

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Seventh Session  
March 6, 2013**

The Committee on Commerce and Labor was called to order by Chairman David P. Bobzien at 1:39 p.m. on Wednesday, March 6, 2013, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman David P. Bobzien, Chairman  
Assemblywoman Marilyn K. Kirkpatrick, Vice Chairman  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Maggie Carlton  
Assemblyman Skip Daly  
Assemblywoman Olivia Diaz  
Assemblyman John Ellison  
Assemblyman Jason Frierson  
Assemblyman Tom Grady  
Assemblyman Ira Hansen  
Assemblyman Crescent Hardy  
Assemblyman James W. Healey  
Assemblyman William C. Horne  
Assemblyman Pete Livermore  
Assemblyman James Ohrenschall

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Kelly Richard, Committee Policy Analyst  
Matt Mundy, Committee Counsel  
Leslie Danihel, Committee Manager  
Katie Wilson, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

George Racz, Owner, Las Vegas Distillery, Henderson, Nevada  
Jason Dondero, Co-owner, Seven Troughs Distilling Company,  
Sparks, Nevada  
Troy Sullivan, Co-owner, Seven Troughs Distilling Company,  
Sparks, Nevada  
Colby Frey, Co-owner, Churchill Vineyards, Fallon, Nevada  
Ashley Frey, Co-owner, Churchill Vineyards, Fallon, Nevada  
Thomas M. Heyn, Farm Manager, Winnemucca Farms, Inc.,  
Winnemucca, Nevada  
Leo Boeglin, Agronomist, Winnemucca Farms, Inc., Winnemucca, Nevada  
Alfredo Alonso, representing Southern Wine and Spirits and Nevada Beer  
Wholesalers Association  
Terry Care, representing Wirtz Beverage Nevada  
Keith Lee, representing Distilled Spirits Council of the United States  
John Griffin, representing Diageo  
Ray Lummus, Tax Manager, Compliance Division, Department of Taxation

**Chairman Bobzien:**

[Roll was called, and protocol was explained.]

We will now begin our work session and will open with Assembly Bill 12.

**Assembly Bill 12:** Removes the requirement that an employee notify his or her employer before filing certain complaints with the Division of Industrial Relations of the Department of Business and Industry. (BDR 53-352)

**Kelly Richard, Committee Policy Analyst:**

The first bill we have on today's work session is Assembly Bill 12, which was heard on February 6, 2013. [Read from work session document ([Exhibit C](#)).]

**Chairman Bobzien:**

I will entertain a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS  
ASSEMBLY BILL 12.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Bobzien:**

We will now move to Assembly Bill 23.

**Assembly Bill 23:** Clarifies provisions governing providers of services pertinent to the sale, installation and occupancy of manufactured homes. (BDR 43-359)

**Kelly Richard, Committee Policy Analyst:**

The next bill is Assembly Bill 23, which was heard on February 8, 2013. [Read from work session document ([Exhibit D](#)).]

**Chairman Bobzien:**

I will entertain a motion.

ASSEMBLYMAN HORNE MOVED TO DO PASS  
ASSEMBLY BILL 23.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Bobzien:**

We will now move to Assembly Bill 72.

**Assembly Bill 72:** Revises provisions relating to the Nevada State Board of Veterinary Medical Examiners. (BDR 54-189)

**Kelly Richard, Committee Policy Analyst:**

The next bill is Assembly Bill 72, which was heard on February 13, 2013. [Read from work session document ([Exhibit E](#)).]

**Chairman Bobzien:**

I will entertain a motion.

ASSEMBLYMAN ELLISON MOVED TO DO PASS  
ASSEMBLY BILL 72.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Bobzien:**

We will now move to Assembly Bill 83.

**Assembly Bill 83:** Revises provisions governing certain disbursements of money from escrow accounts. (BDR 54-686)

**Kelly Richard, Committee Policy Analyst:**

The next bill is Assembly Bill 83, which was heard on February 20, 2013.  
[Read from work session document ([Exhibit F](#)).]

**Chairman Bobzien:**

I will entertain a motion.

