

Amendment No. 934

Senate Amendment to Assembly Bill No. 153 First Reprint (BDR 52-607)

Proposed by: Senate Committee on Commerce, Labor and Energy**Amendment Box:** Replaces Amendment No. 919.**Amends:** Summary: No 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. 153 R1 (§ 7).

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.

NCA/BAW



Date: 5/31/2013

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; removing the limitation on the number of barrels of malt beverages that an operator of one or more brew pubs may manufacture in any calendar year; requiring certain notice to be provided for bulk sales of liquor; 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) **Sections 1, 2-4 and ~~2-4~~ 6-8** of this bill: (1) authorize the operation of craft distilleries in Nevada; (2) set forth the permissible scope of operation for those craft distilleries; (3) require that the craft distilleries be licensed; and (4) 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.

Existing law prohibits a person who operates one or more brew pubs in a county whose population is 700,000 or more (currently Clark County) from manufacturing more than 15,000 barrels of malt beverages for all the brew pubs the person operates in that county in any calendar year. Additionally, a person who operates one or more brew pubs in a county whose population is less than 700,000 (currently all counties other than Clark County) is prohibited from manufacturing more than 5,000 barrels of malt beverages for all the brew pubs the person operates in that county in any calendar year.

(NRS 597.230) Section 4.5 of this bill provides that a person who operates one or more brew pubs in any county is prohibited from manufacturing more than 15,000 barrels of malt beverages for all the brew pubs the person operates in any calendar year.

Section 5.5 of this bill requires a retailer of intoxicating liquors to provide certain advance notice to certain wholesalers of a bulk sale or transfer of liquor which is not in the ordinary course of the retailer's business.

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~~ chapter; 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, ~~manufacture for sale~~ sell and transport in Nevada not more than a combined total of 10,000 cases of spirits at all the craft distilleries the person operates ~~to a person who holds a license to engage in business as a wholesale dealer of liquor pursuant to chapter 369 of NRS.~~

(c) In any calendar year, manufacture for exportation to another state, not more than a combined total of 20,000 cases of spirits at all the craft 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, 2 fluid ounces in volume.

(e) On the premises of the craft distillery, 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 month, ~~one half of a case~~ 2 bottles of spirits. Spirits purchased on the premises of a craft distillery must not be resold by the purchaser or any retail liquor store.

3. As used in this section ~~the~~ "case":

(a) "Bottle of spirits" means a bottle containing 750 milliliters of distilled spirits.

(b) "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~~; this chapter.

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.

~~4.4~~ 6. "Instructional wine-making facility" means an instructional wine-making facility operated pursuant to NRS 597.245.

~~5.5~~ 7. "Legal age" means the age at which a person is legally permitted to purchase an alcoholic beverage pursuant to NRS 202.020.

~~6.6~~ 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.

~~7.7~~ 9. "Supplier" has the meaning ascribed to it in NRS 597.140.

~~8.8~~ 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, 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.

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

597.220 1. ~~Any~~ Except as otherwise provided in ~~subsection 3,~~ 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.

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

Sec. 4.5. NRS 597.230 is hereby amended to read as follows:

597.230 1. In ~~a county whose population is 700,000 or more,~~ any county, a person may operate a brew pub:

(a) In any redevelopment area established in that county pursuant to NRS 279.382 to 279.685, inclusive;

(b) In any historic district established in that county pursuant to NRS 384.005;

(c) In any retail liquor store as that term is defined in NRS 369.090; or

(d) In any other area in the county designated by the board of county commissioners for the operation of brew pubs. In a city which is located in that county, a person may operate a brew pub in any area in the city designated by the governing body of that city for the operation of brew pubs.

➤ A person who operates one or more brew pubs may not manufacture more than 15,000 barrels of malt beverages for all the brew pubs he or she operates in that county in any calendar year.

2. ~~In a county whose population is less than 700,000, a person may operate a brew pub:~~

~~(a) In any redevelopment area established in that county pursuant to NRS 279.382 to 279.685, inclusive;~~

~~(b) In any historic district established in that county pursuant to NRS 384.005;~~

~~(c) In any retail liquor store as that term is defined in NRS 369.090; or~~

~~(d) In any other area in the county designated by the board of county commissioners for the operation of brew pubs. In a city which is located in that county, a person may operate a brew pub in any area in the city designated by the governing body of that city for the operation of brew pubs.~~

~~A person who operates one or more brew pubs may not manufacture more than 5,000 barrels of malt beverages for all brew pubs he or she operates in that county in any calendar year.~~

~~3. The premises of any brew pub operated pursuant to this section must be conspicuously identified as a "brew pub."~~

~~4. 3.~~ A person who operates a brew pub pursuant to this section may, upon obtaining a license pursuant to chapter 369 of NRS and complying with any other applicable governmental requirements:

(a) Manufacture and store malt beverages on the premises of the brew pub and:

(1) Sell and transport the malt beverages manufactured on the premises to a person holding a valid wholesale wine and liquor dealer's license or wholesale beer dealer's license issued pursuant to chapter 369 of NRS.

(2) Donate for charitable or nonprofit purposes and transport the malt beverages manufactured on the premises in accordance with the terms and conditions of a special permit for the transportation of the malt beverages obtained from the Department of Taxation pursuant to subsection 4 of NRS 369.450.

(b) Sell at retail malt beverages manufactured on or off the premises of the brew pub for consumption on the premises.

(c) Sell at retail in packages sealed on the premises of the brew pub, malt beverages, including malt beverages in unpasteurized form, manufactured on the premises for consumption off the premises.

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

1. A retailer who intends to make a bulk sale of liquor shall, at least 30 days before the proposed bulk sale, provide notice to:

(a) A wholesaler who currently sells liquor to the retailer; and

(b) A wholesaler who has sold liquor to the retailer within the immediately preceding 12 months.

2. The notice provided pursuant to subsection 1 must state:

(a) That a sale of liquor which may constitute a bulk sale will be made;

(b) The prospective date of the bulk sale;

(c) The individual, partnership or corporate names and addresses of the retailer and the purchaser of the bulk sale; and

(d) The address to which inquiries about the bulk sale may be made, if different from the retailer's address.

3. If the retailer owes a debt to the wholesaler associated with the purchase of the liquor that will be sold or transferred through the bulk sale, the notice provided pursuant to subsection 1 must be accompanied by:

(a) A signed affidavit of the retailer which states that the debt owed to the wholesaler will be paid by the retailer to the wholesaler from the proceeds of the bulk sale; or

(b) A signed assumption of the debt by the purchaser of the bulk sale, assuming all the debt owed by the retailer to the wholesaler.

4. Any bulk sale subject to the provisions of this section is void if the retailer fails to satisfy the requirements of subsection 2 or 3, as applicable.

5. As used in this section, "bulk sale" means the sale or transfer to a purchaser in bulk, and not in the ordinary course of the retailer's business, of 50 percent or more of the liquor sold by a wholesaler to the retailer and in the retailer's possession.

Sec. 6. 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) *"Craft distillery" has the meaning ascribed to it in NRS 597.200.*

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

Sec. 7. 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
<i>Craft distiller's license</i>	<i>75</i>

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

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

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

Sec. 9. This act becomes effective on July 1, 2013.