
EMERGENCY REQUEST OF SPEAKER OF THE ASSEMBLY

ASSEMBLY BILL NO. 498—ASSEMBLYWOMAN KIRKPATRICK

MAY 8, 2013

Referred to Committee on Taxation

SUMMARY—Revises the tax on live entertainment to create the Nevada Entertainment and Admissions Tax. (BDR 32-1212)

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; revising provisions governing the tax on live entertainment to establish the Nevada Entertainment and Admissions Tax as an excise tax on live entertainment and admissions to places of amusement, sport, recreation or other entertainment; providing for the rate and imposition of the Nevada Entertainment and Admissions Tax; revising exemptions from the tax on live entertainment to establish certain exemptions from the Nevada Entertainment and Admissions Tax; authorizing the Nevada Gaming Commission to adopt regulations under certain circumstances to provide for certain limited exemptions from the Nevada Entertainment and Admissions Tax; revising provisions governing investigations and the initiation of complaints by the State Gaming Control Board for violations relating to the tax on live entertainment and the Nevada Entertainment and Admissions Tax; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law imposes an excise tax on admission to facilities where live
- 2 entertainment is provided. (Chapter 368A of NRS) Under existing law: (1) if the
- 3 live entertainment is provided at a facility with a maximum occupancy of less than



4 7,500 persons, the rate of the tax is 10 percent of the admission charge to the
5 facility plus 10 percent of any amounts paid for food, refreshments and
6 merchandise purchased at the facility; and (2) if the live entertainment is provided
7 at a facility with a maximum occupancy of at least 7,500 persons, the rate of the tax
8 is 5 percent of the admission charge to the facility. (NRS 368A.200) Existing law
9 also provides certain exemptions from the excise tax on admission to facilities
10 where live entertainment is provided. (NRS 368A.090, 368A.200) Under existing
11 law, the tax on live entertainment is collected by: (1) the State Gaming Control
12 Board, if the live entertainment is provided at a licensed gaming establishment; and
13 (2) the Department of Taxation, if the live entertainment is not provided at a
14 licensed gaming establishment. (NRS 368A.115, 368A.140)

15 This bill revises the imposition, rate and exemptions from the tax on live
16 entertainment to establish the Nevada Entertainment and Admissions Tax as an
17 excise tax on admissions to any place of amusement, sport, recreation or other
18 entertainment. This bill also maintains the provisions of existing law providing that:
19 (1) if the taxable activity is provided at a licensed gaming establishment, the person
20 licensed to conduct gaming at the establishment is the taxpayer and the tax is
21 collected by the State Gaming Control Board; and (2) if the taxable activity is not
22 provided at a licensed gaming establishment, the owner or operator of the place of
23 amusement, sport, recreation or other entertainment or, in the case of publicly
24 owned facilities or public land, the person who collects taxable receipts, is the
25 taxpayer and the tax is collected by the Department of Taxation.

26 Under **sections 2, 3 and 10** of this bill, the tax is imposed only if a minimum
27 purchase of food, beverages or other refreshments or merchandise is required or an
28 admission charge is collected for the admission of a person or vehicle to any place
29 where amusement, sport, recreation or other entertainment is provided, including,
30 without limitation, theaters, shows, convention centers, exhibitions, exhibition
31 halls, trade shows, athletic or sporting contests, races, facilities where live
32 entertainment is provided and certain private clubs or membership clubs providing
33 recreational or physical fitness facilities. **Sections 6 and 10** of this bill provide that
34 the rate of the tax is 8 percent of the admission charge to the place of amusement,
35 sport, recreation or other entertainment, including, without limitation, any
36 minimum required purchase of food, beverages or other refreshments or
37 merchandise. In addition, if the place of amusement, sport, recreation or other
38 entertainment is a facility where live entertainment is provided, the tax also applies
39 to all food, beverages and other refreshments provided at the facility, even if the
40 food, beverages or other refreshments are discounted or complimentary. Under
41 **section 6**, the amount of the taxable admission charge is the total consideration paid
42 or the actual value of the admission, whichever is greater. Under **sections 4 and 10**
43 of this bill, the taxable sales price of any food, beverages or other refreshments
44 provided at a facility where live entertainment is provided is the full amount stated
45 on the menu or otherwise advertised as the price of the food, beverages or other
46 refreshments or the amount paid for the food, beverages or other refreshments,
47 whichever is greater. **Section 10** further provides that the tax must be collected
48 from the purchaser at the time of the sale of the admission to the place of
49 amusement, sport, recreation or other entertainment, whether or not the admission
50 is purchased for resale.

51 **Sections 8 and 10** of this bill remove existing exclusions and exemptions from
52 the tax on live entertainment and, instead, provide that the Nevada Entertainment
53 and Admissions Tax does not apply to admission charges and the sales of food,
54 beverages and other refreshments collected and retained by: (1) facilities with a
55 seating capacity of less than 50 persons where live entertainment is provided; (2)
56 nonprofit corporations and charitable organizations; and (3) political subdivisions
57 of this State. Additionally, **section 10** provides that the tax does not apply to: (1)
58 gratuities and service charges; and (2) amusement, sport, recreation or other



59 entertainment that this State is prohibited from taxing under the Constitution, laws
60 or treaties of the United States or the Nevada Constitution. **Section 11** of this bill
61 authorizes the Nevada Gaming Commission, with the advice and assistance of the
62 Board, to adopt regulations to provide for limited exceptions to the applicability of
63 the Nevada Entertainment and Admissions Tax if the Commission determines that
64 complimentary admissions and food, beverages and other refreshments for certain
65 patrons of licensed gaming establishments is a necessary and critical business
66 practice. The regulations: (1) must ensure fair and equal taxation of all similarly
67 situated taxpayers and must not significantly reduce the proceeds of the Nevada
68 Entertainment and Admissions Tax; and (2) must be proposed and adopted in
69 accordance with the Nevada Administrative Procedures Act.