ASSEMBLYMAN FRIERSON MOVED TO DO PASS  
ASSEMBLY BILL 83.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Bobzien:**

We will now move to Assembly Bill 170.

**Assembly Bill 170:** Revises provisions relating to the advanced practice of nursing. (BDR 54-778)

**Kelly Richard, Committee Policy Analyst:**

The final bill is Assembly Bill 170, which was heard on February 27, 2013.  
[Read from work session document ([Exhibit G](#)).]

There is an attached amendment put forth by Assemblywoman Carlton.

**Chairman Bobzien:**

Assemblywoman Carlton, can you please give a brief overview of the amendment?

**Assemblywoman Carlton:**

During the Committee hearing it was brought to my attention that there were concerns about liability insurance. It was noted on the record that the nurses do carry liability insurance. To make the Committee more comfortable we added a "may" into the bill. We do not mandate liability insurance for any other health care profession, so we did not want to add something that was different from the normal practice. The State Board of Nursing will set up the regulations for advanced practice nurses to make sure they have their medical liability insurance. In essence, nothing will change; it will just be stated on the record to address concerns about medical malpractice insurance.

The second amendment was to clarify, again, to say in memoriam, forever, that nothing in this chapter shall be deemed to expand the scope of practice of an advanced practice registered nurse. It will be in statute, and that way we will no longer have the misrepresentation that we are trying to change their scope of practice.

**Chairman Bobzien:**

Thank you Assemblywoman Carlton. I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 170.

ASSEMBLYMAN HEALEY SECONDED THE MOTION.

**Chairman Bobzien:**

Is there discussion on the motion?

**Assemblyman Livermore:**

I appreciate the amendment to the bill, but I do not support the bill. I feel that it violates the written practice agreement that has existed for years between the physician and the advanced practice nurses, and I believe the expansion may not be in the best interest of the public. I understand the intent of the bill, but the current physician follow-up and oversight is extensive, and I cannot support it.

**Chairman Bobzien:**

Do we have any further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN LIVERMORE  
VOTED NO.)

**Chairman Bobzien:**

This concludes our work session for the day, and we will welcome our colleague Assemblyman Hardy who will introduce Assembly Bill 153.

**Assembly Bill 153: Provides for the licensing and operation of craft distilleries in Nevada. (BDR 52-607)**

**Assemblyman Cresent Hardy, Clark County Assembly District No.19:**

Assembly Bill 153 provides for the licensing and operation of craft distilleries in Nevada. Craft distilleries, also known as micro distilleries or boutique distilleries, are small-scale manufacturers of intoxicating spirits such as gin, rum, bourbon, whiskey, vodka, brandy, and liqueur. These small enterprises make spirits with unique flavors. They often use local fruits or other agricultural products to produce beverages that are distinct from the mass-produced products of the giant distilleries. In this case, they want to use 100 percent of Nevada grown products, as best they can.

One of the distilleries that will be presenting today is in the process of working with companies, like Zappos, that have asked for a unique brand of alcohol to be made specifically for them. Also, Governor Sandoval asked them produce a barrel for the state's 150th anniversary.

The distillery business has some distinct characteristics, and there are challenges with this bill. The challenges include Nevada's three-tier distribution system, which will be discussed later.

Section 2 of the bill, beginning at the bottom of page 2 and continuing on the top of page 3, defines a "craft distillery" as an establishment that manufactures spirits from agricultural raw products using distillation.

Let us now go back to section 1. This is the heart of the bill. Subsection 2(a) of section 1, at the top of page 2, provides that a craft distillery can distill, blend, age, store, and bottle spirits that it manufactures. It cannot use spirits manufactured by other establishments. Subsection 2(b) allows a craft distillery to sell up to 15,000 cases a year to a licensed Nevada wholesale dealer. Subsection 2(c) allows a craft distillery to export unlimited quantities to other states. Subsection 2(d) allows craft distilleries to serve small samples to customers on the premises. Subsection 2(e) allows for the sale of spirits to customers by the glass and to sell each customer of up to one-half gallon per day for consumption off the premises. Finally, Section 7 imposes a fee of \$75 for issuing a craft distiller's license.

