

Amendment No. 728

Assembly Amendment to Senate Bill No. 199 First Reprint (BDR 52-519)

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 S.B. 199 R1 (§ 9).

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) variations of *green bold underlining* is language proposed to be added 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 proposed to be retained in this amendment.

MKM/BJF



Date: 5/19/2017

S.B. No. 199—Revises provisions relating to alcoholic beverages. (BDR 52-519)



SENATE BILL NO. 199—SENATOR SETTELMAYER

FEBRUARY 22, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to alcoholic beverages. (BDR 52-519)

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: 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 alcoholic beverages; providing for the licensing and operation of estate distilleries in this State; setting forth the conditions under which spirits manufactured at such estate 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 craft distilleries. (NRS 597.235) Under existing law, craft distilleries 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) Existing law further sets forth the scope of operation of a craft distillery, including, without limitation, authorizing a craft distillery to sell and transport not more than 10,000 cases of spirits each calendar year to a wholesale dealer of liquor within this State and to manufacture for exportation to another state not more than 40,000 cases of spirits each calendar year. (NRS 597.235)

This bill provides for the operation of estate distilleries. **Section 2** of this bill defines an “estate distillery” as a distillery where at least 85 percent of the agricultural raw materials from which distilled spirits are manufactured, in the aggregate, were grown on land within this State which is owned or controlled by the owner of the distillery. **Sections 1, 3, 4 and 8** of this bill authorize a person to operate an estate distillery if the person is licensed. **Sections 1 and 2** further set forth the permissible scope of operation of an estate distillery, which includes, without limitation, an authorization to sell and transport not more than 75,000 cases of spirits each calendar year to a wholesale dealer of liquor within this State and to manufacture for exportation to another state not more than 400,000 cases of spirits each calendar year. Under **section 1**, the amount of spirits manufactured on the premises of the estate distillery which may be sold at retail for off-premises consumption is limited to 7,500 cases or less per year. **Section 9** of this bill 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 an estate distillery if the person:*

(a) *Obtains a license for the facility pursuant to chapter 369 of NRS;*

(b) *Complies with the requirements of this chapter; and*

(c) *Complies with any other applicable governmental requirements.*

2. *A person who operates an estate 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 estate distillery shall ensure that none of the spirits manufactured at the estate distillery are derived from neutral or distilled spirits manufactured by another manufacturer.*

(b) *Except as otherwise provided in paragraphs (f) and (g), in any calendar year, sell and transport in Nevada not more than a combined total of 75,000 cases of spirits at ~~fall~~ the estate ~~distilleries that the person operates~~ distillery 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 400,000 cases of spirits at all the estate distilleries the person operates.*

(d) *On the premises of the estate distillery, serve samples of the spirits manufactured at the estate distillery. Any such samples must not exceed, per person, per day, 4 fluid ounces in volume.*

(e) *On the premises of the estate distillery, sell the spirits manufactured at the estate 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, 1 case of spirits and not exceed, per person, per year, 6 cases of spirits. The total amount of such spirits sold at retail for off-premises consumption must not exceed 7,500 cases per year. Spirits purchased on the premises of an estate distillery must not be resold by the purchaser or any retail liquor store. A person who operates an estate distillery shall prominently display on the premises a notice that the resale of spirits purchased on the premises is prohibited.*

(f) *Donate for charitable or nonprofit purposes and transport neutral or distilled spirits manufactured at the estate distillery in accordance with the terms and conditions of a special permit for the transportation of the neutral or distilled spirits obtained from the Department of Taxation pursuant to subsection 4 of NRS 369.450.*

(g) *Transfer in bulk neutral or distilled spirits manufactured at the estate distillery to a supplier. Any such transfer:*

(1) *Is taxable only when the neutral or distilled spirits are rectified and bottled in original packages for sale within this State; and*

(2) *Is not a sale for the purposes of paragraph (b) or manufacturing for exportation for the purposes of paragraph (c).*

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

597.200 As used in NRS 597.190 to 597.255, 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. *"Case of spirits" means 12 bottles, each containing 750 milliliters of distilled spirits.*

4. "Craft distillery" means an establishment which:

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

(b) Is authorized to sell those distilled spirits pursuant to the provisions of this chapter.

~~4.5~~ 5. *"Estate distillery" means an establishment which:*

(a) Manufactures distilled spirits from agricultural raw materials through distillation, provided that 85 percent of such agricultural raw materials, in the aggregate, were grown on land within this State which is owned or controlled by the owner of the distillery; and

(b) Is authorized to sell those distilled spirits pursuant to the provisions of this chapter.

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

~~5.7~~ 7. "Engage in" includes participation in a business as an owner or partner, or through a subsidiary, affiliate, ownership equity or in any other manner.

~~6.8~~ 8. "Instructional wine-making facility" means an instructional wine-making facility operated pursuant to NRS 597.245.

~~7.9~~ 9. "Legal age" means the age at which a person is legally permitted to purchase an alcoholic beverage pursuant to NRS 202.020.

~~8.10~~ 10. "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.