70 Existing law imposes certain license fees based on the gross receipts from
71 admission fees to a live contest or exhibition of unarmed combat. (NRS 467.104,
72 467.107) **Sections 15, 16 and 17** of this bill remove these license fees so that such
73 unarmed combat contests or exhibitions are subject only to the applicable tax rate
74 under the Nevada Entertainment and Admissions Tax.

75 **Section 18** of this bill provides that the Nevada Entertainment and Admissions
76 Tax becomes effective upon passage and approval for the purpose of adopting
77 regulations and performing any preparatory administrative tasks and on January 1,
78 2014, for all other purposes.

79 Existing law requires the State Gaming Control Board to make investigations
80 and to initiate a hearing by filing a complaint with the Nevada Gaming Commission
81 if the Board is satisfied that a person or entity which is licensed, registered, found
82 suitable or found preliminarily suitable or which previously obtained approval for
83 which Commission approval was required or permitted should be limited,
84 conditioned, suspended, revoked or fined. (NRS 463.310) **Section 13** of this bill
85 similarly requires the Board to make investigations and to initiate a hearing by
86 filing a complaint with the Commission if the Board is satisfied that such a person
87 or entity has violated certain provisions relating to the tax on live entertainment or,
88 after it becomes effective, the Nevada Entertainment and Admissions Tax.

89 Existing law also: (1) requires a licensed gaming establishment to maintain
90 records relating to, report, pay, and truthfully account for the tax on live
91 entertainment; and (2) prohibits certain practices relating to falsifying information
92 on books, records or accounts relating to the tax on live entertainment. (NRS
93 368A.360) **Section 11** provides that a violation of such provisions relating to the
94 tax on live entertainment or, after it becomes effective, the Nevada Entertainment
95 and Admissions Tax, by a licensed gaming establishment is an unsuitable method
96 of operation and is subject to investigation and disciplinary proceedings by the
97 Board.

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

1 **Section 1.** Chapter 368A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2, 3 and 4 of this
3 act.

4 **Sec. 2.** *“Admission” means the admission of a person or*
5 *vehicle to, or the privilege of entering or accessing any place of*
6 *amusement, sport, recreation or other entertainment.*

7 **Sec. 3.** *“Place of amusement, sport, recreation or other*
8 *entertainment” includes, without limitation:*



1 *1. An indoor theater, an outdoor theater, a show, a*
2 *convention center, an exhibition, an exhibition hall, a trade show,*
3 *an athletic or sporting contest, a race or any other place where an*
4 *admission charge is made by way of the sale of tickets, gate*
5 *charges, seat charges, box charges, season pass charges, cover*
6 *charges, greens fees, participating fees, entrance fees, or other*
7 *fees, or receipts of anything of value measured on an admission or*
8 *entrance or length of stay or set box accommodations in any place*
9 *where there is any exhibition, amusement, sport, recreation or*
10 *other entertainment;*

11 *2. A private club or membership club providing recreational*
12 *or physical fitness facilities, including, without limitation, golf,*
13 *tennis, swimming, yachting, boating, athletic, exercise or fitness*
14 *facilities other than physical fitness facilities owned or operated by*
15 *a hospital, as defined in NRS 449.012, which is licensed pursuant*
16 *to chapter 449 of NRS; and*

17 *3. A facility where live entertainment is provided.*

18 **Sec. 4.** *“Sales price” means the total amount, expressed in*
19 *terms of money, that is stated on the menu or otherwise advertised*
20 *as the price for the purchase of food, beverages or other*
21 *refreshments at a place of amusement, sport, recreation or other*
22 *entertainment or the total amount expressed in terms of money of*
23 *consideration paid for the food, beverage or other refreshment,*
24 *whichever is greater.*

25 **Sec. 5.** NRS 368A.010 is hereby amended to read as follows:

26 368A.010 As used in this chapter, unless the context otherwise
27 requires, the words and terms defined in NRS 368A.020 to
28 ~~368A.115.~~ 368A.110, inclusive, *and sections 2, 3 and 4 of this act*
29 have the meanings ascribed to them in those sections.

30 **Sec. 6.** NRS 368A.020 is hereby amended to read as follows:

31 368A.020 “Admission charge” means the total amount,
32 expressed in terms of money, of consideration paid for ~~the right or~~
33 ~~privilege to have access~~ *admission* to a ~~facility where live~~
34 ~~entertainment is provided.~~ *place of amusement, sport, recreation*
35 *or other entertainment or the actual value of such admission,*
36 *whichever is greater.* The term includes, without limitation,
37 an entertainment fee, a cover charge, a table reservation fee, ~~or~~ *a*
38 *membership fee,* a required minimum purchase of food, *beverages*
39 *or other refreshments or merchandise* ~~+~~ *, and any dues or fees paid*
40 *to a private club or membership club providing recreational or*
41 *physical fitness facilities, including, without limitation, golf,*
42 *tennis, swimming, yachting, boating, athletic, exercise or fitness*
43 *facilities other than physical fitness facilities owned or operated by*
44 *a hospital, as defined in NRS 449.012, which is licensed pursuant*
45 *to chapter 449 of NRS.*



1 **Sec. 7.** NRS 368A.060 is hereby amended to read as follows:

2 368A.060 ~~{1}~~ “Facility” means ~~‡~~:

3 ~~—(a) Any~~ **any** area or premises where live entertainment is
4 provided and for which ~~{consideration}~~ **an admission charge** is
5 collected for ~~{the right or privilege of entering}~~ **admission to** that
6 area or those premises ~~{if the live entertainment is provided at:~~

7 ~~—(1) An establishment that is not a licensed gaming~~
8 ~~establishment; or~~