We have been working on an amendment with the involved parties to make sure that we close any possible loopholes to the three-tier system.

**George Racz, Owner, Las Vegas Distillery, Henderson, Nevada:**

I have provided a presentation ([Exhibit H](#)) that shows the progress of our distillery over the last two years. We are a small manufacturer and we cook and distill all of our products in-house. We make whiskey, rum, gin, vodka, and "Nevada Moonshine" in a jar. Our ingredients include wheat, corn, and mint from Winnemucca Farms and desert juniper from the other side of Spring Mountain, so we use whatever is around us. We will be honored to produce our first bourbon in 2014 for Nevada's 150th anniversary of statehood. People are welcome to visit us. We operate a gift store and offer free tours of our distillery.

**Assemblyman Hardy:**

There are presently around 250 craft distilleries across the nation. In 2000 there were only 24 nationwide. It is suspected that in the next 10 to 15 years there may be 1,000 of them. It is a small business that I believe could be quite a tourist attraction.

**Chairman Bobzien:**

Are there any questions?

**Assemblyman Ellison:**

Is this a bill that we discussed last session?

**Assemblyman Hardy:**

I am not certain if that was the same bill, but I believe this particular bill went through the Assembly and there was not enough time for it to go through the Senate.

**Assemblyman Hansen:**

Do these distilleries have to pay any special taxes? Will there be a substantial increase in taxes if we allow distilleries to come to Nevada?

**Assemblyman Hardy:**

Yes. There will be more explanation of that system by another presenter.

**Assemblywoman Kirkpatrick:**

We did hear a similar bill last session. This does seem a little different, though. Would this bill allow you to sell your product individually as well as to a wholesaler?

**George Racz:**

Yes and no. This bill will allow us to sell our products at the distillery and give tastings. Other distribution would have to go through the three-tier system.

**Assemblywoman Kirkpatrick:**

Is there any enforcement to ensure that sales stay within the distillery?

**Assemblyman Hardy:**

That will be discussed when the three-tier system and that amendment are explained.

**Chairman Bobzien:**

Are there any questions? [There were none.]

**Jason Dondero, Co-owner, Seven Troughs Distilling Company, Sparks, Nevada:**

Seven Troughs Distilling Company is a new distillery that is opening in Sparks, Nevada. We will be crafting small-batch distilled spirits that include vodka, rum, whiskey, and moonshine. Currently we are in the final stages of our federal licensing procedure. All other city, state, and local licenses have been obtained.

We support A.B. 153 as it will give the distilling industry the same benefits that the brewing industry currently has. This bill allows the distillery the ability to serve samples, make drinks, and sell a limited amount of product at retail from the spirits that are made at the location. Currently state law allows a distillery to produce the spirits under a federal license, but no sample products may be purchased at the distillery.

We plan on obtaining as many of our raw materials that we can from local farmers. We have already gained relationships with local farmers who are eager and excited to start a business relationship with us.

We are local, native Nevadans, and we wish to see our communities grow and prosper. We believe A.B. 153 will help generate revenue for local agencies and the state. If this bill passes it will create jobs in our local communities. We support A.B. 153 and encourage all members of the Legislature to pass this bill, as it will be a great addition to our state.

**Troy Sullivan, Co-owner, Seven Troughs Distilling Company, Sparks, Nevada:**

Our facility is in Sparks, Nevada. We have a 2,200-square-foot facility that is completely built up. We are waiting for the approval on our final piece of the federal application process. I think this bill is extremely important. Sometimes it is tough to realize what it is we are trying to do. We have no intentions of



being a wholesaler or a mass-production facility. We would like people to come through our distillery and see the 19th century techniques we use to make a unique product. We focus on quality, not quantity. We would like to give customers the opportunity to taste in small aliquots as well as purchase product from us. We have no intention of having a bar at our distillery. We want a tasting room and a place where we can augment the history of distillation as well as our product.

**Assemblyman Hansen:**

If you offer samples and someone gets drunk, what liability do you have if someone gets injured?

