

Amendment No. 602

Senate Amendment to Assembly Bill No. 432 First Reprint (BDR 32-526)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: No 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 dashed underlining*** is newly added transitory language.

NMB/BAW



Date: 5/6/2009

A.B. No. 432—Revises provisions governing alcoholic beverage awareness programs. (BDR 32-526)



ASSEMBLY BILL NO. 432—ASSEMBLYMEN
SMITH AND OCEGUERA

MARCH 16, 2009

Referred to Committee on Taxation

SUMMARY—Revises provisions governing alcoholic beverage awareness programs. (BDR 32-526)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to intoxicating liquors; revising provisions relating to alcoholic beverage awareness programs; providing for enforcement of certain provisions by peace officers; revising the distribution of civil fines paid for certain violations; requiring certain reports to be made to the Legislature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain employees of certain establishments that sell alcohol must have successfully completed an alcoholic beverage awareness program. The owner of an establishment that is not in compliance must pay an administrative fine, to be imposed by the Department of Taxation. Money from the administrative fines must be divided equally into the Fund for the Compensation of Victims of Crime and the Alcoholic Beverage Awareness Program Account in the State General Fund. (NRS 369.630) **Section 1** of this bill provides that peace officers may enforce the requirements of the provision relating to employees having successfully completed the program by issuing a notice of a civil infraction for violations. **Section 1** also revises the provision for distribution of the money received by the Department for fines from establishments found in violation, providing that instead of depositing 50 percent of the money in the **Fund for the Compensation of Victims of Crime and 50 percent of the money in the** Alcoholic Beverage Awareness Program Account, 50 percent of the money must be deposited in the **Account for Aid for Victims of Domestic Violence and 50 percent of the money must be deposited in the** account created in the State General Fund for the support of community juvenile justice programs and must be used only to enforce laws that prohibit the purchase, consumption or possession of alcoholic beverages by persons under the age of 21 years.

Section 2 of this bill requires each recipient of money from the collection of fines for civil infractions to submit a report to the Legislature concerning the amount of money received and how the money was used. In addition, certain law enforcement agencies and the Department of Taxation are required to submit a report to the Legislature concerning the enforcement of the provisions requiring employees to participate in an alcoholic beverage awareness program.

Section 4 of this bill requires the Legislative Auditor to conduct an audit of any fines imposed pursuant to NRS 369.630 after July 1, 2007.

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

Section 1. NRS 369.630 is hereby amended to read as follows:

369.630 1. Except as otherwise provided in subsection ~~5.1~~ 7, on and after July 1, 2007, a person who owns or operates an establishment shall not:

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

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

(2) The person who owns or operates the establishment ensures that the person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, within 30 days after the date on which he is hired, successfully completes a certified program and obtains a valid alcohol education card; or

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

(1) The person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or

(2) The person who owns or operates the establishment ensures that the person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, not later than July 31, 2007, successfully completes a certified program and obtains a valid alcohol education card.

~~2. The Department shall impose upon an owner or operator of an establishment who violates any of the provisions of this section an administrative fine of not more than:~~ A violation of this section is a civil infraction, and when an owner or operator of an establishment is found in violation pursuant to subsection 3, a notice of infraction must be issued on a form prescribed by the Department, and must contain, without limitation, the following information:

(a) The location at which the violation occurred;

(b) The date and time of the violation;

(c) The name of the establishment and the owner;

(d) The signature of the person who issued the notice of infraction;

(e) A copy of this section which allegedly is being violated;

(f) Information which advises of the manner in which, and the time within which, the notice of infraction must be answered; and

(g) Any other reasonable information which is prescribed by the Department.

3. The notice of infraction may be issued by any peace officer or by any person who is authorized by the Department to issue such a notice. A duplicate of the notice of infraction must be served on the person to whom it is issued either in person, by providing the notice to the person in charge of the establishment at the time the notice of infraction is issued, or by affixing the notice to the establishment in a conspicuous place.

4. The notice of infraction or a facsimile thereof must be filed with the Department and retained by the Department and is deemed to be a public record of matters which are observed pursuant to a duty imposed by law and is prima facie evidence of the facts which are alleged therein.