9 ~~—(2) A licensed gaming establishment that is licensed for less~~
10 ~~than 51 slot machines, less than 6 games, or any combination of slot~~
11 ~~machines and games within those respective limits.~~

12 ~~—(b) Any area or premises where live entertainment is provided if~~
13 ~~the live entertainment is provided at any other licensed gaming~~
14 ~~establishment.~~

15 ~~2. “Facility” encompasses, if live entertainment is provided at a~~
16 ~~licensed gaming establishment that is licensed for:~~

17 ~~—(a) Less than 51 slot machines, less than 6 games, or any~~
18 ~~combination of slot machines and games within those respective~~
19 ~~limits, any area or premises where the live entertainment is provided~~
20 ~~and for which consideration is collected, from one or more patrons,~~
21 ~~for the right or privilege of entering that area or those premises,~~
22 ~~even if additional consideration is collected for the right or privilege of~~
23 ~~entering a smaller venue within that area or those premises; or~~

24 ~~—(b) At least 51 slot machines or at least 6 games, any designated~~
25 ~~area on the premises of the licensed gaming establishment within~~
26 ~~which the live entertainment is provided.~~ **other than a swimming**
27 **pool facility and its attached appurtenances.**

28 **Sec. 8.** NRS 368A.090 is hereby amended to read as follows:

29 368A.090 1. “Live entertainment” means any activity
30 provided for pleasure, enjoyment, recreation, relaxation, diversion
31 or other similar purpose by a person or persons who are physically
32 present when providing that activity to a patron or group of patrons
33 who are physically present.

34 2. The term ~~‡~~:

35 ~~—(a) Includes,~~ **includes**, without limitation, any one or more of
36 the following activities:

37 ~~{1}~~ **(a)** Music or vocals provided by one or more
38 professional or amateur musicians or vocalists;

39 ~~{2}~~ **(b)** Dancing performed by one or more professional or
40 amateur dancers or performers;

41 ~~{3}~~ **(c)** Acting or drama provided by one or more
42 professional or amateur actors or players;

43 ~~{4}~~ **(d)** Acrobatics or stunts provided by one or more
44 professional or amateur acrobats, performers or stunt persons;



1 ~~{(5)}~~ (e) Animal stunts or performances induced by one or
2 more animal handlers or trainers ~~[- except as otherwise provided in~~
3 ~~subparagraph (7) of paragraph (b);~~

4 ~~— (6) ;~~

5 (f) Athletic or sporting contests, events or exhibitions provided
6 by one or more professional or amateur athletes, sportsmen or
7 sportswomen;

8 ~~{(7)}~~ (g) Comedy or magic provided by one or more
9 professional or amateur comedians, magicians, illusionists,
10 entertainers or performers;

11 ~~{(8)}~~ (h) A show or production involving any combination
12 of the activities described in ~~{subparagraphs (1) to (7),}~~ paragraphs
13 (a) to (g), inclusive; and

14 ~~{(9)}~~ (i) A ~~{performance involving one or more of the~~
15 ~~activities described in this paragraph by a}~~ disc jockey who presents
16 recorded music. ~~{For the purposes of this subparagraph, a disc~~
17 ~~jockey shall not be deemed to have engaged in a performance~~
18 ~~involving one or more of the activities described in this paragraph if~~
19 ~~the disc jockey generally limits his or her interaction with patrons to~~
20 ~~introducing the recorded music, making announcements of general~~
21 ~~interest to patrons, and explaining, encouraging or directing~~
22 ~~participatory activities between patrons.~~

23 ~~— (b) Excludes, without limitation, any one or more of the~~
24 ~~following activities:~~

25 ~~— (1) Instrumental or vocal music, which may or may not be~~
26 ~~supplemented with commentary by the musicians, in a restaurant,~~
27 ~~lounge or similar area if such music does not routinely rise to the~~
28 ~~volume that interferes with casual conversation and if such music~~
29 ~~would not generally cause patrons to watch as well as listen;~~

30 ~~— (2) Occasional performances by employees whose primary~~
31 ~~job function is that of preparing, selling or serving food,~~
32 ~~refreshments or beverages to patrons, if such performances are not~~
33 ~~advertised as entertainment to the public;~~

34 ~~— (3) Performances by performers of any type if the~~
35 ~~performance occurs in a licensed gaming establishment other than a~~
36 ~~licensed gaming establishment that is licensed for less than 51 slot~~
37 ~~machines, less than 6 games, or any combination of slot machines~~
38 ~~and games within those respective limits, as long as the performers~~
39 ~~stroll continuously throughout the facility;~~

40 ~~— (4) Performances in areas other than in nightclubs, lounges,~~
41 ~~restaurants or showrooms, if the performances occur in a licensed~~
42 ~~gaming establishment other than a licensed gaming establishment~~
43 ~~that is licensed for less than 51 slot machines, less than 6 games, or~~
44 ~~any combination of slot machines and games within those respective~~
45 ~~limits, which enhance the theme of the establishment or attract~~



1 patrons to the areas of the performances, as long as any seating
2 provided in the immediate area of the performers is limited to
3 seating at slot machines or gaming tables;

4 ~~—— (5) Television, radio, closed circuit or Internet broadcasts of~~
5 ~~live entertainment;~~

6 ~~—— (6) Entertainment provided by a patron or patrons, including,~~
7 ~~without limitation, singing by patrons or dancing by or between~~
8 ~~patrons;~~

9 ~~—— (7) Animal behaviors induced by animal trainers or~~
10 ~~caretakers primarily for the purpose of education and scientific~~
11 ~~research; and~~

12 ~~—— (8) An occasional activity, including, without limitation,~~
13 ~~dancing, that:~~

14 ~~—— (I) Does not constitute a performance;~~

15 ~~—— (II) Is not advertised as entertainment to the public;~~

16 ~~—— (III) Primarily serves to provide ambience to the facility;~~
17 ~~and~~

18 ~~—— (IV) Is conducted by an employee whose primary job~~
19 ~~function is not that of an entertainer.}~~

20 **Sec. 9.** NRS 368A.110 is hereby amended to read as follows:

21 368A.110 “Taxpayer” means:

22 1. If ~~{live entertainment}~~ **any activity** that is taxable under this
23 chapter is provided at a licensed gaming establishment, the person
24 licensed to conduct gaming at that establishment.

