

SENATE BILL NO. 380—SENATOR MANENDO

MARCH 18, 2013

Referred to Committee on Revenue and
Economic Development

SUMMARY—Provides for the imposition of a fee on certain live adult entertainment businesses. (BDR 32-1045)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 adult entertainment; imposing a fee on certain live adult entertainment businesses for the entry of each customer to such a business; providing for the disposition of money collected; providing that entertainment and performances at certain live adult entertainment businesses are not subject to the state tax on live entertainment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for a fee to be imposed on certain live adult entertainment businesses to be used for various programs relating to the prevention of domestic violence and sexual assault and services for victims of domestic violence and sexual assault.

Section 6 of this bill imposes a fee on each live adult entertainment business that serves or permits the consumption of alcohol on its premises for each entry by each customer admitted to the business. **Section 6** does not require the business to impose the fee on customers and gives the business the discretion to determine the manner in which it derives the money required to pay the fee. **Section 6** also requires each live adult entertainment business to keep, maintain and make available to the Department of Taxation daily records of the number of customers admitted to the business. Each live adult entertainment business must quarterly remit the fees imposed by **section 6** to the Department.

Section 7 of this bill requires the money derived from the fees received by the Department to be deposited in: (1) the Account for Aid for Victims of Domestic Violence; (2) the Account for Programs Related to Domestic Violence, for use by the Nevada Council for the Prevention of Domestic Violence; and (3) the Fund for the Compensation of Victims of Crime for use to support rape crisis centers, for the provision of kits for the gathering and preservation of physical evidence of a sexual



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assault to hospitals and health centers, for activities concerning the prevention of sexual assault and for the counseling and medical treatment of victims of sexual assault.

Section 8 of this bill provides that entertainment at live adult entertainment businesses is not considered "live entertainment" for the purposes of the tax on live entertainment.

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

Section 1. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Live adult entertainment business" means a nightclub, bar, restaurant or other commercial enterprise which serves or permits the consumption of alcohol on its premises and which offers to or provides for an audience live nude entertainment or live nude performances. As used in this section, "live nude entertainment or live nude performances" does not include such entertainment or performances within a designated showroom of a licensed gaming establishment, as defined in NRS 463.0169, if the interior of the showroom is not visible from any portion of the adjacent floor area of the establishment during the entertainment or performance.*

Sec. 4. *"Nude" means:*

1. Entirely unclothed; or

2. Clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the person is female, or any portion of the genitals or buttocks.

Sec. 5. *The Department shall administer and enforce the provisions of this chapter and may adopt such regulations as it deems appropriate for those purposes.*

Sec. 6. *1. There is hereby imposed a fee on each live adult entertainment business in this State in the amount of \$10 for each entry by each customer admitted to the business.*

2. This section does not require a live adult entertainment business to impose a fee on a customer of the business. The business has discretion to determine the manner in which the business derives the money required to pay the fee imposed by this section.

3. A live adult entertainment business shall:



1 (a) Record daily, in a manner prescribed by the Department,
2 the number of customers admitted to the business;

3 (b) Maintain the records for a period required by the
4 Department; and

5 (c) Make the records available for inspection and audit on
6 request by the Department.

7 4. Each live adult entertainment business shall, on a
8 quarterly basis and pursuant to a schedule prescribed by the
9 Department:

10 (a) File with the Department a return on a form prescribed by
11 the Department; and

12 (b) Remit to the Department any fees due pursuant to this
13 section.

