

ASSEMBLY BILL NO. 542—COMMITTEE
ON COMMERCE AND LABOR

MARCH 28, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Provides for the licensing and operation of distilleries in Nevada. (BDR 52-649)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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 alcoholic beverages; providing for the licensing and operation of distilleries in this State; setting forth the conditions under which spirits manufactured at such distilleries may be sold; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the operation of brew pubs and instructional wine-making facilities. (NRS 597.230, 597.245) Under existing law, facilities such as brew pubs and instructional wine-making facilities must be licensed, a fee is imposed for the license, and a person who engages in business in this State without having the appropriate permit or license for the business is guilty of a misdemeanor. (NRS 360.490, 369.180, 369.300)

This bill: (1) authorizes the operation of distilleries in Nevada; (2) sets forth the permissible scope of operation for those distilleries; (3) requires that the distilleries be licensed; and (4) imposes a licensing fee of \$75.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person may operate a distillery if the person:
(a) Obtains a license for the facility pursuant to chapter 369 of NRS;



(b) *Complies with the requirements of this section; and*
(c) *Complies with any other applicable governmental requirements.*

2. *A person who operates a distillery pursuant to this section may:*

(a) *Manufacture spirits from agricultural raw materials through the process of distillation and rectify, blend, age, store and bottle the spirits so manufactured. The person operating the distillery shall ensure that:*

(1) *At least 50 percent of the agricultural raw materials used to manufacture the spirits are grown in this State;*

(2) *Not more than 10 percent of the spirits manufactured or rectified at the distillery are derived from neutral spirits manufactured by another distiller; and*

(3) *The distillery does not manufacture more than 10,000 cases of spirits in any calendar year.*

(b) *Sell and transport the spirits manufactured at the distillery to a person who holds a valid license to engage in business as a wholesale dealer of liquor.*

(c) *Export the spirits manufactured at the distillery to another state.*

(d) *On the premises of the distillery, serve samples of the spirits manufactured at the distillery. Any such samples must not exceed, per person, per day, 1 fluid ounce in volume of each type of spirit manufactured at the distillery.*

(e) *On the premises of the distillery, sell the spirits manufactured at the distillery at retail for consumption off premises. Any such spirits sold at retail for off-premises consumption must not exceed, per person, per day, 1.75 liters in volume of each type of spirit manufactured at the distillery.*

(f) *At one location not on the premises of the distillery:*

(1) *Serve the spirits manufactured at the distillery for consumption by the glass.*

(2) *Sell the spirits manufactured at the distillery at retail for consumption off premises. Any such spirits sold at retail for off-premises consumption must not exceed, per person, per day, 1.75 liters in volume of each type of spirit manufactured at the distillery.*

(g) *Within or without the boundaries of this State:*

(1) *Manufacture spirits under contract for another person or entity.*

(2) *Sell spirits manufactured under contract to a person who holds a valid and adequate license to engage in such activity. Spirits sold in accordance with this subparagraph may be sold in bulk, by the barrel or by the bottle.*



(h) *Charge a fee to other persons of legal age for the purpose of providing those persons with instruction and the opportunity to participate directly in the process of making whiskey on the premises of the distillery. The whiskey so made:*

(1) *Must not exceed, in volume:*

(I) *One 53-gallon barrel, per person, per year, for each person receiving such instruction.*

(II) *Two hundred 53-gallon barrels per year, for the distillery at which the instruction is provided.*

(2) *May be sold only to a person of legal age who has participated directly in the process of making whiskey on the premises of the distillery for the person's own household or personal use. That person may not sell the whiskey but may distribute the whiskey to any other person of legal age as a gift.*

3. *As used in this section:*

(a) *"Case of spirits" means 12 bottles each containing 750 milliliters of distilled spirits.*

(b) *"Distillation" means the process of producing or purifying spirituous liquor by successive evaporation and condensation.*

(c) *"Rectify" means to purify spirituous liquor by repeated or fractional distillation.*

Sec. 2. NRS 597.200 is hereby amended to read as follows:

597.200 As used in NRS 597.190 to 597.250, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. "Alcoholic beverage" means any malt beverage or spirituous, vinous or malt liquor which contains 1 percent or more ethyl alcohol by volume.

