

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R038-17

1. **A clear and concise explanation of the need for the adopted regulation.**
The need and purpose for the proposed permanent regulation identified as LCB File No. R038-17 is to treat food bouquet businesses like florist for sales and use tax purposes. Food bouquet businesses operate under a similar business model as florists and therefore the application of sales and use tax to their transactions should be similar.
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 solicited comment from the public by sending notices of workshop and notices of intent to act upon a regulation by electronic or U.S. mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>
02/05/2018	Workshop	04/06/2018	219
04/07/2018	Adoption Hearing	05/07/2018	224

The mailing list included the interested parties list maintained by the Department. Notices were also posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the main public libraries in counties where an office of the Department of Taxation is not located.

One public response in support of the regulation was provided at the workshop and hearing.

An audio recording of the workshop and adoption hearing, or a copy of the record of proceedings of the adoption hearing, may be obtained by calling the Nevada Department of Taxation at (775) 684-2059 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at ghritz@tax.state.nv.us

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3. **The number of persons who:**
 - (a) **Attended the hearing:** 79
 - (b) **Testified at the hearing:** 1
 - (c) **Submitted written comments:** None of the attendees that attended the adoption hearing submitted written comments.
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 Workshop:

Hugh Goodwin

Telephone number: 650-833-22621

Business address: 200 University Avenue, East Palo Alto, California 94303

Electronic mail address: hugh.goodwin@dlapiper.com

Name of entity or organization represented: Edible Arrangements

Testified at Adoption Hearing:

Hugh Goodwin

Telephone number: 650-833-22621

Business address: 200 University Avenue, East Palo Alto, California 94303

Electronic mail address: hugh.goodwin@dlapiper.com

Name of entity or organization represented: Edible Arrangements

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.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. See response to #2 for description of how comments were solicited from the public and an explanation on how interested persons may obtain a copy of the summary.

Summary of business responses:

Mr. Goodwin, representing Edible Arrangements, emailed the Department asking to change the word edible to food. Since “Edible Arrangements” is a trademark name, Mr. Goodwin is concerned that the word “edible” in the proposed regulation would become a common term and would make protecting the trademark name “Edible Arrangements” difficult.

Testimony given at the public workshop and adoption hearing:

Mr. Goodwin testified that by adopting this regulation it would clarify that the food bouquet business taking the order from the customer would be responsible for the tax, and would allow for the business that provides both floral arrangements and food bouquet to use the same point of sale system.

The regulation was adopted as requested.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2059 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at ghritz@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 regulation was adopted as the Department's Revision to LCB Draft of Revised Proposed Regulation R037-17, which changes the word from "edible" to "food". The regulation was adopted without additional changes.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

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

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects on business. The benefits of this regulation are that 1) NAC 372.230 will now provide more clarity to industry and the Department regarding how sales and use tax should apply to food bouquet transactions and 2) businesses that provide both floral arrangements and food bouquets can now use the same point of sale system.

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

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects to the public. The benefits of this regulation are that NAC 372 will now provide more clarity to the public regarding how sales and use tax should apply to food bouquet transactions and will be consistent with how floral bouquets are taxed.

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

The proposed permanent regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement.

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 proposed 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 proposed regulation does not include new or increases in existing fees.