1 **5. A person who responds to the notice of infraction must:**
2 (a) *Admit the commission of the infraction by paying to the Department the*
3 *appropriate civil fine:*

4 (1) For the first violation within a 24-month period, \$500.
5 ~~(b)~~ (2) For the second violation within a 24-month period, \$1,000.
6 ~~(c)~~ (3) For the third and any subsequent violation within a 24-month period,
7 \$5,000.

8 ~~(b)~~ (b) *Deny liability for the infraction by notifying the Department and*
9 *requesting a hearing in the manner indicated on the notice of infraction. Upon*
10 *receipt of such a request, the Department shall afford to the person making the*
11 *request an opportunity for a hearing pursuant to the provisions of*
12 *NRS 233B.121.*

13 6. Of the money collected by the Department from ~~(fines)~~ *a civil fine*
14 *pursuant to subsection ~~(2)~~ 5:*

15 (a) Fifty percent must be deposited with the State Treasurer for credit to the
16 ~~(Fund)~~ *Account* for ~~(the Compensation of)~~ *Aid for* Victims of ~~(Crime)~~ *Domestic*
17 *Violence* created by NRS ~~(217.260,)~~ *217.440.*

18 (b) Fifty percent must be deposited in the ~~(Alcoholic Beverage Awareness~~
19 ~~Program Account, which is hereby created in the State General Fund. The Account~~
20 ~~must be administered by the Commission. The interest and income earned on the~~
21 ~~money in the Account, after deducting any applicable charges, must be credited to~~
22 ~~the Account. The money in the Account must be used solely to reduce the costs for~~
23 ~~employees to complete programs certified by the Commission pursuant to~~
24 ~~subsection 3 of NRS 369.625.~~

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

27 ~~5.)~~ *account created in the State General Fund for the support of community*
28 *juvenile justice programs and must be used only to enforce laws that prohibit the*
29 *purchase, consumption or possession of alcoholic beverages by persons under the*
30 *age of 21 years.*

31 7. The provisions of this section apply only in a jurisdiction that:

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

36 ~~(6-)~~ 8. As used in this section:

37 (a) "Certified program" means an alcoholic beverage awareness program
38 certified by the Commission pursuant to NRS 369.625.

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

41 **Sec. 2.** 1. Each recipient of money pursuant to subsection 6 of section 1 of
42 this act shall submit a report to the Director of the Legislative Counsel Bureau on or
43 before February 1, 2011, for distribution to the Legislature setting forth the amount
44 of money received during the biennium, the manner in which the money was used
45 and the amount of money that remains in the account of the recipient.

46 2. Each law enforcement agency in a county subject to the provisions of NRS
47 369.630 and the Department of Taxation shall prepare and submit a report to the
48 Director of the Legislative Counsel Bureau on or before February 1, 2011, for
49 distribution to the Legislature which sets forth the actions taken by the agency or
50 the Department, as applicable, to enforce the provisions of NRS 369.600 to
51 369.635, inclusive, and the number of violations of those provisions that were
52 discovered by them. The Department shall also include in the report the amount of
53 money collected from fines imposed for such violations.

1 Sec. 3. ~~{This act becomes effective on July 1, 2009.}~~ (Deleted by
2 amendment.)

3 Sec. 4. 1. The Legislative Auditor shall conduct an audit concerning
4 any fines imposed by the Department of Taxation pursuant to NRS 369.630
5 after July 1, 2007.

6 2. The audit must include, without limitation, an analysis of:

7 (a) Whether any fines were imposed pursuant to NRS 369.630; and

8 (b) If any fines were imposed pursuant to NRS 369.630, the disposition of
9 all such fines that were imposed.

10 3. The Legislative Auditor shall present a final written report of the audit
11 to the Audit Subcommittee of the Legislative Commission not later than
12 February 7, 2011. A copy of the final written report must be provided to the
13 Department of Taxation not later than February 7, 2011.

14 4. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit
15 performed pursuant to this section.

16 5. The Department of Taxation shall use the results of the audit to
17 improve the efficiency and effectiveness of imposing and collecting fines
18 pursuant to NRS 369.630.