

Amendment No. 495

Assembly Amendment to Assembly Bill No. 487

(BDR 32-1361)

Proposed by: Assembly Committee on Taxation**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

JLW/BJE



Date: 4/18/2007

A.B. No. 487—Exempts certain professional baseball events from the state tax on live entertainment. (BDR 32-1361)



ASSEMBLY BILL NO. 487—COMMITTEE ON TAXATION

MARCH 21, 2007

Referred to Committee on Taxation

SUMMARY—Exempts certain professional **minor league** baseball events from the state tax on live entertainment. (BDR 32-1361)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 taxation; exempting certain professional **minor league** baseball events from the state tax on live entertainment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the imposition of a state excise tax on admission to facilities where live entertainment is provided. (NRS 368A.200) **Section 1** of this bill provides an exemption from that tax for professional **minor league** baseball events conducted at a stadium.

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

Section 1. NRS 368A.200 is hereby amended to read as follows:

368A.200 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of:

(a) Less than 7,500 persons, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.

(b) At least 7,500 persons, the rate of the tax is 5 percent of the admission charge to the facility.

2. Amounts paid for:

(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section.

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those

1 imposed in connection with the use of credit cards or debit cards, which are
2 collected and retained by persons other than the taxpayer are not taxable pursuant to
3 this section.

4 3. A business entity that collects any amount that is taxable pursuant to
5 subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement
6 from any person paying that amount.

7 4. Any ticket for live entertainment must state whether the tax imposed by
8 this section is included in the price of the ticket. If the ticket does not include such a
9 statement, the taxpayer shall pay the tax based on the face amount of the ticket.

10 5. The tax imposed by subsection 1 does not apply to:

11 (a) Live entertainment that this State is prohibited from taxing under the
12 Constitution, laws or treaties of the United States or the Nevada Constitution.

13 (b) Live entertainment that is provided by or entirely for the benefit of a
14 nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-
15 exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation
16 organized or existing under the provisions of chapter 82 of NRS.

17 (c) Any boxing contest or exhibition governed by the provisions of chapter 467
18 of NRS.

19 (d) Live entertainment that is not provided at a licensed gaming establishment
20 if the facility in which the live entertainment is provided has a maximum
21 occupancy of less than 200 persons.

22 (e) Live entertainment that is provided at a licensed gaming establishment that
23 is licensed for less than 51 slot machines, less than 6 games, or any combination of
24 slot machines and games within those respective limits, if the facility in which the
25 live entertainment is provided has a maximum occupancy of less than 200 persons.

26 (f) Merchandise sold outside the facility in which the live entertainment is
27 provided, unless the purchase of the merchandise entitles the purchaser to
28 admission to the entertainment.

29 (g) Live entertainment that is provided at a trade show.

30 (h) Music performed by musicians who move constantly through the audience
31 if no other form of live entertainment is afforded to the patrons.

32 (i) Live entertainment that is provided at a licensed gaming establishment at
33 private meetings or dinners attended by members of a particular organization or by
34 a casual assemblage if the purpose of the event is not primarily for entertainment.

35 (j) Live entertainment that is provided in the common area of a shopping mall,
36 unless the entertainment is provided in a facility located within the mall.

37 (k) Food and product demonstrations provided at a shopping mall, a craft show
38 or an establishment that sells grocery products, housewares, hardware or other
39 supplies for the home.

40 (l) Live entertainment that is incidental to an amusement ride, a motion
41 simulator or a similar digital, electronic, mechanical or electromechanical
42 attraction. For the purposes of this paragraph, live entertainment shall be deemed to
43 be incidental to an amusement ride, a motion simulator or a similar digital,
44 electronic, mechanical or electromechanical attraction if the live entertainment is:

45 (1) Not the predominant element of the attraction; and

46 (2) Not the primary purpose for which the public rides, attends or
47 otherwise participates in the attraction.

48 (m) Live entertainment that is provided to the public in an outdoor area,
49 without any requirements for the payment of an admission charge or the purchase
50 of any food, refreshments or merchandise.

51 (n) An outdoor concert, unless the concert is provided on the premises of a
52 licensed gaming establishment.

(o) Beginning July 1, 2007, race events scheduled at a race track in this State as a part of the National Association for Stock Car Auto Racing Nextel Cup Series, or its successor racing series, and all races associated therewith.

(p) *Beginning July 1, 2007, a baseball contest, event or exhibition conducted by professional ~~athletes~~ minor league baseball players at a stadium in this State.*

(q) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.

6. The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph ~~(p)~~ (q) of subsection 5. The regulations must require the taxpayer to seek an administrative ruling from the Chairman of the Board, provide a procedure for appealing that ruling to the Commission and further describe the forms of incidental or ambient entertainment exempted pursuant to that paragraph.

7. As used in this section, "maximum occupancy" means, in the following order of priority:

(a) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

(b) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or

(c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.

Sec. 2. This act becomes effective upon passage and approval.