25 2. Except as otherwise provided in subsection 3, if ~~{live~~
26 ~~entertainment}~~ **any activity** that is taxable under this chapter is not
27 provided at a licensed gaming establishment, the owner or operator
28 of the ~~{facility where the live entertainment is provided.}~~ **place of**
29 **amusement, sport, recreation or other entertainment.**

30 3. If ~~{live entertainment}~~ **any activity** that is taxable under this
31 chapter is provided at a publicly owned facility or on public land,
32 the person who collects the taxable receipts.

33 **Sec. 10.** NRS 368A.200 is hereby amended to read as follows:

34 368A.200 1. ~~{Except as otherwise provided in this section,~~
35 ~~there}~~ **The Nevada Entertainment and Admissions Tax** is hereby
36 imposed **as** an excise tax on admission to any ~~{facility}~~ **place of**
37 **amusement, sport, recreation or other entertainment** in this State
38 where ~~{live entertainment is provided. If the live entertainment is~~
39 ~~provided at a facility with a maximum occupancy of:~~

40 ~~—— (a) Less than 7,500 persons, the rate of the tax is 10 percent of~~
41 ~~the admission charge to the facility plus 10 percent of any amounts~~
42 ~~paid for food, refreshments and merchandise purchased at the~~
43 ~~facility.~~

44 ~~—— (b) At least 7,500 persons, the rate of the tax is 5 percent of the~~
45 ~~admission charge to the facility.~~



1 ~~2. Amounts~~ *an admission charge is collected. The rate of the*
2 *tax is 8 percent of the admission charge to the place of*
3 *amusement, sport, recreation or other entertainment plus, if the*
4 *place of amusement, sport, recreation or other entertainment is a*
5 *facility where live entertainment is provided, 8 percent of the full*
6 *amount of the sales price of food, beverages and other*
7 *refreshments sold or otherwise provided at the facility, even if the*
8 *food, beverages or other refreshments are discounted or*
9 *complimentary.*

10 2. *The tax imposed by this section does not apply to amounts*
11 *paid for:*

12 (a) *Admission charges and the sales price of food, beverages*
13 *and other refreshments that are collected and retained by a*
14 ~~*nonprofit*~~ *:*

15 (1) *Facility with a seating capacity of less than 50 persons*
16 *where live entertainment is provided.*

17 (2) *Nonprofit* religious, charitable, fraternal or other
18 organization that qualifies as a tax-exempt organization pursuant to
19 26 U.S.C. § ~~501(e)~~ *501(c)(3)*, or by a ~~nonprofit~~ corporation
20 ~~organized or existing under the provisions of chapter 82 of NRS,~~
21 ~~are not taxable pursuant to this section.~~ *for public benefit, as*
22 *defined in NRS 82.021.*

23 (3) *Political subdivision of this State, including without*
24 *limitation, the Nevada System of Higher Education and all*
25 *counties, cities and other local governments.*

26 (b) *Gratuities directly or indirectly remitted to persons employed*
27 *at a facility where live entertainment is provided or for service*
28 *charges, including those imposed in connection with the use of*
29 *credit cards or debit cards, which are collected and retained by*
30 *persons other than the taxpayer .* ~~*are not taxable pursuant to this*~~
31 ~~*section.*~~

32 (c) *Amusement, sport, recreation or other entertainment that*
33 *this State is prohibited from taxing under the Constitution, laws or*
34 *treaties of the United States or the Nevada Constitution.*

35 3. *A business entity that collects any amount that is taxable*
36 *pursuant to subsection 1 is liable for the tax imposed, but is entitled*
37 *to collect reimbursement from any person paying that amount.*

38 4. ~~*Any ticket for live entertainment must state whether the tax*~~
39 ~~*imposed by this section is included in the price of the ticket. If the*~~
40 ~~*ticket does not include such a statement, the*~~ *The tax imposed by*
41 *this section must be added to and collected from the purchaser*
42 *with the sale of any admission to a place of amusement, sport,*
43 *recreation or other entertainment, whether or not the admission is*
44 *purchased for resale.*



1 **5. Each ticket for admission to a place of amusement, sport,**
2 **recreation or other entertainment must show on its face the**
3 **admission charge or the seller of the admission shall prominently**
4 **display at the box office or other place where an admission charge**
5 **is made a notice disclosing the admission charge. The taxpayer**
6 **shall pay the tax based on ~~the~~ :**

7 **(a) The face amount of the ticket ~~is~~**

8 ~~5. The tax imposed by subsection 1 does not apply to:~~

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

12 ~~(b) Live entertainment that is provided by or entirely for the~~
13 ~~benefit of a nonprofit religious, charitable, fraternal or other~~
14 ~~organization that qualifies as a tax-exempt organization pursuant to~~
15 ~~26 U.S.C. § 501(c), or a nonprofit corporation organized or existing~~
16 ~~under the provisions of chapter 82 of NRS.~~

17 ~~(c) Any boxing contest or exhibition governed by the provisions~~
18 ~~of chapter 467 of NRS.~~

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

22 ~~(e) Live entertainment that is provided at a licensed gaming~~
23 ~~establishment that is licensed for less than 51 slot machines, less~~
24 ~~than 6 games, or any combination of slot machines and games~~
25 ~~within those respective limits, if the facility in which the live~~
26 ~~entertainment is provided has a maximum occupancy of less than~~
27 ~~200 persons.~~

