

Amendment No. 476

Senate Amendment to Senate Bill No. 457

(BDR 32-1408)

Proposed by: Committee on Taxation**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: No

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"/>	_____

Amend the bill as a whole by deleting sections 1 through 3 and adding new sections designated sections 1 through 5, following the enacting clause, to read as follows:

“Section 1. Chapter 369 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Except as otherwise provided in NRS 369.4865, a retail liquor store may receive and store liquor and transfer an original package of liquor to another retail liquor store, and that other retail liquor store may receive the original package of liquor pursuant to the transfer, if:*

(a) Each retail liquor store is in the marketing area of the wholesale dealer that holds the franchise for the brand of liquor purchased as indicated by the forms filed by the wholesale dealer with the Department;

TL/BJE

Date: 4/26/2005

S.B. No. 457—Revises provisions governing storage and transfer of liquor between retail liquor stores.



(b) The retail liquor store obtains a special permit for the transportation pursuant to subsection 4 of NRS 369.450; and

(c) The initial retail liquor store:

(1) Obtained the original package of liquor in compliance with the provisions of this chapter and chapter 597 of NRS; and

(2) Is an affiliate of the retail liquor store that receives the transfer.

2. A transfer of an original package of liquor between retail liquor stores which are not located within the same marketing area may occur only if:

(a) The wholesale dealers in the marketing areas where the retail liquor stores are located:

(1) Are affiliates;

(2) Consent, in writing, to the transfer; and

(3) Hold the franchises for the brands of liquor purchased in each marketing area involved in the transfer;

(b) The retail liquor store obtains a special permit for the transportation pursuant to subsection 4 of NRS 369.450; and

(c) The initial retail liquor store:

(1) Obtained the original package of liquor in compliance with the provisions of this chapter; and

(2) Is an affiliate of the retail liquor store that receives the transfer.

3. A transfer authorized by this section shall not be deemed a sale.

4. A retail liquor store that transfers or receives an original package of liquor as authorized by this section:

(a) Shall not be deemed to be engaged in business as a wholesale dealer based upon the transfer authorized by this section; and

(b) Shall not sell any original package of liquor that has been transferred to any other wholesale dealer or retail liquor store.

5. A wholesale dealer shall notify the retail liquor stores located in the marketing area of the wholesaler dealer of the boundaries of that marketing area.

6. As used in this section:

(a) "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a specified person.

(b) "Franchise" has the meaning ascribed to it in NRS 597.130.

(c) "Liquor" does not include beer.

(d) "Marketing area" has the meaning ascribed to it in NRS 597.136.

(e) "Retail liquor store" includes a facility that is owned or operated by a retailer and is used for the temporary storage and transfer of liquor pursuant to this section.

Sec. 3. 1. A wholesale dealer may bring an action in a court of competent jurisdiction against a retail liquor store and another wholesale dealer who knowingly transfer:

(a) An original package of liquor between marketing areas without the consent of the wholesale dealer as required by subsection 2 of section 2 of this act; or

(b) An original package of beer between retail liquor stores without complying with the provisions of chapter 369 of NRS,

↪ *and is entitled to an award of \$1,000 for each violation and may recover the damages sustained by him, together with such costs of the action and reasonable attorney's fees as authorized by NRS 18.110.*

2. The remedies provided in this section are independent of and supplemental to any other remedy or remedies available to the wholesale dealer in law or equity.

Sec. 4. NRS 369.550 is hereby amended to read as follows:

369.550 1. Except as otherwise expressly provided in this chapter, any person violating any of the provisions of this chapter , *except section 2 of this act*, or knowingly violating any regulation of the Department made for the enforcement of the provisions of this chapter shall be punished, upon conviction thereof, as for a misdemeanor.

2. Any person violating any provision of NRS 369.4865 is liable to the Department for a civil penalty of not more than \$1,000 for each violation. The civil penalty prescribed in this subsection is in addition to any criminal penalty or other remedy or penalty available for the same conduct.

Sec. 5. This act becomes effective upon passage and approval.”.

Amend the title of the bill, second line, after “between” by inserting “certain”.

Amend the summary of the bill to read as follows:

“SUMMARY—Revises provisions governing storage and transfer of liquor between certain retail liquor stores. (BDR 32-1408)”.