**Jason Dondero:**

We have all the same licenses as any bar. We have a liquor license, and all of our insurance policies are up to the same standards. We enforce a lot of responsibility. We like to educate the public and help to make them responsible drinkers.

**Assemblyman Hansen:**

So there are no special requirements for you to get additional liability insurance?

**Jason Dondero:**

No.

**Assemblywoman Kirkpatrick:**

In order to be considered a craft distillery, it says that you have to use all raw products. What happens if you are not to do that?

**Troy Sullivan:**

I think there is some confusion. What this is referring to is a company attempting to be called a craft distillery, but it is actually importing vodka or different products and mixing that with its product to make a blend. We have no intentions to do that. We will distill all of our own spirits and mix our own spirits on-site. Any of our flavored products will still have a base of our product as opposed to importing a product and mixing them.

**Colby Frey, Co-owner, Churchill Vineyards, Fallon, Nevada:**

We received our winery license in 2004, our distillery experimental license in 2006, and our commercial distillery license in 2010.

We have distilled spirits on hand. For example, we have brandy that has been sitting in barrels for over four years, waiting to be sold. We need a law that will allow us to sell and market our product. Right now we are limited to selling to a

distributer. We cannot show people the distillery or offer them a sample to show off our products.

I come from a long-time farming family in Nevada; I am a fifth generation Nevada farmer. We grow all of our own products for our distilled spirits. We do not buy anything from anyone else. It is similar to an estate wine, where everything is grown, bottled, and produced in the same location.

**Ashley Frey, Co-owner, Churchill Vineyards, Fallon, Nevada:**

I support this bill. We are a family-owned and -operated winery and will be a family-owned and -operated distillery.

**Assemblyman Ellison:**

How many gallons of wine do you plan on producing?

**Ashley Frey:**

We currently produce about 1,200 cases of wine per year. We have 10 acres of vines on our property. My husband owns about 1,200 acres of farm ground, so there will be no problem producing enough corn, barley, wheat, or rye.

**Colby Frey:**

The nice part about grapes is that they take 10 percent of the water that our other crops are taking. It is a substantial savings. Our goal this whole time was to produce an agriculture crop that consumes less water and has a greater potential for profit. Grain usually takes about half of the water that our alfalfa takes. This grain will be used to produce whiskey and vodkas.

**Thomas M. Heyn, Farm Manager, Winnemucca Farms, Inc., Winnemucca, Nevada:**

We have worked with the Las Vegas Distillery for about three years. It has worked very well and has given us another avenue for our crops. We are working on a potato vodka next.

**Leo Boeglin, Agronomist, Winnemucca Farms, Inc., Winnemucca, Nevada:**

The Las Vegas Distillery is much more to me than just a distillery. It is a tourist attraction. It is a great place to go, and the ability for these individuals to be able to provide samples would help them immensely.

**Chairman Bobzien:**

Are there any questions? [There were none.] Is there anyone else who would like to testify in support of A.B. 153? Seeing none, we will move to the opposition.

**Alfredo Alonso, representing Southern Wine and Spirits and Nevada Beer Wholesalers Association:**

We have put together a brief presentation on Nevada's three-tier system ([Exhibit I](#)). The reason behind creating the three-tier system goes back to Prohibition. You had suppliers and saloons dealing with each other without anyone understanding how to regulate them. This trickled down to the consumer in the form of a bad product. There was no regulation of the alcohol content or quality of the product. Between the health and consumer issues, they knew they needed something to act as a buffer between the two tiers.

This is where the wholesalers came into effect. Most states have some kind of three-tier system. Twenty-one of them have a system under which the state sells the alcohol. Because Nevada does not have many in-state liquor manufacturers, larger out-of-state manufacturers sell their product to the wholesalers, who then immediately pay the taxes to the State of Nevada. Nevada is lucky in the sense that rather than spending millions of dollars on a Department of Alcoholic Beverage Control (ABC) or other enforcement mechanisms, we have the three-tier system, which is one of the most cost-effective systems in the country.

