SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY NRS 233B.0608 and NRS 233B.0609

LCB File No. R005-26

1. Background

LCB File No. R005-26, establishes requirements related to intoxicating liquor; 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 and collection of the surcharge; and provides other matters properly relating thereto.

Existing law requires: (1) the Department of Taxation to carry out the provisions of existing law regulating the distribution of alcoholic beverages in this State; and (2) the Nevada Tax Commission to adopt regulations for carrying on the business of the Department. (NRS 360.090, 369.150)

Existing law authorizes certain establishments to sell alcoholic beverages by the drink for consumption on the premises of the establishment. (NRS 369.090, 369.620) Existing law authorizes the board of county commissioners of a county or the governing body of an incorporated city to enact an ordinance authorizing, under such conditions as may be imposed by the ordinance: (1) a covered food establishment to sell at retail alcoholic beverages in a sealed container for consumption off the premises; and (2) a covered food establishment, or delivery support service acting on behalf of a covered food establishment, to deliver an alcoholic beverage in a sealed container to a consumer in connection with a retail sale of such an alcoholic beverage. With respect to such retail sales of alcoholic beverages, existing law requires the Department of Taxation to adopt regulations that provide for the imposition and collection of a surcharge not to exceed 50 cents per retail sale. (Section 1 of Assembly Bill No. 375, Chapter 422, Statutes of Nevada 2025, at page 2695)

Section 2 of this regulation provides that the surcharge applies only to a covered food establishment that holds a valid license to sell alcoholic beverages for consumption on the premises and that is authorized by local ordinance to sell alcoholic beverages in sealed containers for consumption off the premises. (Section 1 of Assembly Bill No. 375, chapter 422, Statures of Nevada 2025, at page 2695). Section 2 also imposes a surcharge of 50 cents upon each retail sale of an alcoholic beverage for consumption off the premises made by such a covered food establishment, including each retail sale that occurs as part of a single transaction.

Section 3 of this regulation requires a covered food establishment to: (1) collect the surcharge from the purchaser at the time of the sale; and (2) deliver a return and the remittance of the amount of the surcharges to the Department on or before the 20th day of the month following the filing period in which the surcharges were collected. **Section 3** also requires a covered food establishment to display the amount of the surcharge separately from the price of the alcoholic beverage.

Section 4 of this regulation requires a covered food establishment to maintain certain records regarding the surcharge. **Section 4** authorizes the Department, or any person authorized by the Department, to examine the books, papers, records and premises of a covered food establishment and investigate the business of the covered food establishment to verify the accuracy of a return or, if no return is made, determine the amount required to be paid to the Department.

Section 5 of this regulation adds enforcement provisions pursuant to chapter 369 of NRS and NAC.

2. **A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R005-26. The proposed language and questionnaire were dispersed to the following:

- Emailed by the Department 210 members of its interested parties list.
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

The content responses are summarized below:

- One response was received for LCB Draft of Proposed Permanent Regulation - File No. R005-26. The respondent listed 117 employees currently employed by their business on the Small Business Impact Questionnaire and provided the following summarized response:
    - The proposed regulation would create unnecessary complexity, impose tracking burdens, and offer no benefits to small businesses lacking the required computer systems. There was concern with calculating the amount to charge, the record retention requirement and that the proposed regulation may cost the state more to administer than it collects.

Anyone interested in obtaining a copy of the completed small business impact questionnaire used for this summary can contact:

Kari Skalsky
Nevada Department of Taxation
3850 Arrowhead Drive
Carson City, NV 89706
kskalsky@tax.state.nv.us
Phone: (775) 684-2041

3. **The manner in which the analysis was conducted, including the methods used to determine the impacts of the proposed regulation on small businesses.**

One response was received for LCB Draft of Proposed Regulation R005-26 for the questionnaire regarding the impact of the regulation on small businesses as summarized in the response to #2 above. Accordingly, the Department analyzed the proposed language and used informed, reasonable judgment in determining that there will not be an impact on small businesses.

4. **The estimated economic effect of the proposed regulation on the small businesses which it is to regulate:**

   Adverse and Beneficial Effects

   The Department finds that there is no reasonable, foreseeable or anticipated adverse or beneficial economic effect on small businesses.

   Direct and Indirect Effects

   The Department finds that there is no reasonable, foreseeable or anticipated direct or indirect economic effect on small businesses.

5. **A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

   The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No R005-26. The proposed language and questionnaire were dispersed to the following:
   - Emailed by the Department 210 members of its interested parties list.
   - Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

   One response was received for LCB Draft of Proposed Permanent Regulation R005-26 for the questionnaire regarding the impact of the regulation on small businesses as summarized in the response to #2 above. Accordingly, the Department analyzed the proposed language and used informed, reasonable judgment in determining that there will not be an impact on small businesses.

6. **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.

7. **If the proposed 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.**

   Pursuant to Section 1 subsection 2 of AB375, the revenues collected from the surcharge must be distributed (a) to the Department in an amount determined to be necessary by the Department in carrying out the provisions of this section, which must not exceed $250,000 each year; and (b) if any money remains after the revenues are distributed pursuant to paragraph (a), to the Account for the Ignition Interlock and DUI Reduction Program created by NRS 484C.454 to be used for purposes specified in that section.

8. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions arc necessary.

The Proposed Permanent Regulation does not overlap or duplicate any regulation of other federal, state or local government entities.

9. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.

The Department has determined that there will be no adverse impacts to small businesses based on its analysis of the proposed regulation.

I hereby certify, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was properly prepared, and the information contained herein is accurate.

Shellie Hughes, Executive Director
August 26, 2026