

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; requiring certain persons employed at certain establishments where alcoholic beverages are sold to complete certain training; 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.

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 to 11, inclusive, of this
3 act.

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

9 (a) *Each retail liquor store is in the marketing area of the*
10 *wholesale dealer that holds the franchise for the brand of liquor*



1 *purchased as indicated by the forms filed by the wholesale dealer*
2 *with the Department;*

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

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

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

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

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

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

15 *(1) Are affiliates;*

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

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

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

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

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

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

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

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

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

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

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

38 *6. As used in this section:*

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

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

44 *(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. A wholesale dealer, supplier, retailer or retail liquor dealer may bring an action in a court of competent jurisdiction against any person who knowingly violates any provision of NRS 369.180, 369.386, 369.388, 369.486, 369.487 or 369.488 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. For the purposes of this subsection, each sale or transaction in violation of NRS 369.180, 369.386, 369.388, 369.486, 369.487 or 369.488 constitutes a separate violation, regardless of the number of sales or transactions.

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

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

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



1 **Sec. 7. "Commission"** means the Commission on
2 *Postsecondary Education created by NRS 394.383.*

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

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

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

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

9 3. *The term does not include:*

10 (a) *A wholesale dealer; or*

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

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

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

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

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

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

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

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

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

43 (II) *The person who owns or operates the establishment*
44 *ensures that the person who continues to be employed to sell or*
45 *serve alcoholic beverages or perform the duties of a security guard*



1 *at the establishment successfully completes, not later than*
2 *January 31, 2008, an alcoholic beverage awareness program*
3 *certified by the Commission pursuant to section 10 of this act.*

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

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

8 *(2) For the second violation within a 24-month period,*
9 *\$1,000.*

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

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

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

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

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

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

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

30 **2. The curriculum described in subsection 1:**

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

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

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

35 **(2) Methods of identifying intoxicated persons;**

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

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

40 **(5) Methods of preventing:**

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

43 **(II) The purchase, consumption and possession of**
44 **alcoholic beverages by minors as prohibited pursuant to NRS**



1 202.020, including, without limitation, the recognition of altered
2 or falsified forms of identification; and

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

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

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

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

13 4. The Commission shall adopt such regulations:

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

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

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

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

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

31 **Sec. 12.** NRS 369.550 is hereby amended to read as follows:

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

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

43 **Sec. 13.** NRS 244.350 is hereby amended to read as follows:

44 244.350 1. The board of county commissioners, and in a
45 county whose population is less than 400,000, the sheriff of that



1 county constitute a liquor board. The liquor board may, without
2 further compensation, grant or refuse liquor licenses, and revoke
3 those licenses whenever there is, in the judgment of a majority of
4 the board, sufficient reason for revocation. The board shall elect a
5 chairman from among its members.

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

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

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

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

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

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

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

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

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

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

33 **Sec. 14.** NRS 268.090 is hereby amended to read as follows:

34 268.090 1. In addition to any authority or power now
35 provided by the charter of any incorporated city in this State,
36 whether incorporated by general or special act, or otherwise, there is
37 hereby granted to each of the cities incorporated under any law of
38 this State the power and authority to fix, impose and collect a
39 license tax on, and regulate the sale of, beer, wines or other
40 beverages now or hereafter authorized to be sold by act of Congress.

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

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



1 **Sec. 15.** This act becomes effective upon passage and
2 approval.