2. "Brew pub" means an establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230.

3. *"Distillery" means an establishment which manufactures distilled spirits and is authorized to sell and distribute those distilled spirits pursuant to the provisions of section 1 of this act.*

4. "Engage in" includes participation in a business as an owner or partner, or through a subsidiary, affiliate, ownership equity or in any other manner.

~~[4.]~~ 5. "Instructional wine-making facility" means an instructional wine-making facility operated pursuant to NRS 597.245.

~~[5.]~~ 6. "Legal age" means the age at which a person is legally permitted to purchase an alcoholic beverage pursuant to NRS 202.020.

~~[6.]~~ 7. "Malt beverage" means beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.



~~[7-]~~ 8. "Supplier" has the meaning ascribed to it in NRS 597.140.

~~[8-]~~ 9. "Wine" has the meaning ascribed to it in NRS 369.140.

Sec. 3. NRS 597.210 is hereby amended to read as follows:

597.210 1. Except as otherwise provided in NRS 597.240 ~~[4-]~~ *and section 1 of this act*, a person engaged in business as a supplier or engaged in the business of manufacturing, blending or bottling alcoholic beverages within or without this State shall not engage in the business of importing, wholesaling or retailing alcoholic beverages.

2. This section does not:

(a) Preclude any person engaged in the business of importing, wholesaling or retailing alcoholic beverages from owning less than 2 percent of the outstanding ownership equity in any organization which manufactures, blends or bottles alcoholic beverages.

(b) Prohibit a person engaged in the business of rectifying or bottling alcoholic beverages from importing neutral or distilled spirits in bulk only for the express purpose of rectification pursuant to NRS 369.415.

(c) Prohibit a person from operating a brew pub pursuant to NRS 597.230.

(d) Prohibit a person from operating an instructional wine-making facility pursuant to NRS 597.245.

(e) Prohibit a person from operating a distillery pursuant to section 1 of this act.

Sec. 4. NRS 597.220 is hereby amended to read as follows:

597.220 1. ~~[Any]~~ *Except as otherwise provided in section 1 of this act*, a person who is engaged in the business of importing or wholesaling alcoholic beverages in the State of Nevada shall not engage in the business of retailing alcoholic beverages in this state.

2. For the purposes of this section, a person who transfers or receives alcoholic beverages in the manner described in NRS 369.4865 must not be considered to be engaged in the business of wholesaling alcoholic beverages based solely upon those transfers.

Sec. 5. NRS 597.250 is hereby amended to read as follows:

597.250 The license of any person who violates the provisions of NRS 597.210, 597.220, 597.230 , ~~[or]~~ 597.245 *or section 1 of this act* must be suspended or revoked in the manner provided in chapter 369 of NRS.

Sec. 6. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this chapter, "distillery" has the meaning ascribed to it in NRS 597.200.



Sec. 7. NRS 369.180 is hereby amended to read as follows:

369.180 1. In addition to the limitations imposed by NRS 597.210 and 597.220, a person shall not:

(a) Import liquors into this State unless the person first secures an importer's license or permit from this State.

(b) Engage in business as a wholesale dealer of wines and liquors in this State unless the person first secures a wholesale wine and liquor dealer's license from this State.

(c) Engage in business as a wholesale dealer of beer in this State unless the person first secures a wholesale beer dealer's license from this State.

(d) Operate a winery in this State or export wine from this State unless the person first secures a wine-maker's license from this State.

(e) Operate an instructional wine-making facility in this State unless the person first secures a license for the instructional wine-making facility from this State.

(f) Operate a brewery in this State unless the person first secures a brewer's license from this State.

(g) Operate a brew pub in this State unless the person first secures a brew pub's license from this State.

(h) Operate a distillery in this State unless the person first secures a distiller's license from this State.

