

Amendment No. 432

Assembly Amendment to Assembly Bill No. 153

(BDR 52-607)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: No 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. 153 (§ 7).

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 underlining* is newly added transitory language.

AMI/JRS



Date: 4/19/2013

A.B. No. 153—Provides for the licensing and operation of craft distilleries in Nevada. (BDR 52-607)



ASSEMBLY BILL NO. 153--ASSEMBLYMEN HARDY, HAMBRICK;
ELLISON, FIORE, GRADY, LIVERMORE AND WHEELER

FEBRUARY 20, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Provides for the licensing and operation of craft distilleries in Nevada. (BDR 52-607)

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; providing a penalty; 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~~ Sections 1 and 2-8 of this bill: (1) ~~authorizes~~ authorize the operation of craft distilleries in Nevada; (2) ~~sets~~ set forth the permissible scope of operation for those craft distilleries; (3) ~~requires~~ require that the craft distilleries be licensed; and (4) ~~imposes~~ impose a licensing fee of \$75.

Existing law prohibits a supplier of malt beverages, distilled spirits and wines from unilaterally terminating or refusing to continue a franchise with a wholesaler or causing a wholesaler to resign from a franchise without first establishing good cause. (NRS 597.160) Section 1.5 of this bill revises an exception to that provision so that suppliers who sell less than 2,000 rather than 2,500 barrels of malt beverage in any calendar year are excluded from that requirement.

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) In addition to manufacturing spirits from agricultural raw materials through distillation, blend, age, store and bottle the spirits so manufactured. The person operating the craft distillery shall ensure that none of the spirits manufactured at the craft distillery are derived from neutral or distilled spirits manufactured by another manufacturer.

(b) In any calendar year, ~~sell~~ manufacture for sale and transport in Nevada not more than ~~15,000~~ a combined total of 10,000 cases of spirits ~~manufactured at all the craft distillery to a person who holds a valid license to engage in business as a wholesale dealer of liquor pursuant to chapter 369 of NRS, distilleries the person operates.~~

(c) ~~Export in any quantity~~ In any calendar year, manufacture for exportation to another state ~~that~~ , not more than a combined total of 20,000 cases of spirits ~~manufactured at all the craft distillery, distilleries the person operates.~~

(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~~ 2 fluid ounces in volume ~~for each type of spirit manufactured at the craft distillery.~~

(e) On the premises of the craft distillery, ~~+~~

~~(1) Serve the spirits manufactured at the craft distillery by the glass for consumption on the premises; and~~

~~(2) Sell~~ sell the spirits manufactured at the craft distillery at retail for consumption on or off the premises. Any such spirits sold at retail for off-premises consumption must not exceed, per person, per ~~day, one-half gallon in volume of each type of spirit manufactured at the craft distillery.~~ month, one-half of a case of spirits. Spirits purchased on the premises of a craft distillery ~~may~~ must not be resold by the purchaser or any retail liquor store.

3. As used in this section, "case of spirits" means 12 bottles, each containing 750 milliliters of distilled spirits.

Sec. 1.5. NRS 597.160 is hereby amended to read as follows:

597.160 1. Except as otherwise provided in subsection 4, if more than one franchise for the same brand or brands of malt beverages, distilled spirits and wines, or all of them, is granted to different wholesalers in this state, it is a violation of NRS 597.120 to 597.180, inclusive, for any supplier to discriminate between such wholesalers with respect to any of the terms, provisions and conditions of these franchises.

2. Except as otherwise provided in this subsection and notwithstanding the terms, provisions or conditions of any franchise, a supplier shall not unilaterally terminate or refuse to continue any franchise with a wholesaler or cause a wholesaler to resign from that franchise unless the supplier has first established good cause for that termination, noncontinuance or causing of that resignation. This subsection does not apply to a supplier who sells less than ~~12,500~~ 2,000 barrels of malt beverages, less than 250 cases of distilled spirits or less than 2,000 cases of wine in this state in any calendar year, or who operates a winery pursuant to NRS 597.240.

3. A wholesaler may, within 60 days after he or she receives a notice required pursuant to NRS 597.155, correct any failure to comply with the terms, provisions and conditions of the franchise alleged by the supplier.

4. Unless otherwise specified by contract between the supplier and wholesaler, a supplier shall not grant more than one franchise to a wholesaler for any brand of alcoholic beverage in a marketing area.

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. *"Craft distillery" means an establishment which:*

(a) Manufactures distilled spirits from agricultural raw materials through distillation; and

(b) Is authorized to sell and distribute those distilled spirits pursuant to the provisions of section 1 of this act.

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

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

~~6-7~~ 6. "Instructional wine-making facility" means an instructional wine-making facility operated pursuant to NRS 597.245.

~~5-6~~ 7. "Legal age" means the age at which a person is legally permitted to purchase an alcoholic beverage pursuant to NRS 202.020.

~~6-7~~ 8. "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~~ 9. "Supplier" has the meaning ascribed to it in NRS 597.140.

~~8-9~~ 10. "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 *subsection 2 and* NRS 597.240, ~~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~~ *:*

(a) Engage in the business of importing, wholesaling or retailing alcoholic beverages ~~;~~ *or*

(b) Operate or otherwise locate his or her business on the premises or property of another person engaged 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 craft distillery pursuant to section 1 of this act.

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

2 597.220 1. ~~Any~~ *Except as otherwise provided in ~~section 1 of this act,~~*
3 *subsection 3, a* person who is engaged in the business of importing or wholesaling
4 alcoholic beverages in the State of Nevada shall not engage in the business of
5 retailing alcoholic beverages in this state.

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

10 3. *This section does not prohibit a person from operating a craft distillery*
11 *pursuant to section 1 of this act.*

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

13 597.250 The license of any person who violates the provisions of NRS
14 597.210, 597.220, 597.230 or 597.245 *or section 1 of this act* must be suspended or
15 revoked in the manner provided in chapter 369 of NRS.

16 **Sec. 6.** NRS 369.180 is hereby amended to read as follows:

17 369.180 1. In addition to the limitations imposed by NRS 597.210 and
18 597.220, a person shall not:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 4. As used in this section:

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

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

50 (c) *"Craft distillery" has the meaning ascribed to it in NRS 597.200.*

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

52 **Sec. 7.** NRS 369.300 is hereby amended to read as follows:

53 369.300 The following is a schedule of fees to be charged for licenses:

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>Craft distiller's license</i>	<i>75</i>

10 **Sec. 8.** NRS 369.382 is hereby amended to read as follows:

11 369.382 1. Except as otherwise provided in subsection 2. NRS 369.386 and
 12 369.415, ~~and section 1 of this act,~~ a supplier shall not engage in the business of
 13 importing, wholesaling or retailing alcoholic beverages in this State.

14 2. This section does not prohibit a person from operating a craft distillery
 15 pursuant to section 1 of this act.

16 **Sec. 9.** This act becomes effective on ~~passage and approval~~ July 1, 2013.