

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R056-18

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

Some of the defined terms in our statutes have required further interpretation for the law to be administered in a consistent manner among the member states of the Streamlined Sales Tax and Use Tax Agreement. Specifically, the definition of “prepared foods” in NRS 360B.460 subsection 3 which deals with “food sold with eating utensils provided by the seller.” This regulation clarifies what it means to be sold with eating utensils provided by the seller; whether the utensils have to be handed to the customer or whether the utensils have to be made available at a kiosk or common area. Section 1 describes the circumstances under which food is deemed to be sold with eating utensils provided by the seller and whether the seller is to directly give or hand a utensil to the purchaser or make utensils available to the purchaser at a kiosk or common area; a determination which is made based on the percentages of food sold by the seller that is prepared food. Section 1 also establishes the method for calculating the percentage of prepared food sold by the seller and requires a seller who sells or intends to sell prepared food from multiple establishments to calculate the percentage of prepared food for every such establishment and use the average of those calculations as the percentage of prepared food that the seller has sold or will sell. Section 2 excludes certain items containing four or more servings per container from the definition of “prepared food intended for immediate consumption”.

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 sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>
02/07/2020	Workshop	02/24/2020	201
02/06/2020	Adoption Hearing	03/09/2020	201

The mailing list included the Department of Taxation’s general interested parties list. 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.

No general public comment was received at the workshop

Summary of Testimony that was provided during the workshop:

1. Additional time (i.e., a grace period) has been requested to inform the retailers of the regulation change and to update their Point of Sale Systems.
2. A request was made for the Department to provide notice by NAICS codes to the appropriate industries regarding the regulation change.
3. It was requested that the Department clarify the documents and records that are needed for the small businesses to substantiate the calculation.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2030 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at kjost@tax.state.nv.us

3. The number of persons who:

- (a) **Attended the hearing:** 59 people attended the Adoption Hearing.
- (b) **Testified at each hearing:** None of the attendees testified at the Adoption Hearing.
- (c) **Submitted written comments:** None of the attendees at 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:

Not applicable

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.

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

Summary of public responses:

No public comment was received at the Adoption Hearing.

Summary of workshop discussion

No public comment was received at the workshop.

Testimony was provided at the workshop and is summarized in section 2.

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 revisions of LCB Draft of Revised Proposed Regulation R056-18, 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.

No attendees testified at the hearing, and the Department conducted its own analysis of the proposed permanent regulation and believes the proposed permanent regulation presents no reasonable foreseeable of anticipated adverse economic effects.

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

None of the attendees provided written comments at the hearing. The Department conducted its own analysis of the proposed permanent regulation and believes the proposed permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects to the public.

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.

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 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 regulation is 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 permanent regulation does not include new or increases in existing fees.