14 **Sec. 7.** Of the fees received by the Department pursuant to
15 section 6 of this act:

16 1. Twenty-five percent must be deposited in the Account for
17 Aid for Victims of Domestic Violence created by NRS 217.440;

18 2. Twenty-five percent must be deposited in and accounted
19 for separately in the Account for Programs Related to Domestic
20 Violence created by NRS 228.460 for use by the Nevada Council
21 for the Prevention of Domestic Violence created by NRS 228.480
22 in carrying out its duties; and

23 3. Fifty percent must be deposited in and accounted for
24 separately in the Fund for the Compensation of Victims of Crime
25 created by NRS 217.260 for use to support rape crisis centers, for
26 the provision of kits for the gathering and preservation of physical
27 evidence of a sexual assault to hospitals and health centers, for
28 activities concerning the prevention of sexual assault and for the
29 counseling and the medical treatment of victims of sexual assault.
30 As used in this subsection:

31 (a) "Sexual assault" has the meaning ascribed to it in
32 NRS 200.366.

33 (b) "Victim of sexual assault" has the meaning ascribed to it
34 in NRS 217.280.

35 **Sec. 8.** NRS 368A.090 is hereby amended to read as follows:

36 368A.090 1. "Live entertainment" means any activity
37 provided for pleasure, enjoyment, recreation, relaxation, diversion
38 or other similar purpose by a person or persons who are physically
39 present when providing that activity to a patron or group of patrons
40 who are physically present.

41 2. The term:

42 (a) Includes, without limitation, any one or more of the
43 following activities:

44 (1) Music or vocals provided by one or more professional or
45 amateur musicians or vocalists;



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(2) ~~Dancing~~ Except as otherwise provided in subparagraph (8) of paragraph (b), dancing performed by one or more professional or amateur dancers or performers;

(3) Acting or drama provided by one or more professional or amateur actors or players;

(4) Acrobatics or stunts provided by one or more professional or amateur acrobats, performers or stunt persons;

(5) Animal stunts or performances induced by one or more animal handlers or trainers, except as otherwise provided in subparagraph (7) of paragraph (b);

(6) Athletic or sporting contests, events or exhibitions provided by one or more professional or amateur athletes, sportsmen or sportswomen;

(7) Comedy or magic provided by one or more professional or amateur comedians, magicians, illusionists, entertainers or performers;

(8) A show or production involving any combination of the activities described in subparagraphs (1) to (7), inclusive; and

(9) A performance involving one or more of the activities described in this paragraph by a disc jockey who presents recorded music. For the purposes of this subparagraph, a disc jockey shall not be deemed to have engaged in a performance involving one or more of the activities described in this paragraph if the disc jockey generally limits his or her interaction with patrons to introducing the recorded music, making announcements of general interest to patrons, and explaining, encouraging or directing participatory activities between patrons.

(b) Excludes, without limitation, any one or more of the following activities:

(1) Instrumental or vocal music, which may or may not be supplemented with commentary by the musicians, in a restaurant, lounge or similar area if such music does not routinely rise to the volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;

(2) Occasional performances by employees whose primary job function is that of preparing, selling or serving food, refreshments or beverages to patrons, if such performances are not advertised as entertainment to the public;

(3) Performances by performers of any type if the performance occurs in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, as long as the performers stroll continuously throughout the facility;



(4) Performances in areas other than in nightclubs, lounges, restaurants or showrooms, if the performances occur in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, which enhance the theme of the establishment or attract patrons to the areas of the performances, as long as any seating provided in the immediate area of the performers is limited to seating at slot machines or gaming tables;

(5) Television, radio, closed circuit or Internet broadcasts of live entertainment;

(6) Entertainment provided by a patron or patrons, including, without limitation, singing by patrons or dancing by or between patrons;

(7) Animal behaviors induced by animal trainers or caretakers primarily for the purpose of education and scientific research;

(8) Entertainment or performances at a live adult entertainment business, as defined in section 3 of this act; and

~~+(8)+~~ (9) An occasional activity, including, without limitation, dancing, that:

(I) Does not constitute a performance;

(II) Is not advertised as entertainment to the public;

(III) Primarily serves to provide ambience to the facility;

and

(IV) Is conducted by an employee whose primary job function is not that of an entertainer.

Sec. 9. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2014, for all other purposes.