28 ~~(f) Merchandise sold outside the facility in which the live~~
29 ~~entertainment is provided, unless the purchase of the merchandise~~
30 ~~entitles the purchaser to admission to the entertainment.~~

31 ~~(g) Live entertainment that is provided at a trade show.~~

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

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

39 ~~(j) Live entertainment that is provided in the common area of a~~
40 ~~shopping mall, unless the entertainment is provided in a facility~~
41 ~~located within the mall.~~

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



- 1 ~~—(l) Live entertainment that is incidental to an amusement ride, a~~
2 ~~motion simulator or a similar digital, electronic, mechanical or~~
3 ~~electromechanical attraction. For the purposes of this paragraph, live~~
4 ~~entertainment shall be deemed to be incidental to an amusement~~
5 ~~ride, a motion simulator or a similar digital, electronic, mechanical~~
6 ~~or electromechanical attraction if the live entertainment is:~~
7 ~~—(1) Not the predominant element of the attraction; and~~
8 ~~—(2) Not the primary purpose for which the public rides,~~
9 ~~attends or otherwise participates in the attraction.~~
10 ~~—(m) Live entertainment that is provided to the public in an~~
11 ~~outdoor area, without any requirements for the payment of an~~
12 ~~admission charge or the purchase of any food, refreshments or~~
13 ~~merchandise.~~
14 ~~—(n) An outdoor concert, unless the concert is provided on the~~
15 ~~premises of a licensed gaming establishment.~~
16 ~~—(o) Beginning July 1, 2007, race events scheduled at a race track~~
17 ~~in this State as a part of the National Association for Stock Car Auto~~
18 ~~Racing Nextel Cup Series, or its successor racing series, and all~~
19 ~~races associated therewith.~~
20 ~~—(p) Beginning July 1, 2007, a baseball contest, event or~~
21 ~~exhibition conducted by professional minor league baseball players~~
22 ~~at a stadium in this State.~~
23 ~~—(q) Live entertainment provided in a restaurant which is~~
24 ~~incidental to any other activities conducted in the restaurant or~~
25 ~~which only serves as ambience so long as there is no charge to the~~
26 ~~patrons for that entertainment.~~
27 ~~—6. The Commission may adopt regulations establishing a~~
28 ~~procedure whereby a taxpayer that is a licensed gaming~~
29 ~~establishment may request an exemption from the tax pursuant to~~
30 ~~paragraph (q) of subsection 5. The regulations must require the~~
31 ~~taxpayer to seek an administrative ruling from the Chair of~~
32 ~~the Board, provide a procedure for appealing that ruling to the~~
33 ~~Commission and further describe the forms of incidental or ambient~~
34 ~~entertainment exempted pursuant to that paragraph.~~
35 ~~—7. As used in this section, “maximum occupancy” means, in~~
36 ~~the following order of priority:~~
37 ~~—(a) The maximum occupancy of the facility in which live~~
38 ~~entertainment is provided, as determined by the State Fire Marshal~~
39 ~~or the local governmental agency that has the authority to determine~~
40 ~~the maximum occupancy of the facility;~~
41 ~~—(b) If such a maximum occupancy has not been determined, the~~
42 ~~maximum occupancy of the facility designated in any permit~~
43 ~~required to be obtained in order to provide the live entertainment; or~~
44 ~~—(c) If such a permit does not designate the maximum occupancy of~~
45 ~~the facility, the actual seating capacity of the facility in which the~~



1 ~~live entertainment is provided.]~~ or the admission charge displayed
2 by the seller pursuant to this subsection; or

3 (b) If the admission charge consists of a required minimum
4 purchase of food, beverages or other refreshments or
5 merchandise, the consideration paid for the food, beverages or
6 other refreshments or the sales price thereof, whichever is greater,
7 and the consideration paid for the merchandise or the actual retail
8 value of the merchandise, whichever is greater,
9 *↳ even if the admission charge is discounted or complimentary.*

10 **Sec. 11.** NRS 368A.360 is hereby amended to read as follows:
11 368A.360 1. Any licensed gaming establishment liable for
12 the payment of the tax imposed by NRS 368A.200 who willfully
13 fails to report, pay or truthfully account for the tax is subject to the
14 ~~revocation of~~ *investigatory and disciplinary proceedings that are*
15 *set forth in NRS 463.310 to 463.318, inclusive, and may have its*
16 gaming license *revoked* by the Commission.

17 2. *A violation of any provision of this chapter, or any*
18 *regulation adopted pursuant thereto, by a licensed gaming*
19 *establishment is:*

20 (a) *An unsuitable method of operation; and*

21 (b) *Subject to the investigatory and disciplinary proceedings*
22 *that are set forth in NRS 463.310 to 463.318, inclusive, and shall*
23 *be punished as provided in those sections.*

24 3. *If the Commission determines that complimentary*
25 *admissions and food, beverages and other refreshments for certain*
26 *patrons of licensed gaming establishments is a necessary and*
27 *critical business practice, the Commission may, with the advice*
28 *and assistance of the Board, adopt regulations to provide for*
29 *limited exceptions to the applicability of the tax imposed by NRS*
30 *368A.200. Any such regulations must ensure fair and equal*
31 *treatment of all similarly situated taxpayers and must not*
32 *significantly reduce the proceeds of the tax. Notwithstanding any*
33 *other provision of law, any regulation adopted pursuant to this*
34 *subsection must be proposed and adopted in accordance with the*
35 *provisions of NRS 233B.010 to 233B.120, inclusive.*

36 **Sec. 12.** NRS 463.15995 is hereby amended to read as
37 follows:

38 463.15995 1. The Commission shall, with the advice and
39 assistance of the Board, adopt regulations authorizing a gaming
40 licensee to charge a fee for admission to an area in which gaming is
41 conducted in accordance with the provisions of this section.