2. A person who holds a license for an instructional wine-making facility:

(a) May engage in any activity authorized by NRS 597.245.

(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.

3. *A person who holds a license for a distillery:*

(a) May engage in any activity authorized by section 1 of this act.

(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.

4. As used in this section:

(a) "Brew pub" has the meaning ascribed to it in NRS 597.200.

(b) "Brewery" means an establishment which manufactures malt beverages but does not sell those malt beverages at retail.

(c) "Malt beverage" has the meaning ascribed to it in NRS 597.200.

Sec. 8. NRS 369.300 is hereby amended to read as follows:

369.300 The following is a schedule of fees to be charged for licenses:



* A B 5 4 2 *

1	Importer's wine, beer and liquor license	\$500
2	Importer's beer license	150
3	Wholesale wine, beer and liquor license	250
4	Wholesale beer dealer's license	75
5	Wine-maker's license	75
6	License for an instructional wine-making facility	75
7	Brew pub's license	75
8	Brewer's license	75
9	<i>Distiller's license</i>	<i>75</i>

10 **Sec. 9.** NRS 369.345 is hereby amended to read as follows:

11 369.345 1. No excise tax may be imposed upon wine
12 produced on the premises of an instructional wine-making facility if
13 the wine is used, consumed or disposed of on the premises of the
14 facility or distributed to persons for household or personal use in the
15 manner authorized by NRS 597.245.

16 2. *No excise tax may be imposed upon whiskey produced on*
17 *the premises of a distillery if the whiskey is used, consumed or*
18 *disposed of on the premises of the facility or distributed to persons*
19 *for household or personal use in the manner authorized by section*
20 *1 of this act.*

21 3. If a person pays the tax on any wine *or whiskey* which is
22 exempt from the tax pursuant to this section, the person may obtain
23 a credit or refund with respect to the tax so paid in the manner
24 provided by the Department.

25 **Sec. 10.** NRS 369.490 is hereby amended to read as follows:

26 369.490 1. Except as otherwise provided in subsection 2, a
27 person shall not directly or indirectly, himself or herself or by his or
28 her clerk, agent or employee, offer, keep or possess for sale, furnish
29 or sell, or solicit the purchase or sale of any liquor in this State, or
30 transport or import or cause to be transported or imported any liquor
31 in or into this State for delivery, storage, use or sale therein, unless
32 the person:

33 (a) Has complied fully with the provisions of this chapter; and

34 (b) Holds an appropriate, valid license, permit or certificate
35 issued by the Department.

36 2. Except as otherwise provided in subsection 3, the provisions
37 of this chapter do not apply to a person:

38 (a) Entering this State with a quantity of alcoholic beverage for
39 household or personal use which is exempt from federal import
40 duty;

41 (b) Who imports 1 gallon or less of alcoholic beverage per
42 month from another state for his or her own household or personal
43 use;

44 (c) Who:

45 (1) Is a resident of this State;



* A B 5 4 2 *

1 (2) Is 21 years of age or older; and
2 (3) Imports 12 cases or less of wine per year for his or her
3 own household or personal use; ~~for~~

4 (d) Who is lawfully in possession of wine produced on the
5 premises of an instructional wine-making facility for his or her own
6 household or personal use and who is acting in a manner authorized
7 by NRS 597.245 ~~for~~; or

8 (e) *Who is lawfully in possession of whiskey produced on the*
9 *premises of a distillery in the course of participating directly in the*
10 *process of making whiskey for his or her own personal use and*
11 *who is acting in a manner authorized by paragraph (h) of*
12 *subsection 2 of section 1 of this act.*

13 3. The provisions of subsection 2 do not apply to a supplier,
14 wholesaler or retailer while he or she is acting in his or her
15 professional capacity.

16 4. A person who accepts liquor shipped into this State pursuant
17 to paragraph (b) or (c) of subsection 2 must be 21 years of age or
18 older.

19 **Sec. 11.** This act becomes effective upon passage and
20 approval.

