

SENATE BILL NO. 435—COMMITTEE ON FINANCE

MAY 26, 2009

Declared an Emergency Measure

SUMMARY—Makes corrections to certain legislative measures.
(BDR S-1328)

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 statutes; revising certain legislative measures enacted during the 75th Session of the Legislature to correct technical errors and clarify legislative intent; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 6-18 and 45 of Assembly Bill No. 146 of this session transfer certain duties and responsibilities concerning the issuance of state business licenses from the Department of Taxation to the Secretary of State. Sections 11 and 14 of A.B. 146, which set forth the fees for such a license, inadvertently failed to account for the reduction of those fees from \$200 to \$100 on July 1, 2011, in accordance with the requirements of Senate Bill No. 429 of this session. **Sections 1 and 2** of this bill correct this technical error.

Section 8.5 of Senate Bill No. 429 of this session is intended to exempt property sold or used for the performance of certain contracts from the additional amount of sales and use taxes imposed by sections 7 and 8 of that bill. **Section 3** of this bill clarifies the scope of this exemption.



* S B 4 3 5 *

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

Section 1. Assembly Bill No. 146 of this session is hereby amended by adding thereto new sections to be designated as sections 44.3 and 44.7, immediately following sec. 44, to read as follows:

Sec. 44.3. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license before conducting a business in this State.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Secretary of State;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the entity number as assigned by the Secretary of State, if known, and the location in this State of his place or places of business;

(c) Be accompanied by a fee in the amount of ~~1\$200;~~ **\$100;** and

(d) Include any other information that the Secretary of State deems necessary.

↪ If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed pursuant to NRS 239.330 by:

(a) The owner of a business that is owned by a natural person.



(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

6. For the purposes of this chapter, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to this title, other than a business organized pursuant to chapter 82 or 84 of NRS;

(b) Has an office or other base of operations in this State;

(c) Has a registered agent in this State; or

(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.

7. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 44.7. Section 14 of this act is hereby amended to read as follows:

Sec. 14. 1. A person who applies for renewal of a state business license shall submit a fee in the amount of ~~\$200~~ \$100 to the Secretary of State:

(a) If the person is an entity required to file an annual list with the Secretary of State pursuant to this title, at the time the person submits the annual list to the Secretary of State, unless the person submits a certificate or other form evidencing the dissolution of the entity; or

(b) If the person is not an entity required to file an annual list with the Secretary of State pursuant to this title, on the last day of the month in which the anniversary date of issuance of the state business license occurs in each



1 year, unless the person submits a written statement to the
2 Secretary of State, at least 10 days before that date,
3 indicating that the person will not be conducting a
4 business in this State after that date.

5 2. The Secretary of State shall, 90 days before the
6 last day for filing an application for renewal of the state
7 business license of a person who holds a state business
8 license, provide to the person a notice of the state business
9 license fee due pursuant to this section and a reminder to
10 file the application for renewal required pursuant to this
11 section. Failure of any person to receive a notice does not
12 excuse the person from the penalty imposed by law.

13 3. If a person fails to submit the annual state business
14 license fee required pursuant to this section in a timely
15 manner and the person is:

16 (a) An entity required to file an annual list with the
17 Secretary of State pursuant to this title, the person:

18 (1) Shall pay a penalty of \$100 in addition to the
19 annual state business license fee;

20 (2) Shall be deemed to have not complied with the
21 requirement to file an annual list with the Secretary of
22 State; and

23 (3) Is subject to all applicable provisions relating to
24 the failure to file an annual list, including, without
25 limitation, the provisions governing default and revocation
26 of its charter or right to transact business in this State,
27 except that the person is required to pay the penalty set
28 forth in subparagraph (1).

29 (b) Not an entity required to file an annual list with the
30 Secretary of State, the person shall pay a penalty in the
31 amount of \$100 in addition to the annual state business
32 license fee. The Secretary of State shall provide to the
33 person a written notice that:

34 (1) Must include a statement indicating the amount
35 of the fees and penalties required pursuant to this section
36 and the costs remaining unpaid.

37 (2) May be provided electronically, if the person
38 has requested to receive communications by electronic
39 transmission, by electronic mail or other electronic
40 communication.

41 **Sec. 2.** Section 47 of Assembly Bill No. 146 of this session is
42 hereby amended to read as follows:

43 Sec. 47. 1. This section and section 45.5 of this act
44 become effective upon passage and approval.



2. Sections 1 to ~~[45,]~~ 44, inclusive, 45, 46 and 46.5 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory actions that are necessary to carry out the provisions of this act; and

(b) On October 1, 2009, for all other purposes.

3. Sections 44.3 and 44.7 of this act become effective on July 1, 2011.

Sec. 3. Section 8.5 of Senate Bill No. 429 of this session is hereby amended to read as follows:

Sec. 8.5. NRS 374.315 is hereby amended to read as follows:

374.315 1. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract entered into before July 1, 1967.

2. There are exempted from the additional taxes imposed by amendment to this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract for construction entered into before May 1, 1981.

3. There are exempted from the additional taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract for construction of an improvement to real property, entered into before July 30, 1991, or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the additional taxes.

4. There are exempted from the additional taxes imposed by amendment to this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract entered into before July, 1 2009.

Sec. 4. This act becomes effective upon passage and approval.

