

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 or malt-based beverages,*
45 *but does include flavored malt beverages if the supplier and the*



1 *wholesale dealer holding the franchise for such flavored malt*
2 *beverages consent in writing. As used in this paragraph, “flavored*
3 *malt beverages” means flavored malt beverages that are not*
4 *marketed, merchandised or sold as beer.*

5 (d) *“Marketing area” has the meaning ascribed to it in*
6 *NRS 597.136.*

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

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

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

16 (b) *An original package of beer between retail liquor stores*
17 *without complying with the provisions of chapter 369 of NRS,*
18 *↪ and is entitled to an award of \$1,000 for each violation and may*
19 *recover the damages sustained by him, together with such costs of*
20 *the action and reasonable attorney’s fees as authorized by*
21 *NRS 18.110.*

22 2. *If any person knowingly violates any provision of NRS*
23 *369.180, 369.386, 369.388, 369.486, 369.487 or 369.488, a*
24 *wholesale dealer, supplier, retailer or retail liquor dealer who is*
25 *injured by the violation may bring an action in a court of*
26 *competent jurisdiction against the person to recover:*

27 (a) *For the first violation, \$100 plus treble the actual damages*
28 *sustained by him, together with such costs of the action and*
29 *reasonable attorney’s fees as authorized by NRS 18.110.*

30 (b) *For the second violation, \$250 plus treble the actual*
31 *damages sustained by him, together with such costs of the action*
32 *and reasonable attorney’s fees as authorized by NRS 18.110.*

33 (c) *For the third and any subsequent violation, \$500 plus*
34 *treble the actual damages sustained by him and punitive damages*
35 *as the facts may warrant, together with such costs of the action*
36 *and reasonable attorney’s fees as authorized by NRS 18.110.*

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

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

44 **Sec. 4.** *As used in sections 4 to 11, inclusive, of this act,*
45 *unless the context otherwise requires, the words and terms defined*



1 *in sections 5 to 8, inclusive, of this act have the meanings ascribed*
2 *to them in those sections.*

3 **Sec. 5.** *“Alcoholic beverage” has the meaning ascribed to it*
4 *in NRS 202.015.*

5 **Sec. 6.** *“Alcoholic beverage awareness program” means a*
6 *program designed to educate persons who sell or serve alcoholic*
7 *beverages or perform the duties of a security guard at an*
8 *establishment.*

9 **Sec. 7.** *“Commission” means the Commission on*
10 *Postsecondary Education created by NRS 394.383.*

11 **Sec. 8. 1.** *“Establishment” includes:*

12 *(a) A business that sells alcoholic beverages by the drink for*
13 *consumption on the premises; and*

14 *(b) In a county whose population is 400,000 or more, a*
15 *business that sells alcoholic beverages in corked or sealed*
16 *containers or receptacles for consumption off the premises.*

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

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

19 *(a) A wholesale dealer; or*

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

22 **Sec. 9. 1.** *Except as otherwise provided in subsection 5, on*
23 *and after July 1, 2007, a person who owns or operates an*
24 *establishment shall not:*

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

27 *(1) The person hired to sell or serve alcoholic beverages or*
28 *perform the duties of a security guard at the establishment has*
29 *already successfully completed a certified program and already*
30 *holds a valid alcohol education card; or*

31 *(2) 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 *within 30 days after the date on which he is hired, successfully*
35 *completes a certified program and obtains a valid alcohol*
36 *education card; or*

37 *(b) 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 *(1) 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 a certified*
43 *program and already holds a valid alcohol education card; or*

44 *(2) The person who owns or operates the establishment*
45 *ensures that the person who continues to be employed to sell or*



1 *serve alcoholic beverages or perform the duties of a security guard*
2 *at the establishment, not later than July 31, 2007, successfully*
3 *completes a certified program and obtains a valid alcohol*
4 *education card.*

5 *2. The Department shall impose upon an owner or operator*
6 *of an establishment who violates any of the provisions of this*
7 *section an administrative fine of not more than:*