42 2. The regulations adopted by the Commission pursuant to this
43 section must include, without limitation, provisions that:

44 (a) A gaming licensee may not charge a fee pursuant to this
45 section unless:



1 (1) The Chair of the Board grants administrative approval of
2 a request by a gaming licensee to charge such a fee; and

3 (2) Such administrative approval is not revoked or suspended
4 by the Chair of the Board.

5 (b) The Chair of the Board may, in the Chair's sole and absolute
6 discretion, grant, deny, limit, condition, restrict, revoke or suspend
7 any administrative approval of a request by a gaming licensee to
8 charge a fee pursuant to this section. In considering such a request,
9 the Chair of the Board shall consider all relevant factors, including,
10 without limitation:

11 (1) The size of the area;

12 (2) The amount of gaming that occurs within the area;

13 (3) The types and quantity of gaming offered;

14 (4) The business purpose of the area;

15 (5) Other amenities that are offered within the area;

16 (6) The amount of the costs and expenses incurred in
17 creating the area;

18 (7) The benefit to the State in having gaming conducted
19 within the area;

20 (8) The amount of the fee charged and whether the fee
21 charged is unreasonable as compared to the prevailing practice
22 within the industry; and

23 (9) Whether the area should more appropriately be treated as
24 a gaming salon.

25 ➤ The decision of the Chair of the Board regarding such a request
26 may be appealed by the gaming licensee to the Commission
27 pursuant to its regulations.

28 (c) A gaming licensee who charges a fee pursuant to this
29 section:

30 (1) Shall deposit with the Board and thereafter maintain a
31 refundable revolving fund in an amount determined by the
32 Commission to pay the expenses of admission of agents of the
33 Board or Commission to the area for which a fee for admission is
34 charged.

35 (2) Shall arrange for access by agents of the Board or
36 Commission to the area for which a fee for admission is charged.

37 (3) Shall, at all times that a fee is charged for admission to an
38 area pursuant to this section in an establishment for which a
39 nonrestricted license has been issued, provide for the public at least
40 the same number of gaming devices and games in a different area
41 for which no fee is charged for admission.

42 (4) Shall, at all times that a fee is charged for admission to an
43 area pursuant to this section in an establishment for which a
44 restricted license has been issued, post a sign of a suitable size in a
45 conspicuous place near the entrance of the establishment that



1 provides notice to patrons that they do not need to pay an admission
2 fee or cover charge to engage in gaming.

3 (5) Shall not use a fee charged for admission to create a
4 private gaming area that is not operated in association or
5 conjunction with a nongaming activity, attraction or facility.

6 (6) Shall not restrict admission to the area for which a fee for
7 admission is charged to a patron on the ground of race, color,
8 religion, national origin or disability of the patron, and any
9 unresolved dispute with a patron concerning restriction of admission
10 shall be deemed a dispute as to the manner in which a game is
11 conducted pursuant to NRS 463.362 and must be resolved pursuant
12 to NRS 463.362 to 463.366, inclusive.

13 (d) If a gaming licensee who holds a nonrestricted license
14 charges a fee pursuant to this section, unless the area for which a fee
15 for admission is charged is otherwise subject to the excise tax on
16 admission to ~~any facility in this State where live entertainment is~~
17 ~~provided~~ *a place of amusement, sport, recreation or other*
18 *entertainment* pursuant to chapter 368A of NRS, the determination
19 of the amount of the liability of the gaming licensee for that tax:

20 (1) Includes the fees charged for admission pursuant to this
21 section; and

22 (2) Does not include charges for food, refreshments and
23 merchandise collected in the area for which admission is charged.

24 **Sec. 13.** NRS 463.310 is hereby amended to read as follows:

25 463.310 1. The Board shall make appropriate investigations:

26 (a) To determine whether there has been any violation of this
27 chapter or chapter 462, 464, 465 or 466 of NRS or any regulations
28 adopted thereunder ~~H~~, *or any violation of chapter 368A or any*
29 *regulations adopted thereunder by a licensed gaming*
30 *establishment.*

31 (b) To determine any facts, conditions, practices or matters
32 which it may deem necessary or proper to aid in the enforcement of
33 any such law or regulation.

34 (c) To aid in adopting regulations.

35 (d) To secure information as a basis for recommending
36 legislation relating to this chapter or chapter **368A**, 462, 464, 465 or
37 466 of NRS.

38 (e) As directed by the Commission.

39 2. If, after any investigation the Board is satisfied that:

40 (a) A license, registration, finding of suitability, preliminary
41 finding of suitability, pari-mutuel license or prior approval by the
42 Commission of any transaction for which the approval was required
43 or permitted under the provisions of this chapter or chapter 462, 464
44 or 466 of NRS should be limited, conditioned, suspended or
45 revoked; or



1 (b) A person or entity which is licensed, registered, found
2 suitable or found preliminarily suitable pursuant to this chapter or
3 chapter 464 of NRS or which previously obtained approval for any
4 act or transaction for which Commission approval was required or
5 permitted under the provisions of this chapter or chapter 464 of NRS
6 should be fined,

7 the Board shall initiate a hearing before the Commission by filing
8 a complaint with the Commission in accordance with NRS 463.312
9 and transmit therewith a summary of evidence in its possession
10 bearing on the matter and the transcript of testimony at any
11 investigative hearing conducted by or on behalf of the Board.

12 3. Upon receipt of the complaint of the Board, the Commission
13 shall review the complaint and all matter presented in support
14 thereof, and shall conduct further proceedings in accordance with
15 NRS 463.3125 to 463.3145, inclusive.

