Department.

4. The Department shall grant a certificate of compliance to any out-of-state vendor of liquors who undertakes in writing:

(a) To furnish the Department on or before the 10th day of each month a report under oath showing the quantity and type of liquor sold and shipped by the vendor to each licensed importer of liquor in Nevada during the preceding month;



(b) That he and all his agents and any other agencies controlled by him will comply faithfully with all laws of this State and all regulations of the Department respecting the exporting of liquor into this State;

(c) That he will make available for inspection and copying by the Department any books, documents and records, whether within or outside this State, which are pertinent to his activities or the activities of his agents or any other agencies controlled by him within this State and which relate to the sale and distribution of his liquors within this State; and

(d) That he will appoint a resident of this State as his agent for service of process or any notice which may be issued by the Department.

~~14-1~~ 5. If any holder of a certificate of compliance fails to keep any undertaking or condition made or imposed in connection therewith, the Department may suspend the certificate and conduct a hearing, giving the holder thereof a reasonable opportunity to appear and be heard on the question of vacating the suspension order or order finally revoking the certificate.

~~15-1~~ 6. An applicant for a certificate of compliance must pay a fee of \$50 to the Department for the certificate. On or before July 1 of each year, the certificate holder must renew the certificate by satisfying the conditions of the original certificate and paying a fee of \$50 to the Department.

Sec. 5. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not:

(a) Sell or offer for sale, purchase, possess or use an alcohol vaporizing device; or

(b) Use the brand name of any alcoholic beverage in an advertisement or other promotion of an alcohol vaporizing device.

2. A person who violates any provision of subsection 1 is guilty of a misdemeanor.

3. As used in this section:

(a) "Alcohol vaporizing device" means a machine or other device which mixes liquor with pure oxygen or any other gas to produce a vaporized product which is consumed by inhalation.

(b) "Liquor" has the meaning ascribed to it in NRS 369.040.

Sec. 6. NRS 202.015 is hereby amended to read as follows:

202.015 For the purposes of NRS 202.015 to 202.065, inclusive, **and section 5 of this act**, "alcoholic beverage" means:

1. Beer, ale, porter, stout and other similar fermented beverages, including sake and similar products, of any name or description containing one-half of 1 percent or more alcohol by



1 volume, brewed or produced from malt, wholly or in part, or from
2 any substitute therefor.

3 2. Any beverage obtained by the fermentation of the natural
4 content of fruits or other agricultural products containing sugar, of
5 not less than one-half of 1 percent of alcohol by volume.

6 3. Any distilled spirits commonly referred to as ethyl alcohol,
7 ethanol or spirits of wine in any form, including all dilutions and
8 mixtures thereof from whatever process produced.

9 **Sec. 7.** NRS 597.200 is hereby amended to read as follows:

10 597.200 As used in NRS 597.210 to 597.250, inclusive, unless
11 the context otherwise requires:

12 1. "Alcoholic beverage" means any malt beverage or
13 spirituous, vinous or malt liquor which contains 1 percent or more
14 ethyl alcohol by volume.

15 2. "Brew pub" means an establishment which manufactures
16 malt beverages and sells those malt beverages at retail pursuant to
17 the provisions of NRS 597.230.

18 3. "Engage in" includes participation in a business as an owner
19 or partner, or through a subsidiary, affiliate, ownership equity or in
20 any other manner.

21 4. "Malt beverage" means beer, ale, porter, stout and other
22 similar fermented beverages of any name or description, brewed or
23 produced from malt, wholly or in part.

24 **5. "Supplier" has the meaning ascribed to it in NRS 597.140.**

25 **Sec. 8.** NRS 597.210 is hereby amended to read as follows:

26 597.210 1. Except as otherwise provided in NRS 597.240, a
27 person engaged in **business as a supplier or engaged in** the
28 business of manufacturing, blending or bottling alcoholic beverages
29 **within or without this State** shall not engage in the business of
30 importing, wholesaling or retailing alcoholic beverages . ~~by~~
31 ~~investment, loan or extension of credit in excess of normal terms~~
32 ~~prevalent in the industry, unless he was so engaged on or before~~
33 ~~May 1, 1975, and then only to the extent so engaged.]~~

34 2. This section does not:

35 (a) Preclude any person engaged in the business of importing,
36 wholesaling or retailing alcoholic beverages from owning less than
37 2 percent of the outstanding ownership equity in any organization
38 which manufactures, blends or bottles alcoholic beverages.

39 (b) Prohibit a person from operating a brew pub pursuant to
40 NRS 597.230.

41 **(c) Prohibit a person engaged in the business of rectifying or**
42 **bottling alcoholic beverages from importing neutral or distilled**
43 **spirits in bulk only for the express purpose of rectification**
44 **pursuant to NRS 369.415.**



1 **Sec. 9.** This act becomes effective upon passage and approval.

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