From a policy standpoint, it has been a concern of the Legislature to balance this system; for example how do we allow someone to partake in one tier of the system, and how will that be enforced? You hear the arguments that if it is a free-market system, we should allow people to enter into two or three tiers, which would save the consumer money. But that is not assuming that the enforcement costs will fall to the consumer and the taxpayer.

We applaud local distilleries, and we feel they are doing a special thing by making this liquor. We agree with the concept of the bill. We have had discussions with the sponsors to work on the language that we see as a potential problem. You have to read this bill in concert with *Granholm v. Heald*, 544 U.S. 460 (2005). Any legislation that is passed in the state that is unique to the state also requires you to allow people from outside of the state to partake in that ruling as well. If we allow local distilleries to do some of things mentioned in the bill, we would also have to allow Diageo or Budweiser to do the same.

Our plan, if it is okay with the Chairman, is to work out the language of the bill with the sponsor to see if we can reach a consensus. We do not want to get in the way of the small businesses, but we also do not want to do any potential harm to established businesses. We will discuss whether or not the 15,000-case limit is appropriate, as well as the amount of alcohol provided in a tasting.

**Chairman Bobzien:**

We appreciate your willingness to work with the bill sponsor to address these issues and come up with some solutions. Are there any questions?

**Assemblywoman Diaz:**

Can you explain enforcement costs and how they could affect the taxpayers?

**Alfredo Alonso:**

As other states have found, when you loosen it up, you allow for more gray-market product to come into the state. Nevada does not have a closed system, like Idaho and 20 other states where you can only buy spirits through a state-owned facility. We are different that way. It is very open; you can sell to any individual licensee as long as you have a liquor license. If there was only one individual, that could be easily done. The tax department would know George in Las Vegas and what he is selling and reporting. The problem arises when you get more than one. There are only two investigators doing tobacco and alcohol for the entire state, so you get a sense of how difficult it would be to enforce. Right now, Nevada is still a small enough state where if there is a discrepancy, you would go to the wholesaler, or in this case the distiller, and ask to be shown the invoices to confirm that the tax was paid. The more open the field is, the more you have to worry about the enforcement. One state opened its regulations on direct shipping and self-distribution, and it lost almost half its revenue in a two-year period.

**Assemblyman Livermore:**

Would it be the distributor's responsibility to place the revenue stamp on the top of bottles?

**Alfredo Alonso:**

No. It is a mix. The manufacturer pays his share of the tax. The stamp is normally a federal stamp, showing the federal share of taxes. When it gets to the distributor, the distributor pays the state tax. When the product gets to the retailer, the consumer pays sales tax.

**Assemblyman Livermore:**

Why is it that local sellers are forbidden from buying from a retailer?

**Alfredo Alonso:**

I am not aware of a circumstance where this would occur.

**Assemblyman Livermore:**

To clarify, a local tavern or bar cannot go to Costco and buy product.

**Alfredo Alonso:**

The reason for this is to keep the three tiers separate. Some believe there is no issue with purchasing from Costco because they already pay the taxes. But we had a situation where someone did not have an exclusive to come into the state of Nevada, and they were bringing product into a retail store. We knew that the taxes had never been paid. If a tavern goes to a store and purchases that product, the excise tax would not be paid. If the three-tier system remains intact, you guarantee that the excise tax will be paid. It is really the only way to do that. If we wanted to do away with the three-tier system, it would cost \$0.19 on every dollar for the taxpayer for there to be a state-run ABC.

**Assemblyman Ellison:**

If a distributor purchases whiskey through a distillery, it would be sold through the distributor, correct?

**Alfredo Alonso:**

We would buy the product from Diageo, Distilled Spirits Council of the United States (DISCUS), or the distilleries. We would pay the excise tax and then sell it to the retailer. The retailer would then sell it to the public.

**Assemblyman Ellison:**

That is how it is done right now, correct?

**Alfredo Alonso:**

Correct.

**Assemblyman Ellison:**

Are the small manufacturers selling their product to the distributors?

**Alfredo Alonso:**

In some cases, yes; in other cases, no.

