ASSEMBLY BILL NO. 218–ASSEMBLYMEN SEGERBLOM; AIZLEY, BROOKS AND PIERCE

MARCH 1, 2011

Referred to Committee on Taxation

SUMMARY—Revises provisions governing the application of sales and use taxes to bottled water. (BDR 32-542)

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 taxation; excluding bottled water from the definition of "food" for the purpose of administering sales and use taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law exempts food for human consumption, other than alcoholic beverages, tonics, vitamins and prepared food intended for immediate consumption, from the sales and use taxes imposed in this State. (NRS 372.284, 374.289) This bill requires the Department of Taxation, for the purpose of administering those taxes after June 30, 2011, to construe the term "food" as excluding "bottled water," thereby excluding bottled water from that tax exemption.

Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110) This bill defines "bottled water" and provides for its exclusion from the definition of "food" in the manner authorized by the provisions of that Agreement.

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

Section 1. The Legislature hereby finds and declares that:

1. Section 3[A] of Article 10 of the Nevada Constitution requires the Legislature to exempt food for human consumption, other than alcoholic beverages and food intended for immediate consumption, from the sales and use taxes imposed in this State;

2. Bottled water that has no caloric value does not constitute a type of food; and

3. It is neither necessary nor appropriate to include bottled water within such an exemption from sales and use taxes.

Sec. 2. Chapter 360B of NRS is hereby amended by adding thereto a new section to read as follows:

"Bottled water" means water that:

1. Is placed in a safety-sealed container or package for human consumption;

2. Is free of calories; and

3. Does not contain sweeteners or other additives, except that it may contain:

(a) Antimicrobial agents;

(b) Fluoride;

(c) Carbonation;

(d) Vitamins, minerals and electrolytes;

(e) Oxygen;

(f) Preservatives; and

(g) Only those flavors, extracts or essences derived from a spice or fruit.

➥ The term includes water that is delivered to the buyer in a reusable container that is not sold with the water.

Sec. 3. NRS 360B.400 is hereby amended to read as follows:

360B.400 In administering the provisions of this chapter and chapters 372 and 374 of NRS, and in carrying out the provisions of the Agreement, the Department shall construe the terms defined in NRS 360B.405 to 360B.495, inclusive, ***and section 2 of this act,*** unless the context otherwise requires, in the manner prescribed by those sections.

Sec. 4. NRS 360B.445 is hereby amended to read as follows:

360B.445 "Food" and "food ingredients" mean substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value, except alcoholic beverages, ***bottled water,*** dietary supplements and tobacco.

Sec. 5. The Department of Taxation shall not apply the amendatory provisions of this act to:

1. Any retail sale of bottled water before July 1, 2011; or

2. Any storage, use or other consumption of bottled water purchased from a retailer before July 1, 2011.

Sec. 6. This act becomes effective on July 1, 2011.