

Amendment No. 816

Senate Amendment to Senate Bill No. 367	(BDR 32-571)
Proposed by: Senate Committee on Revenue and Economic Development	
Amendment Box: Replaces Amendment No. 785.	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from S.B. 367.

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.

BJF



Date: 5/28/2021

S.B. No. 367—Removes certain exemptions from the excise tax on live entertainment. (BDR 32-571)



SENATE BILL NO. 367—COMMITTEE ON
REVENUE AND ECONOMIC DEVELOPMENT

MARCH 25, 2021

Referred to Committee on Revenue and
Economic Development

SUMMARY—~~[Removes certain exemptions from]~~ Revises provisions governing
the excise tax on live entertainment. (BDR 32-571)

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 taxation; ~~[removing certain exemptions from]~~ revising
provisions governing the excise tax on live entertainment; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the imposition of an excise tax on admission to certain facilities where live entertainment is provided. (Chapter 368A of NRS) ~~[Existing law exempts from that excise tax: (1) live entertainment provided by or entirely for the benefit of a nonprofit organization, if the number of tickets offered for sale or other distribution to patrons is less than 7,500; and (2) an athletic contest, event or exhibition conducted by a professional team based in this State and in which the team participates. (NRS 368A.200) This bill removes the exemption from the excise tax for such athletic contests, events or exhibitions. This bill also lowers the threshold at which the excise tax is imposed for live entertainment provided by or entirely for the benefit of a nonprofit corporation from 7,500 tickets offered for sale or other distribution to 5,000 tickets.]~~ Section 1.7 of this bill exempts from this tax live entertainment provided by or entirely for the benefit of a governmental entity. Section 1 of this bill defines the term "governmental entity" for the purposes of this exemption, and section 1.3 of this bill makes a conforming change to indicate the placement of section 1 in the Nevada Revised Statutes.

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

Section 1. Chapter 368A of NRS is hereby amended by adding thereto a new section to read as follows:

"Governmental entity" means:

1. The United States and any of its unincorporated agencies and instrumentalities;

2. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;

3. The State of Nevada and any of its unincorporated agencies and instrumentalities; or

4. Any county, city, district or other political subdivision of this State.

Sec. 1.3. NRS 368A.010 is hereby amended to read as follows:

368A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 368A.020 to 368A.115, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.

~~[Section 1.]~~ Sec. 1.7. NRS 368A.200 is hereby amended to read as follows:

368A.200 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided and on the charge for live entertainment provided by an escort at one or more locations in this State. The rate of the tax is:

(a) Except as otherwise provided in paragraph (b), for admission to a facility in this State where live entertainment is provided, 9 percent of the admission charge to the facility.

(b) For live entertainment provided by an escort who is escorting one or more persons at a location or locations in this State, 9 percent of the total amount, expressed in terms of money, of consideration paid for the live entertainment provided by the escort.

2. Amounts paid for:

(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section, only if the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500. ~~[5,000.]~~

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided are not taxable pursuant to this section.

(c) Fees imposed, collected and retained by an independent financial institution in connection with the use of credit cards or debit cards to pay the admission charge to a facility where live entertainment is provided are not taxable pursuant to this section. As used in this paragraph, "independent financial institution" means a financial institution that is not the taxpayer or an owner or operator of the facility where the live entertainment is provided or an affiliate of any of those persons.

3. The tax imposed by this section must be added to and collected from the purchaser at the time of purchase, whether or not the admission for live entertainment is purchased for resale. Each ticket for admission to a facility where live entertainment is provided must show on its face the admission charge or the seller of the admission shall prominently display a notice disclosing the admission charge at the box office or other place where the charge is made.

4. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Live entertainment that is governed by the Nevada Interscholastic Activities Association pursuant to chapter 385B of NRS or is provided or sponsored by an elementary school, junior high school, middle school or high school, if only pupils or faculty provide the live entertainment.

(c) An athletic contest, event, tournament or exhibition provided by an institution of the Nevada System of Higher Education, if students of such an institution are contestants in the contest, event, tournament or exhibition.

(d) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, only if the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500, ~~15,000~~.

(e) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

(f) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

(g) Live entertainment that is provided at 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, if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

(h) Live entertainment that is provided at a trade show.

(i) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

(j) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

(k) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

(l) Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.

(m) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:

(1) Not the predominant element of the attraction; and

(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.

(n) A race scheduled at a race track in this State and sanctioned by the National Association for Stock Car Auto Racing, if two or more such races are held at that race track during the same calendar year.

(o) An athletic contest, event or exhibition conducted by a professional team based in this State if the professional team based in this State is a participant in the contest, event or exhibition.

(p) Live entertainment that is provided by or entirely for the benefit of a governmental entity.

5. As used in this section:

(a) "Affiliate" has the meaning ascribed to it in NRS 463.0133.

(b) "Maximum occupancy" means, in the following order of priority:

(1) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

1 (2) If such a maximum occupancy has not been determined, the maximum
2 occupancy of the facility designated in any permit required to be obtained in order
3 to provide the live entertainment; or

4 (3) If such a permit does not designate the maximum occupancy of the
5 facility, the actual seating capacity of the facility in which the live entertainment is
6 provided.

7 (c) "Operator" includes, without limitation, a person who operates a facility
8 where live entertainment is provided or who presents, produces or otherwise
9 provides live entertainment.

10 **Sec. 2.** Notwithstanding the provisions of NRS 218D.430 and 218D.435, a
11 committee, other than the Assembly Standing Committee on Ways and Means and
12 the Senate Standing Committee on Finance, may vote on this act before the
13 expiration of the period prescribed for the return of a fiscal note in NRS 218D.475.
14 This section applies retroactively from and after March 22, 2021.

15 **Sec. 3.** This act becomes effective ~~{on July 1, 2021.}~~ upon passage and
16 approval.