

SENATE BILL NO. 457—COMMITTEE ON JUDICIARY

MARCH 29, 2005

Referred to Committee on Taxation

SUMMARY—Revises provisions relating to intoxicating liquor.
(BDR 32-1408)

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; revising provisions governing the storage and transfer of liquor between certain retail liquor stores; authorizing a wholesale dealer, supplier, retailer or retail liquor dealer to bring a civil action for certain violations relating to intoxicating liquor; and providing other matters properly relating thereto.

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

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

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

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

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

14 ***(c) The initial retail liquor store:***

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



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

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

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

8 (1) Are affiliates;

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

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

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

14 (c) The initial retail liquor store:

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

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

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

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

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

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

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

31 6. As used in this section:

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

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

37 (c) "Liquor" does not include beer.

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

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

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



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

4 (b) *An original package of beer between retail liquor stores*
5 *without complying with the provisions of chapter 369 of NRS,*
6 *and is entitled to an award of \$1,000 for each violation and may*
7 *recover the damages sustained by him, together with such costs of*
8 *the action and reasonable attorney's fees as authorized by*
9 *NRS 18.110.*

10 2. *A wholesale dealer, supplier, retailer or retail liquor dealer*
11 *may bring an action in a court of competent jurisdiction against*
12 *any person who knowingly violates any provision of NRS 369.180,*
13 *369.386, 369.388, 369.486, 369.487 or 369.488 and is entitled to an*
14 *award of \$1,000 for each violation and may recover the damages*
15 *sustained by him, together with such costs of the action and*
16 *reasonable attorney's fees as authorized by NRS 18.110. For the*
17 *purposes of this subsection, each sale or transaction in violation of*
18 *NRS 369.180, 369.386, 369.388, 369.486, 369.487 or 369.488*
19 *constitutes a separate violation, regardless of the number of sales*
20 *or transactions.*

21 3. *A director, officer, agent or employee or a person engaged*
22 *in the sale or importation of liquor in this State who knowingly*
23 *assists or aids in a violation of this chapter for which an action is*
24 *authorized pursuant to this section is liable in such an action.*

25 4. *The remedies provided in this section are independent of*
26 *and supplemental to any other remedy or remedies available to a*
27 *person in law or equity.*

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

29 369.550 1. Except as otherwise expressly provided in this
30 chapter, any person violating any of the provisions of this chapter ,
31 *except section 2 of this act*, or knowingly violating any regulation
32 of the Department made for the enforcement of the provisions of
33 this chapter shall be punished, upon conviction thereof, as for a
34 misdemeanor.

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

40 **Sec. 5.** This act becomes effective upon passage and approval.



