LEGISLATIVE REVIEW OF ADOPTED REGULATIONS - NRS 233B.066
Informational Statement
LCB File No. R005-26

1. A clear and concise explanation of the need for the adopted regulation.

Proposed permanent regulation (R005-26), establishes requirements related to alcoholic beverages; imposes a surcharge on certain sales of alcoholic beverages by a covered food establishment for consumption off the premises of the establishment; provides for the administration, collection and remittance of the surcharge to the Department of Taxation; establishes provisions governing the delivery of alcoholic beverages in containers sealed by a covered food establishment to consumers in connection with a retail sale; and provides other matters properly relating thereto.

This proposed permanent regulation is needed and intended to impose a surcharge on certain sales of alcoholic beverages by covered food establishments for off-premises consumption, providing a clear framework for its administration, collection, and enforcement. The purpose of the proposed permanent regulation is to ensure compliance among covered food establishments and clarify legal and administrative procedures relating thereto.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

The Department of Taxation, as staff to the Nevada Tax Commission, solicited comment from the public by issuing a questionnaire to interested parties regarding any impact on the public and small businesses and by sending copies of the proposed regulation, notice of workshop and notice of public hearings to provide public comment by electronic or regular mail as follows:

Date of Notice	Workshop/ Hearing	Date of Workshop/Hearing	Number Notified
9/8/25	Workshop	10/7/25	219
4/1/26	Workshop	4/16/26	212
5/5/26	Workshop	5/21/26	211
7/13/26	Adoption Hearing	8/19/26	304

The Department held an initial Workshop on the agency's draft language in support of AB375 and AB404 on October 7, 2025, specifically AB375 section 1 and AB 404 section 4. This Workshop was noticed on September 18, 2025.

The Workshop scheduled for April 16, 2026 was not conducted for LCB File No. R005-26 due to an administrative oversight in which the posted packet was incomplete. The Department held a subsequent Workshop for LCB File No. R005-26 on May 21, 2026.

The mailing list included the interested parties list maintained by the Department. Notices were posted at the Nevada State Library, the Legislative Building, the Nevada Legislature's website, the Nevada Public Notice website, Department's website, and various Department of Taxation physical locations throughout the State. Comments were also solicited by direct email.

Summary of the small business impact questionnaire response(s):
One response was received for the LCB Draft of Proposed Permanent Regulation, File No. R005-26. The respondent, who reported employing 117 individuals on the Small Business Impact Questionnaire, expressed concerns that the proposed regulation would create unnecessary complexity, impose significant tracking and record-retention burdens, and offer no meaningful benefit to small businesses that lack the computer systems required to comply. The commenter further noted challenges in calculating the correct surcharge amount and asserted that the regulation may ultimately cost the State more to administer than it would generate in revenue.

Summary of the public responses from the October 7, 2025 Workshop:
Michael Hillerby of Kaempfer Crowell provided testimony and written public comment requesting the inclusion of 'by a covered food establishment' in section 1 and 'covered food' in section 1 subsection a to clarify the role of the covered food establishments as envisioned in AB375.

Marc Suciu, Owner/Operator of the Cask, provided testimony and written public comment expressing concern that AB375's authorization of "to-go" alcohol sales by food establishments may create inequitable competition and diminish the value of existing off-premise licenses. Mr. Suciu requested that food establishments not be permitted to sell alcohol for off-premise consumption or, alternatively, that off-premise licensees be granted equal authority to offer to-go cocktails under the same fee structure. In addition, Mr. Suciu noted that retailers holding dual licenses with the capability to prepare cocktails on-site should likewise be permitted to participate in to-go cocktail sales and delivery—whether through third-party services such as DoorDash or through their own local delivery options—to ensure a level playing field with on-premise license holders now authorized to serve and deliver beverages off-premise.

During his testimony, Leif Reid on behalf of Nevada Beer Wholesalers Association asked that the regulation clearly affirm that suppliers who also operate restaurants, or entities that manufacture the alcoholic beverages themselves, are not permitted to deliver alcohol directly, noting that such activity appears to be prohibited under statute and inconsistent with the three-tier system.

Peter Saba, Senior Manager of Government Affairs and Communications for Nevada Restaurant Association provided written public comment that food establishments with on-site alcohol production, such as brew pubs and restaurants with small-batch licenses, should remain eligible for alcohol-to-go and delivery under AB375. Mr. Saba noted that these businesses operate as licensed retail premises and use only their regulated on-site inventory for such sales, which does not affect wholesalers or create a loophole in the three-tier system. They emphasized that excluding these establishments would disproportionately impact small, local operators and that allowing participation simply extends existing retail privileges in a controlled and transparent manner.