**Assemblyman Ellison:**

When we were discussing breweries and wineries last session, they could sell to you.

**Alfredo Alonso:**

Part of the problem is the consistency. Our hope is to work with the individuals who spoke before us. If we are going to entertain a system in which someone can be in three tiers at once—make the product, provide tastings, and sell it on the spot—there should be some regulation so the state knows what is happening at all times. There are limits to it. What you could do, under that scenario, is make your product, at will, in huge amounts, and flood the market

as a generic product. I understand that is not what these distilleries want to do, but there has to be a limit so this is not abused.

**Assemblywoman Kirkpatrick:**

It seems to me that 15,000 cases of product is a lot to export for a small business. Also, the bill states that when product is being sold from the distillery, it cannot exceed one-half gallon per person, per day. How would that be controlled? At the end of the day, the state has to be paid.

**Alfredo Alonso:**

That is one of the concerns we have. How can we track if only one-half gallon has been sold? Would it make more sense to allow the sale of a sealed bottle so we know how many cases of liquor were sold out of a certain location and received the appropriate amount of tax? We have to make sure that everyone is paying the taxes they are supposed to without having to hire a number of people to investigate and confirm that.

**Assemblyman Daly:**

Would the 15,000 cases have to go through a distributor, or could they distribute their own product?

**Alfredo Alonso:**

As written, the bill does indicate the product would have to be sold by a licensed distributor. That would include what is sold on premises. I think they are trying to mimic the beer statute, but some would say that the sale of beer and the sale of spirits are different. This is a part of the discussion we are having. Section 2, subsection 3, paragraph (b) states, "Is authorized to sell and distribute." My concern is that can mean self-distribution, which is something we cannot support.

**Assemblyman Daly:**

It is one thing to have a tasting facility, and sell a limited amount of product, but it is a different thing to act as your own distributor. The three-tier system seems to be working, and we have to make sure there are limitations.

**Terry Care, representing Wirtz Beverage Nevada:**

I want to reiterate that since Prohibition and the ratification of the 21st Amendment to the *Constitution of the United States*, we learned that alcohol was here to stay and it had to be heavily regulated. The three-tier system is not an anomaly; roughly half of the states have it. We want to protect the three-tier system, but have been, and will continue to be, a part of the discussions to see if there is a way this bill can satisfy all parties involved.

[Assemblywoman Kirkpatrick assumed the Chair.]

**Vice Chairwoman Kirkpatrick:**

Are there any questions? [There were none.]

**Keith Lee, representing Distilled Spirits Council of the United States:**

In the three-tier system, we are the manufacturer. We manufacture the spirits, sell them to Mr. Alonso's client, the wholesalers, who in turn sell them to the retailers. With rare exceptions, there is no common ownership of those three entities. It provides for central points of collection of the excise tax, paid at both the federal and the state level and ensures brand quality to the consumer. We have the same concerns that Mr. Alonso and Mr. Care raised. We are working with the sponsor on our concerns, namely, the volume—15,000 cases and 1 fluid ounce per type of distilled spirit.

We also have some concern about taxing. There are two points of taxation in Nevada for spirits: the excise tax, which is imposed upon the wholesaler, and the sales tax, which is paid by the consumer. From reading the provisions beginning on page 2, line 26, it appears that because the excise tax is currently paid by the wholesaler, spirits sold on the premises would not trigger the payment of the excise tax. We would have to work on that.

[Assemblyman Bobzien reassumed the Chair.]

**John Griffin, representing Diageo:**

We echo the comments of the previous presenters. I would add that we are concerned about the size and scope of this bill. In section 8, NRS 369.382 contains the prohibition language that does not allow actors in this arena to operate in different tiers. Currently the law says that if I am Anheuser-Busch, I cannot own an Anheuser-Busch bar or retail store. I also could not have my own Anheuser-Busch distributor. This prohibition says a supplier cannot engage in the activities of a wholesaler or retailer, or vice versa.

