

## Amendment No. 439

Assembly Amendment to Assembly Bill No. 542

(BDR 52-649)

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

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 542 (§ 8).

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>

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 underlining* is newly added transitory language.

MSM/BJE



Date: 4/25/2011

A.B. No. 542—Provides for the licensing and operation of distilleries in Nevada.  
(BDR 52-649)



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 craft 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.

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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 alcoholic beverages; providing for the licensing and operation of craft distilleries in this State; setting forth the conditions under which spirits manufactured at such craft 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 craft distilleries in Nevada; (2) sets forth the permissible scope of operation for those craft distilleries; (3) requires that the craft 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 craft 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 craft distillery pursuant to this section may:*
  - (a) Manufacture spirits from agricultural raw materials through the process of distillation and ~~freely~~ blend, age, store and bottle the spirits so manufactured. The person operating the craft 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 craft distillery are derived from neutral spirits manufactured by another distiller; and~~

~~(3) (2) The craft distillery does not manufacture more than 10,000 cases of spirits in any calendar year.~~

(b) Sell and transport the spirits manufactured at the craft 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 craft distillery to another state.

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

(e) On the premises of the craft distillery, sell the spirits manufactured at the craft 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 craft 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.] Spirits purchased on the premises of a craft distillery may not be resold by the purchaser or any retail liquor store.~~

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.]~~

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

2       597.200 As used in NRS 597.190 to 597.250, inclusive, *and section 1 of this*  
3 *act*, unless the context otherwise requires:

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

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

8       3. ~~["Distillery"]~~ "Craft distillery" *means an establishment which*  
9 *manufactures distilled spirits and is authorized to sell and distribute those*  
10 *distilled spirits pursuant to the provisions of section 1 of this act.*

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

13       ~~4.4~~ 5. "Instructional wine-making facility" means an instructional wine-  
14 making facility operated pursuant to NRS 597.245.

15       ~~5.4~~ 6. "Legal age" means the age at which a person is legally permitted to  
16 purchase an alcoholic beverage pursuant to NRS 202.020.

17       ~~6.4~~ 7. "Malt beverage" means beer, ale, porter, stout and other similar  
18 fermented beverages of any name or description, brewed or produced from malt,  
19 wholly or in part.

20       ~~7.4~~ 8. "Supplier" has the meaning ascribed to it in NRS 597.140.

21       ~~8.4~~ 9. "Wine" has the meaning ascribed to it in NRS 369.140.

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

23       597.210 1. Except as otherwise provided in NRS 597.240 ~~4~~ *and section 1*  
24 *of this act*, a person engaged in business as a supplier or engaged in the business of  
25 manufacturing, blending or bottling alcoholic beverages within or without this State  
26 shall not engage in the business of importing, wholesaling or retailing alcoholic  
27 beverages.

28       2. This section does not:

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

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

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

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

39       ~~(e)~~ *Prohibit a person from operating a craft distillery pursuant to section 1 of*  
40 *this act.*

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

42       597.220 1. ~~Any~~ *Except as otherwise provided in section 1 of this act, a*  
43 *person who is engaged in the business of importing or wholesaling alcoholic*  
44 *beverages in the State of Nevada shall not engage in the business of retailing*  
45 *alcoholic beverages in this state.*

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

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

51       597.250 The license of any person who violates the provisions of NRS  
52 597.210, 597.220, 597.230, ~~4~~ *597.245 or section 1 of this act* must be suspended  
53 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, ~~the~~ “craft 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 craft distillery in this State unless the person first secures a craft 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 craft 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:

Importer’s wine, beer and liquor license .....	\$500
Importer’s beer license .....	150
Wholesale wine, beer and liquor license .....	250
Wholesale beer dealer’s license.....	75
Wine-maker’s license .....	75
License for an instructional wine-making facility .....	75
Brew pub’s license .....	75
Brewer’s license .....	75
<del>Distiller’s</del> <u>Craft distiller’s license</u> .....	75

1       **Sec. 9.** ~~[NRS 369.345 is hereby amended to read as follows:~~  
2       ~~369.345 1. No excise tax may be imposed upon wine produced on the~~  
3       ~~premises of an instructional wine-making facility if the wine is used, consumed or~~  
4       ~~disposed of on the premises of the facility or distributed to persons for household or~~  
5       ~~personal use in the manner authorized by NRS 597.245.~~

6       ~~2. No excise tax may be imposed upon whiskey produced on the premises of~~  
7       ~~a distillery if the whiskey is used, consumed or disposed of on the premises of the~~  
8       ~~facility or distributed to persons for household or personal use in the manner~~  
9       ~~authorized by section 1 of this act.~~

10       ~~3. If a person pays the tax on any wine or whiskey which is exempt from the~~  
11       ~~tax pursuant to this section, the person may obtain a credit or refund with respect to~~  
12       ~~the tax so paid in the manner provided by the Department.] (Deleted by~~  
13       ~~amendment.)~~

14       **Sec. 9.5.** NRS 369.382 is hereby amended to read as follows:  
15       369.382 Except as otherwise provided in NRS 369.386 and 369.415, and  
16       section 1 of this act, a supplier shall not engage in the business of importing,  
17       wholesaling or retailing alcoholic beverages in this State.

18       **Sec. 10.** ~~[NRS 369.490 is hereby amended to read as follows:~~  
19       ~~369.490 1. Except as otherwise provided in subsection 2, a person shall not~~  
20       ~~directly or indirectly, himself or herself or by his or her clerk, agent or employee,~~  
21       ~~offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any~~  
22       ~~liquor in this State, or transport or import or cause to be transported or imported any~~  
23       ~~liquor in or into this State for delivery, storage, use or sale therein, unless the~~  
24       ~~person:~~

25       ~~(a) Has complied fully with the provisions of this chapter; and~~  
26       ~~(b) Holds an appropriate, valid license, permit or certificate issued by the~~  
27       ~~Department.~~

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

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

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

34       ~~(c) Who:~~

35       ~~(1) Is a resident of this State;~~

36       ~~(2) Is 21 years of age or older; and~~

37       ~~(3) Imports 12 cases or less of wine per year for his or her own household~~  
38       ~~or personal use; [or]~~

39       ~~(d) Who is lawfully in possession of wine produced on the premises of an~~  
40       ~~instructional wine-making facility for his or her own household or personal use and~~  
41       ~~who is acting in a manner authorized by NRS 597.245 [.] ; or~~

42       ~~(e) Who is lawfully in possession of whiskey produced on the premises of a~~  
43       ~~distillery in the course of participating directly in the process of making whiskey~~  
44       ~~for his or her own personal use and who is acting in a manner authorized by~~  
45       ~~paragraph (h) of subsection 2 of section 1 of this act.~~

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

48       ~~4. A person who accepts liquor shipped into this State pursuant to paragraph~~  
49       ~~(b) or (c) of subsection 2 must be 21 years of age or older.] (Deleted by~~  
50       ~~amendment.)~~

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