Summary of the public responses from the May 21, 2026 Workshop:
Robert Saucier provided testimony and requested clarification on the definitions and application of the surcharge to "individually packaged alcoholic beverages" as referenced in paragraphs 3 and 4 of Section 2 in Chapter 369 of the NAC. Mr. Saucier asked how individually packaged beverages are to be determined and whether container size is considered in applying the surcharge. Examples were provided, including ready-to-drink spirits sold in small multi-unit packages (such as four-packs or six-packs of 100 mL cans and

ten-packs of 50 mL containers), contrasted with larger individual containers such as 1-liter or 1.75-liter bottles. Mr. Saucier noted that applying the surcharge per individual container could result in substantially different tax outcomes despite smaller total volume and sought confirmation on whether such calculations are correct. Additional clarification was requested regarding whether a single sealed container containing multiple servings—such as a pitcher of margaritas accompanied by empty glasses—would constitute one individually packaged alcoholic beverage for purposes of the surcharge.

Portier, LLC, a wholly-owned subsidiary of Uber Technologies, Inc. provided written public comment expressing concerns regarding the technical feasibility of applying the proposed $0.50 alcoholic beverage delivery surcharge on a per-beverage basis. The company recommended adopting a per-unique-item model to reduce administrative complexity for delivery platforms and small retailers. Portier also requested clarification that the surcharge is excluded from the sales tax base. Additionally, Portier advocated for a platform remittance model, asserting that marketplace facilitators already remit sales tax in Nevada and are better positioned to handle surcharge reporting and remittance, thereby reducing burdens on small businesses and improving compliance.

Summary of the public responses from the August 19, 2026 Adoption Hearing:
Peter Saba, Senior Manager of Government Affairs and Communications for Nevada Restaurant Association provided written public comment requesting clarification regarding the applicability of Section 8, subsection 6 of the July 16 2026 draft regulation. This subsection conditions the delivery of alcoholic beverages on the covered food establishment having purchased the liquor from a wholesaler in compliance with NRS 597.136. Mr. Saba asked whether this condition applies to brew pubs that deliver malt beverages they manufacture on their own premises pursuant to NRS 597.230(3)(d), noting that such beverages are not purchased from a wholesaler. Mr. Saba sought clarification on whether Section 8(6) would permit delivery of these self-produced malt beverages or whether the absence of a wholesaler purchase would prevent the brew pub from meeting the condition set forth in the draft language.

The summary of the public/business response to the regulation, the record of proceedings, and/or the Small Business Impact Statement may be obtained by calling the Nevada Department of Taxation at (775) 684-2041 or by writing to the Department of Taxation, 3850 Arrowhead Dr., Carson City, Nevada 89706, or by e-mailing the Department at kskalsky@tax.state.nv.us.

3. The number of persons (not including Department staff or Commission Members) who:
(a) Attended each hearing:
(b) Testified at each hearing:
(c) Submitted written comments:

Workshop date: October 7, 2025
(a) Number in attendance: 49
(b) Number testifying: 3
(c) Written statements submitted: 3

Workshop date: May 21, 2026
(a) Number in attendance: 9
(b) Number testifying: 1
(c) Written statements submitted: 1

Adoption Hearing date: August 19, 2026
(a) Number in attendance: 43
(b) Number testifying: 0
(c) Written statements submitted: 1

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

Testified at October 7, 2025 Workshop:
Name: **Michael Hillerby**
Telephone number: **775-852-3900**
Business address: **50 West Liberty Street, Suite 1100, Reno, NV 89501**
Electronic mail address: mhillerby@kcnvlaw.com
Name of entity or organization represented: **DoorDash**

Name: **Marc Suciu**
Telephone number: **702-331-1348**
Business address: **19 S. Stephanie Street, Suite 180, Henderson, NV 89012**
Electronic mail address: marc@thecasklv.com
Name of entity or organization represented: **The Cask Wine and Beer Boutique**

Name: **Leif Reid**
Telephone number: **775-823-2900**
Business address: **1 East Liberty Street, Ste 300, Reno, NV 89501**
Electronic mail address: leif.reid@wb2-us.com
Name of entity or organization represented: **Nevada Beer Wholesalers Association**

Written statements submitted for October 7, 2025 Workshop:
Name: **Michael Hillerby**
Telephone number: **775-852-3900**
Business address: **50 West Liberty Street, Suite 1100, Reno, NV 89501**
Electronic mail address: mhillerby@kcnvlaw.com
Name of entity or organization represented: **DoorDash**

Name: **Marc Suciu**
Telephone number: **702-331-1348**
Business address: **19 S. Stephanie Street, Suite 180, Henderson, NV 89012**
Electronic mail address: marc@thecasklv.com
Name of entity or organization represented: **The Cask Wine and Beer Boutique**