~~9.11~~ 11. "Supplier" has the meaning ascribed to it in NRS 597.140.

~~10.12~~ 12. "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, 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:

(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 NRS 597.235.

(f) *Prohibit a person from operating an estate distillery pursuant to section 1 of this act.*

(g) Prohibit a person from operating a winery pursuant to NRS 597.240.

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

2 597.220 1. Except as otherwise provided in NRS 597.235, *and section 1 of*
3 *this act*, a person who is engaged in the business of importing or wholesaling
4 alcoholic beverages in the State of Nevada shall not:

5 (a) Engage in the business of retailing alcoholic beverages in this state; or

6 (b) Operate or otherwise locate his or her business on the premises or other
7 property of any supplier.

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

12 **Sec. 5.** NRS 597.235 is hereby amended to read as follows:

13 597.235 1. A person may operate a craft distillery if the person:

14 (a) Obtains a license for the facility pursuant to chapter 369 of NRS;

15 (b) Complies with the requirements of this chapter; and

16 (c) Complies with any other applicable governmental requirements.

17 2. A person who operates a craft distillery pursuant to this section may:

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

23 (b) Except as otherwise provided in paragraphs (f) and (g), in any calendar
24 year, sell and transport in Nevada not more than a combined total of 10,000 cases
25 of spirits at all the craft distilleries that the person operates to a person who holds a
26 license to engage in business as a wholesale dealer of liquor pursuant to chapter 369
27 of NRS.

28 (c) In any calendar year, manufacture for exportation to another state, not more
29 than a combined total of 40,000 cases of spirits at all the craft distilleries the person
30 operates.

31 (d) On the premises of the craft distillery, serve samples of the spirits
32 manufactured at the craft distillery. Any such samples must not exceed, per person,
33 per day, 4 fluid ounces in volume.

34 (e) On the premises of the craft distillery, sell the spirits manufactured at the
35 craft distillery at retail for consumption on or off the premises. Any such spirits
36 sold at retail for off-premises consumption must not exceed, per person, per month,
37 1 case of spirits and not exceed, per person, per year, 6 cases of spirits. Spirits
38 purchased on the premises of a craft distillery must not be resold by the purchaser
39 or any retail liquor store.

40 (f) Donate for charitable or nonprofit purposes and transport neutral or distilled
41 spirits manufactured at the craft distillery in accordance with the terms and
42 conditions of a special permit for the transportation of the neutral or distilled spirits
43 obtained from the Department of Taxation pursuant to subsection 4 of NRS
44 369.450.

45 (g) Transfer in bulk neutral or distilled spirits manufactured at the craft
46 distillery to a supplier. Any such transfer:

47 (1) Is taxable only when the neutral or distilled spirits are rectified and
48 bottled in original packages for sale within this State; and

49 (2) Is not a sale for the purposes of paragraph (b) or manufacturing for
50 exportation for the purposes of paragraph (c).

51 ~~13. As used in this section:~~

52 ~~(a) "Case of spirits" means 12 bottles, each containing 750 milliliters of~~
53 ~~distilled spirits.~~

~~(b) "Supplier" has the meaning ascribed to it in NRS 597.140.~~

Sec. 6. 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, 597.235 or 597.245 *or section 1 of this act* must be suspended or revoked in the manner provided in chapter 369 of NRS.

Sec. 7. NRS 597.255 is hereby amended to read as follows:

597.255 1. A person who has suffered injury, including, without limitation, economic damage, as the proximate result of a violation of the provisions of this section and NRS 597.190 to 597.245, inclusive, *and section 1 of this act* may bring a civil action against the person who committed the violation to recover:

(a) For the first violation, \$100 plus the injured person's actual damages, attorney's fees and costs, if any.

(b) For the second violation, \$250 plus the injured person's actual damages, attorney's fees and costs, if any.

(c) For the third and any subsequent violation, \$500 plus the injured person's actual damages, attorney's fees and costs, if any, and any punitive damages that the facts may warrant.

2. Any person, including, without limitation, a director, officer, agent or employee of the person, who knowingly violates or knowingly aids or assists in the violation of any provision of this section and NRS 597.190 to 597.245, inclusive, *and section 1 of this act* is liable under this section.

3. Except as otherwise provided in NRS 597.157, 597.170 and 597.260, and in addition to any legal action brought pursuant to NRS 597.262, the provisions of this section do not preclude a person from seeking any other legal remedy available.

Sec. 8. 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.

(i) Operate an estate distillery in this State unless the person first secures an estate 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 NRS 597.235.

(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. *A person who holds a license for an estate 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.*

5. 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) *"Estate distillery" has the meaning ascribed to it in NRS 597.200.*

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

Sec. 9. 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
Craft distiller's license.....	75
<i>Estate distiller's license.....</i>	<i>75</i>

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

369.382 Except as otherwise provided in NRS 369.386, 369.415 and 597.235, *and section 1 of this act*, a supplier shall not engage in the business of importing, wholesaling or retailing alcoholic beverages in this State.