16 4. After the provisions of subsections 1, 2 and 3 have been
17 complied with, the Commission may:

18 (a) Limit, condition, suspend or revoke the license of any
19 licensed gaming establishment or the individual license of any
20 licensee without affecting the license of the establishment;

21 (b) Limit, condition, suspend or revoke any registration, finding
22 of suitability, preliminary finding of suitability, pari-mutuel license,
23 or prior approval given or granted to any applicant by the
24 Commission;

25 (c) Order a licensed gaming establishment to keep an individual
26 licensee from the premises of the licensed gaming establishment or
27 not to pay the licensee any remuneration for services or any profits,
28 income or accruals on the investment of the licensee in the licensed
29 gaming establishment; and

30 (d) Fine each person or entity, or both, which is licensed,
31 registered, found suitable or found preliminarily suitable pursuant to
32 this chapter or chapter 464 of NRS or which previously obtained
33 approval for any act or transaction for which Commission approval
34 was required or permitted under the provisions of this chapter or
35 chapter 464 of NRS:

36 (1) Not less than \$25,000 and not more than \$250,000 for
37 each separate violation of any regulation adopted pursuant to NRS
38 463.125 which is the subject of an initial or subsequent complaint;
39 or

40 (2) Except as otherwise provided in subparagraph (1), not
41 more than \$100,000 for each separate violation of the provisions of
42 this chapter or chapter **368A**, 464 or 465 of NRS or of ~~the~~ **any**
43 regulations ~~{of the Commission}~~ **adopted thereunder** which is the
44 subject of an initial complaint and not more than \$250,000 for each
45 separate violation of the provisions of this chapter or chapter **368A**,



1 464 or 465 of NRS or of ~~the~~ *any* regulations ~~of the Commission~~
2 *adopted thereunder* which is the subject of any subsequent
3 complaint.

4 ➔ All fines must be paid to the State Treasurer for deposit in the
5 State General Fund.

6 5. For the second violation of any provision of chapter 465 of
7 NRS by any licensed gaming establishment or individual licensee,
8 the Commission shall revoke the license of the establishment or
9 person.

10 6. If the Commission limits, conditions, suspends or revokes
11 any license or imposes a fine, or limits, conditions, suspends or
12 revokes any registration, finding of suitability, preliminary finding
13 of suitability, pari-mutuel license or prior approval, it shall issue its
14 written order therefor after causing to be prepared and filed its
15 written decision upon which the order is based.

16 7. Any such limitation, condition, revocation, suspension or
17 fine so made is effective until reversed upon judicial review, except
18 that the Commission may stay its order pending a rehearing or
19 judicial review upon such terms and conditions as it deems proper.

20 8. Judicial review of any such order or decision of the
21 Commission may be had in accordance with NRS 463.315 to
22 463.318, inclusive.

23 **Sec. 14.** NRS 463.408 is hereby amended to read as follows:

24 463.408 1. As used in this section, "holidays or special
25 events" refers to periods during which the influx of tourist activity
26 in this State or any area thereof may require additional or alternative
27 industry accommodation as determined by the Board.

28 2. Any licensee holding a valid license under this chapter may
29 apply to the Board, on application forms prescribed by the Board,
30 for a holiday or special event permit to:

31 (a) Increase the licensee's game operations during holidays or
32 special events; or

33 (b) Provide persons who are attending a special event with
34 gaming in an area of the licensee's establishment to which access by
35 the general public may be restricted.

36 3. The application must be filed with the Board at least 15 days
37 before the date of the holiday or special event.

38 4. If the Board approves the application, it shall issue to the
39 licensee a permit to operate presently existing games or any
40 additional games in designated areas of the licensee's establishment.
41 The number of additional games must not exceed 50 percent of the
42 number of games operated by the licensee at the time the application
43 is filed. The permit must state the period for which it is issued and
44 the number, if any, of additional games allowed. For purposes of
45 computation, any fractional game must be counted as one full game.



1 The licensee shall present any such permit on the demand of any
2 inspecting agent of the Board or Commission.

3 5. Before issuing any permit, the Board shall charge and collect
4 from the licensee a fee of \$14 per game per day for each day the
5 permit is effective. The fees are in lieu of the fees required under
6 NRS 463.380, 463.383 and 463.390.

7 ~~6. The additional games allowed under a permit must not be~~
8 ~~counted in computing the tax imposed by NRS 368A.200.~~

9 ~~7. If any such additional games are not removed at the time~~
10 ~~the permit expires, the licensee is immediately subject to the fees~~
11 ~~provided for in this chapter.~~

12 **Sec. 15.** NRS 467.107 is hereby amended to read as follows:

13 467.107 1. In addition to the payment of any other fees and
14 money due under this chapter, every promoter, except as provided in
15 subsection 2, shall pay a license fee of ~~1~~:

16 ~~(a) Six percent of the total gross receipts from admission fees to~~
17 ~~the live contest or exhibition of unarmed combat, exclusive of any~~
18 ~~federal tax or tax imposed by any political subdivision of this state;~~
19 ~~and~~

20 ~~(b) Three~~ 3 percent of the first \$1,000,000, and 1 percent of the
21 next \$2,000,000, of the total gross receipts from the sale, lease or
22 other exploitation of broadcasting, television and motion picture
23 rights for that contest or exhibition,

24 ~~1~~ without any deductions for commissions, brokerage fees,
25 distribution fees, advertising, contestants' purses or any other
26 expenses or charges.

27 2. A corporation organized pursuant to NRS 81.550 to 81.660,
28 inclusive, which promotes an amateur contest or exhibition of
29 unarmed combat whose net proceeds are to be spent entirely in this
30 state, for the purposes for which the corporation is organized, is
31 exempt from the fees payable under this section. The corporation
32 must retain the services of a promoter licensed pursuant to this
33 chapter.