Name: **Peter Saba**
Telephone number: **702-878-2313**
Business address: **2320 Paseo Del Prado, Suite 103, Las Vegas, NV 89102**
Electronic mail address: psaba@nvrestaurants.com
Name of entity or organization represented: **Nevada Restaurant Association**

Testified at May 21, 2026 Workshop:
Name: **Robert Saucier, Babette Buiten (Mr. Saucier's assistant)**
Telephone number: **702-461-4388 (Ms. Buiten's direct telephone number)**
Business address: **Not provided**
Electronic mail address: robertsaucier@chilkoot.com; babette@chilkoot.com
Name of entity or organization represented: **Not provided**

Written statements submitted for May 21, 2026 Workshop:
Name: **John Griffin**
Telephone number: **775-882-4002**
Business address: **Not provided**
Electronic mail address: john@g3nv.com
Name of entity or organization represented: **Portier LLC/ Uber**

Testified at August 19, 2026 Adoption Hearing: None.

Written statements submitted for August 19, 2026 Adoption Hearing:
Name: **Peter Saba**
Telephone number: **702-878-2313**
Business address: **2320 Paseo Del Prado, Suite 103, Las Vegas, NV 89102**
Electronic mail address: psaba@nvrestaurants.com
Name of entity or organization represented: **Nevada Restaurant Association**

5. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.

The Department of Taxation, as staff to the Nevada Tax Commission, solicited comment from the public by issuing a questionnaire to interested parties regarding any impact on the public and small businesses and sending notice of workshops and hearings for public meetings to provide public comment by electronic or regular mail.

See same response as Section 2 for summary of responses.

The summary of the public/business response to the regulation and/or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2041 or by writing to the Department of Taxation, 3850 Arrowhead Dr, Carson City, Nevada 89706, or by e-mailing the Department at kskalsky@tax.state.nv.us.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Nevada Tax Commission adopted the proposed permanent regulation on August 19, 2026, with the agreed-upon changes reflected in the LCB Second Revised Proposed Draft of the regulation. These changes were noticed to the public more than 30 days in advance of the Adoption Hearing to reflect stakeholder input and impact to the regulated industry.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public. This must include adverse, beneficial, immediate and long-term effects.

(a) Estimated economic effect on the businesses which they are to regulate.

The adopted permanent regulation does not present any reasonable, foreseeable or anticipated adverse or beneficial, short-term or long-term economic effects on businesses.

(b) Estimated economic effect on the public which they are to regulate.

The adopted permanent regulation does not present any reasonable, foreseeable or anticipated adverse or beneficial, short-term or long-term economic effects to the public.

8. **The estimated cost to the agency for enforcement of the proposed regulation:**

In an unsolicited fiscal note provided by the Department on May 15, 2025, for BDR 32-1049, Assembly Bill No. 375 Chapter 422, Statutes of Nevada 2025(AB375), Reprint 1, the Department included a $225,244 effect on future biennia to enforce the Proposed Permanent Regulation. Assembly Amendment 441 to AB375 included provisions in Section 1 subsection 2 outlining the distribution of revenues collected from the surcharge. The Department submitted a subsequent unsolicited fiscal note on May 30, 2025, acknowledging that with this inclusion there will not be an additional enforcement cost as the expense to the Department will be covered by the surcharge in the bill.

9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The adopted permanent regulation does not overlap or duplicate any regulation of other state or local governmental entities.

10. **If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

11. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The adopted permanent regulation establishes a new surcharge of $0.50 on each retail sale of an alcoholic beverage in a container sealed by a covered food establishment for off-premises consumption. Section 3 specifies that the surcharge applies to each single serving, and if multiple servings are sealed in a single container, the surcharge must be collected for each serving. Pursuant to Section 1, subsection 2 of AB375, revenues must first be distributed to the Department to administer the statute, in an amount not to exceed $250,000 annually, with all remaining funds deposited into the Account for the Ignition Interlock and DUI Reduction Program established in NRS 484C.454.

The Department anticipates annual surcharge collections to fall within a range of approximately $3.6 million to $11 million. The lower-range estimate of $3.6 million is based on statewide population projections, the percentage of adults who place weekly delivery orders, and the percentage of those orders that include an alcoholic beverage—resulting in an estimated 7.1 million qualifying servings multiplied by the $0.50 per-serving surcharge, totaling approximately $3.55 million. The upper-range estimate of $11 million reflects industry-provided statewide sales projections indicating approximately 22 million qualifying servings per year, which at $0.50 per serving yields an estimated $11 million in annual surcharge revenue. Actual collections will vary based on consumer demand and the number of servings sold for off-premises consumption. All funds will be used solely as directed in AB375 and NRS 484C.454.