

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R062-15

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

The need and purpose of the proposed permanent regulations identified in LCB File No. R062-15 are to add new provisions and revise, clarify, update, and remove existing provisions relating to the application and administration of Nevada's Live Entertainment Tax (LET) on live entertainment provided at a facility that is not located on the premises of licensed gaming establishments. The changes to NAC Chapter 368A are a result of the changes made to Chapter 368A of the Nevada Revised Statutes (NRS) pursuant to Senate Bill No. 266, which was enacted during the 78th (2015) Session of the Nevada Legislature.

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 and regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>
10/5/2015	Workshop	10/20/2015	219
8/16/2016	Workshop	8/31/2016	216
08/23/2016	Adoption Hearing	10/03/2016	180

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. Comments were also solicited by direct email to other interested parties lists maintained by the Department.

See response to #5 for a summary of the public responses to the Regulation

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 hfttic@tax.state.nv.us

3. **The number of persons who:**
- (a) **Attended the hearing:** 34 people attended the workshop on 10/20/2015, 16 people attended the workshop on 8/31/2016; 48 people attended the adoption hearing.
 - (b) **Testified at the hearing:** 7 people testified at the 10/20/2015 workshop, 2 people testified at the 8/31/2016 workshop; 0 people testified at the adoption hearing.
 - (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:

Elizabeth B. Stallard

Telephone Number: 916-520-5238

Business Address: 100 W. Liberty Street, Suite 900, Reno, NV 89501

Electronic mail address: estallard@downeybrand.com

Name of entity or organization represented: Burning Man.

Jesse Haw

Telephone Number: 775-425-4422

Business Address: 550 W. Plumb Lane Suite B. #505, Reno, NV 89509

Electronic mail address: JESSE@HAWCORPROPERTIES.COM

Name of entity or organization represented: Reno Tahoe Open.

Brian Reeve

Electronic mail address: brain.reeve@cityofhenderson.com

Name of entity or organization represented: City of Henderson

Chris Hoff

Telephone Number: 775-322-3900 or 775-870-4961

Business Address: One East First Street (City Hall), 16th floor, Reno, NV 89501

Electronic mail address: Chris@barracadachampionship.com

Name of entity or organization represented: Reno Tahoe Open

Jack Rifenbark, Esq.

Telephone Number: 310-444-4221 or 818-317-8590

Business Address: 1803 Pontius Ave., Los Angeles, CA 90025

Electronic mail address: jr@cochisecap.com

Name of entity or organization represented: Shack LLC

C. Joseph Guild III

Telephone Number: 775-345-2000 or 775-772-1983

Business Address: 4790 Caughlin Pkwy. #360, Reno, NV 89519

Electronic mail address: josephguild@yahoo.com

Name of entity or organization represented: Reno Rodeo Association

Willis Allen

Telephone Number: 775-686-6617

Business Address: 100 South Virginia Street, Reno, NV 89501

Electronic mail address: willisa@pioneercenter.com

Name of entity or organization represented: Pioneer Center for the performing Arts

Testified at the adoption hearing:

No one testified at the adoption hearing.

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:

The following general responses were received by email and mail:

1. One taxpayer suggested that the regulation define the meaning of facility, area and premises.
2. One taxpayer suggested applying a percent to the portion of the event that is the actual live entertainment instead of taxing the whole event as live entertainment.
3. One taxpayer stated that live entertainment provided by or entirely for the benefit of a nonprofit organization if the proceeds of the admission charges to the facility where the live entertainment is provide become the property of the nonprofit organization. This language imputes the activities of patrons to the organization simply because the organization is collecting the admission fee, and despite the fact that the organization has no control over its patrons or their activities. This language and the result it mandates is therefore counter to traditional notions of agency.
4. One taxpayer asked for clarification as to if a nonprofit is collecting a \$2.00 faculty fee which is applied to each ticket that is being sold for a profit entity, is the fee taxable?

Testimony given at the public workshop:

1. One taxpayer questioned if a nonprofit hosted a for-profit event and charged a \$2.00 facility fee which was collected by the nonprofit. Is the fee taxable?

2. Another taxpayer questioned if a membership is purchased from a location outside the State to be used nationwide how does the Live Entertainment Tax apply to the membership fee?
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.**

At the Workshop and the Adoption Hearing no one proposed any changes.

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

(a) The adverse and beneficial affect:

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse or beneficial economic effects to businesses or to the general public. The benefit of this regulation is for industry and the Department to be provided additional clarity regarding Senate Bill 266.

(b) The immediate and long-term affect:

The proposed permanent regulation presents no reasonably foreseeable or anticipated immediate or long-term economic effects to business or to the general public. The benefit of this regulation is for industry and the Department to be provided additional clarity regarding Senate Bill 266.

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 other than the costs to implement the statutory provision.

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 regulations do not overlap any regulation of other state or local governmental entities, and does mirror the Gaming Regulation. Pursuant to NRS 368A.140.1 the Board shall collect the tax imposed by this chapter from taxpayers who are licensed gaming establishment. Pursuant to NRS 368A.140.2 the Department shall collect the tax imposed by this chapter from all other taxpayers.

- 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 regulations do not include any new or increases in existing fees.