34 ~~3. The Commission shall adopt regulations:~~

35 ~~(a) Requiring that the number and face value of all~~
36 ~~complimentary tickets be reported.~~

37 ~~(b) Governing the treatment of complimentary tickets for the~~
38 ~~purposes of computing gross receipts from admission fees under~~
39 ~~paragraph (a) of subsection 1.~~

40 **Sec. 16.** NRS 467.137 is hereby amended to read as follows:

41 467.137 1. A promoter and a broadcasting network for
42 television shall each, at least 72 hours before a contest or exhibition
43 of unarmed combat, or combination of those events is to be held,
44 file with the Commission's Executive Director a copy of all



1 contracts entered into for the sale, lease or other exploitation of
2 television rights for the contest or exhibition.

3 2. The promoter shall keep detailed records of the accounts and
4 other documents related to the promoter's receipts from the sale,
5 lease or other exploitation on the television rights for a contest or
6 exhibition. The Commission, at any time, may inspect these
7 accounts and documents to determine the amount of the total gross
8 receipts received by the promoter from the television rights.

9 3. If a promoter or a network fails to comply with the
10 requirements of this section, the Commission may determine the
11 amount of the total gross receipts from the sale, lease or other
12 exploitation of television rights for the contest or exhibition and
13 assess the appropriate license fee pursuant to ~~paragraph (b) of~~
14 subsection 1 of NRS 467.107.

15 4. Each contract filed with the Commission pursuant to this
16 section is confidential and is not a public record.

17 **Sec. 17.** NRS 233B.039 is hereby amended to read as follows:

18 233B.039 1. The following agencies are entirely exempted
19 from the requirements of this chapter:

20 (a) The Governor.

21 (b) Except as otherwise provided in NRS 209.221, the
22 Department of Corrections.

23 (c) The Nevada System of Higher Education.

24 (d) The Office of the Military.

25 (e) The State Gaming Control Board.

26 (f) Except as otherwise provided in NRS 368A.140 ~~†~~ and
27 **368A.360**, the Nevada Gaming Commission.

28 (g) The Division of Welfare and Supportive Services of the
29 Department of Health and Human Services.

30 (h) Except as otherwise provided in NRS 422.390, the Division
31 of Health Care Financing and Policy of the Department of Health
32 and Human Services.

33 (i) The State Board of Examiners acting pursuant to chapter 217
34 of NRS.

35 (j) Except as otherwise provided in NRS 533.365, the Office of
36 the State Engineer.

37 (k) The Division of Industrial Relations of the Department of
38 Business and Industry acting to enforce the provisions of
39 NRS 618.375.

40 (l) The Administrator of the Division of Industrial Relations of
41 the Department of Business and Industry in establishing and
42 adjusting the schedule of fees and charges for accident benefits
43 pursuant to subsection 2 of NRS 616C.260.

44 (m) The Board to Review Claims in adopting resolutions to
45 carry out its duties pursuant to NRS 590.830.



1 (n) The Silver State Health Insurance Exchange.

2 2. Except as otherwise provided in subsection 5 and NRS
3 391.323, the Department of Education, the Board of the Public
4 Employees' Benefits Program and the Commission on Professional
5 Standards in Education are subject to the provisions of this chapter
6 for the purpose of adopting regulations but not with respect to any
7 contested case.

8 3. The special provisions of:

9 (a) Chapter 612 of NRS for the distribution of regulations by
10 and the judicial review of decisions of the Employment Security
11 Division of the Department of Employment, Training and
12 Rehabilitation;

13 (b) Chapters 616A to 617, inclusive, of NRS for the
14 determination of contested claims;

15 (c) Chapter 91 of NRS for the judicial review of decisions of the
16 Administrator of the Securities Division of the Office of the
17 Secretary of State; and

18 (d) NRS 90.800 for the use of summary orders in contested
19 cases,

20 ▶ prevail over the general provisions of this chapter.

21 4. The provisions of NRS 233B.122, 233B.124, 233B.125 and
22 233B.126 do not apply to the Department of Health and Human
23 Services in the adjudication of contested cases involving the
24 issuance of letters of approval for health facilities and agencies.

25 5. The provisions of this chapter do not apply to:

26 (a) Any order for immediate action, including, but not limited to,
27 quarantine and the treatment or cleansing of infected or infested
28 animals, objects or premises, made under the authority of the State
29 Board of Agriculture, the State Board of Health, or any other agency
30 of this State in the discharge of a responsibility for the preservation
31 of human or animal health or for insect or pest control;

32 (b) An extraordinary regulation of the State Board of Pharmacy
33 adopted pursuant to NRS 453.2184;

34 (c) A regulation adopted by the State Board of Education
35 pursuant to NRS 392.644 or 394.1694; or

36 (d) The judicial review of decisions of the Public Utilities
37 Commission of Nevada.

38 6. The State Board of Parole Commissioners is subject to the
39 provisions of this chapter for the purpose of adopting regulations but
40 not with respect to any contested case.

41 **Sec. 18.** NRS 368A.053, 368A.070, 368A.097, 368A.100,
42 368A.115 and 467.104 are hereby repealed.

43 **Sec. 19.** 1. This section and sections 11, 13 and 17 of this act
44 become effective upon passage and approval.



- 1 2. Sections 1 to 10, inclusive, 12, 14 to 16, inclusive, and 18 of
2 this act become effective:
3 (a) Upon passage and approval for the purpose of adopting
4 regulations and performing any preparatory administrative tasks;
5 and
6 (b) On January 1, 2014, for all other purposes.

LEADLINES OF REPEALED SECTIONS

- 368A.053 "Casual assemblage" defined.**
368A.070 "Game" defined.
368A.097 "Shopping mall" defined.
368A.100 "Slot machine" defined.
368A.115 "Trade show" defined.
**467.104 Contest or exhibition shown on closed-circuit
telecast or motion picture for fee: Fee for license; report to
Commission.**