The new language creates an exception to section 1 of this act, and that exception would be craft distilleries. If you are a craft distiller, under this language, you are no longer prohibited from being a distributor or retailer. In section 1, subsection 2, paragraph (b) it states distilleries can sell up to "15,000 cases of spirits manufactured at the craft distillery to a person who holds a valid license to engage in the business as a wholesale dealer." They would now be free to engage in the business of being a wholesale dealer, allowing you to, theoretically, sell to yourself and then sell the product as a retailer. While I appreciate the businesses that testified in support of the bill

and completely understand that purpose and design of their businesses, I think the language would blow a hole in the system.

On page 2, line 17, we are concerned with the ability to export in any quantity outside of the state. For example, Smirnoff could begin "craft distilling" in Nevada and export unlimited quantities outside of the state.

We have expressed our concerns with other members of the industry and the bill proponents. We are happy to work with all parties on crafting something that is more workable.

**Chairman Bobzien:**

The scenario by which you could have a large company come into the state and work out of multiple tiers is very different than a local craft distillery. Is this something that has been looked at by other states that have the same tier system? How do they differentiate between a local, small-scale distillery and a larger player?

**Alfredo Alonso:**

Most states have struck a balance between what you can export and what you do in state. It sets limits so that there is fairness between the larger companies and smaller distilleries.

**Chairman Bobzien:**

Are there any other questions? Seeing none, is there anyone who would like to testify in the neutral position?

**Ray Lummus, Tax Manager, Compliance Division, Department of Taxation:**

We have submitted an unsolicited fiscal note. This new license type will create a cost to us and will require a modification to our tax system. We have calculated the cost to be \$76,944. This would include the new license type as well as the new reporting forms.

**Chairman Bobzien:**

We do not have a fiscal note. Can you verify when that was submitted?

**Ray Lummus:**

I have February 27, 2013. But I am not certain when it left our office.

**Chairman Bobzien:**

Is the \$76,944 for compliance costs?



**Ray Lummus:**

It is primarily the cost of creating the new license type and new form type.

**Chairman Bobzien:**

If you could please work with our staff and make sure we get the fiscal note for the record, that would be appreciated.

**Ray Lummus:**

Absolutely.

**Assemblywoman Carlton:**

Will there be any additional personnel costs or enforcement costs included in the fiscal note?

**Ray Lummus:**

We do not see an issue for regulating one business. But if there were to be a number of this business, it would definitely have an impact. It is difficult for us to write a fiscal note that discusses compliance costs for a handful of entities.

**Assemblywoman Carlton:**

We heard from at least three businesses today. I want some perspective about what type of impact half-dozen businesses would have on you and your staff. We should know what one basic enforcement employee would cost—including salaries, benefits, time, office materials, and travel—and how many employees would be necessary.

**Chairman Bobzien:**

It is difficult to think hypothetically of how much work would come in, and we do not appreciate inflated fiscal notes. But some basic figures would be helpful.

**Ray Lummus:**

We will do that.

**Chairman Bobzien:**

Are there any questions? Seeing none, is there anyone else who would like to testify in the neutral position? [There was no one.] We will now close the hearing on A.B. 153.

Is there anyone interested in making public comment? [There was no one.] Are there any other matters to come before the Committee? [There were none.]

The meeting is adjourned [at 2:58 p.m.].

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[Ray Lummus of the Department of Taxation submitted the requested fiscal note related to A.B. 153 after the meeting, and Chairman Bobzien asked it to be included in the meeting ([Exhibit J](#)).]

RESPECTFULLY SUBMITTED:

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Katie Wilson  
Committee Secretary

APPROVED BY:

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Assemblyman David P. Bobzien, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** March 6, 2013

**Time of Meeting:** 1:39 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 12	C	Kelly Richard	Work Session Document
A.B. 23	D	Kelly Richard	Work Session Document
A.B. 72	E	Kelly Richard	Work Session Document
A.B. 83	F	Kelly Richard	Work Session Document
A.B. 170	G	Kelly Richard	Work Session Document
A.B. 153	H	Assemblyman Cresent Hardy/George Racz	Presentation
A.B. 153	I	Alfredo Alonso	Handout
A.B. 153	J	Ray Lummus	Fiscal Note