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

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

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

12 *3. Of the money collected by the Department from fines*
13 *pursuant to subsection 2:*

14 *(a) Fifty percent must be deposited with the State Treasurer for*
15 *credit to the Fund for the Compensation of Victims of Crime*
16 *created by NRS 217.260.*

17 *(b) Fifty percent must be deposited in the Alcoholic Beverage*
18 *Awareness Program Account, which is hereby created in the State*
19 *General Fund. The Account must be administered by the*
20 *Commission. The interest and income earned on the money in the*
21 *Account, after deducting any applicable charges, must be credited*
22 *to the Account. The money in the Account must be used solely to*
23 *reduce the costs for employees to complete programs certified by*
24 *the Commission pursuant to subsection 3 of section 10 of this act.*

25 *4. Any law enforcement agency whose officer discovers a*
26 *violation of this section shall report the violation to the*
27 *Department.*

28 *5. The provisions of this section apply only in a jurisdiction*
29 *that:*

30 *(a) Is located in a county whose population is 100,000 or*
31 *more; or*

32 *(b) Is located in a county whose population is less than*
33 *100,000, if the governing body of the jurisdiction has, by the*
34 *affirmative vote of a majority of its members, agreed to be bound*
35 *by the provisions of this section.*

36 *6. As used in this section:*

37 *(a) "Certified program" means an alcoholic beverage*
38 *awareness program certified by the Commission pursuant to*
39 *section 10 of this act.*

40 *(b) "Valid alcohol education card" means a card issued by a*
41 *certified program which has been obtained or renewed within the*
42 *immediately preceding 4 years.*

43 **Sec. 10. 1. The Commission shall, in cooperation with state**
44 **and local law enforcement agencies, develop a curriculum for an**
45 **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. *An alcoholic beverage awareness program certified by the Commission:*

(a) *Must not cost a person more than \$40 to complete; and*

(b) *May be presented through the use of audiovisual technology. As used in this paragraph, "audiovisual technology" includes, without limitation, the use of closed-circuit video, videoconferencing, videotapes, computers, television, the Internet or any other electronic means of communication, or any combination thereof.*

5. *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 subsection 3 receives a card which verifies that the person has successfully completed that program. The regulations must provide additionally that a card described in this paragraph:*



1 (1) *Is valid for a period of 4 years from the date of issuance*
2 *and may be renewed for like consecutive periods upon successful*
3 *completion by the holder of the card of an alcoholic beverage*
4 *awareness program certified by the Commission; and*

5 (2) *Must be honored, in any jurisdiction in which the*
6 *provisions of section 9 of this act apply, as indicia of the*
7 *successful completion of an alcoholic beverage awareness*
8 *program certified by the Commission.*

9 6. *As used in this section, "minor" means a person who is*
10 *under 21 years of age.*

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

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

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

21 369.550 1. Except as otherwise expressly provided in this
22 chapter, any person violating any of the provisions of this chapter ,
23 *except section 2 of this act*, or knowingly violating any regulation
24 of the Department made for the enforcement of the provisions of
25 this chapter shall be punished, upon conviction thereof, as for a
26 misdemeanor.

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

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

33 244.350 1. The board of county commissioners, and in a
34 county whose population is less than 400,000, the sheriff of that
35 county constitute a liquor board. The liquor board may, without
36 further compensation, grant or refuse liquor licenses, and revoke
37 those licenses whenever there is, in the judgment of a majority of
38 the board, sufficient reason for revocation. The board shall elect a
39 chairman from among its members.

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

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

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



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

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

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

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

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

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

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

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

23 268.090 1. In addition to any authority or power now
24 provided by the charter of any incorporated city in this State,
25 whether incorporated by general or special act, or otherwise, there is
26 hereby granted to each of the cities incorporated under any law of
27 this State the power and authority to fix, impose and collect a
28 license tax on, and regulate the sale of, beer, wines or other
29 beverages now or hereafter authorized to be sold by act of Congress.

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

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

35 **Sec. 15.** This act becomes effective upon passage and
36 approval.

