

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.

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:

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

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



the person who collects taxable receipts, is the taxpayer and the tax is collected by the Department of Taxation.

Under **sections 2, 3 and 10** of this bill, the tax is imposed only if a minimum purchase of food, beverages or other refreshments or merchandise is required or an admission charge is collected for the admission of a person or vehicle to any place where amusement, sport, recreation or other entertainment is provided, including, without limitation, theaters, shows, convention centers, exhibitions, exhibition halls, trade shows, athletic or sporting contests, races, facilities where live entertainment is provided and certain private clubs or membership clubs providing recreational or physical fitness facilities. **Sections 6 and 10** of this bill provide that the rate of the tax is 8 percent of the admission charge to the place of amusement, sport, recreation or other entertainment, including, without limitation, any minimum required purchase of food, beverages or other refreshments or merchandise. In addition, if the place of amusement, sport, recreation or other entertainment is a facility where live entertainment is provided, the tax also applies to all food, beverages and other refreshments provided at the facility, even if the food, beverages or other refreshments are discounted or complimentary. Under **section 6**, the amount of the taxable admission charge is the total consideration paid or the actual value of the admission, whichever is greater. Under **sections 4 and 10** of this bill, the taxable sales price of any food, beverages or other refreshments provided at a facility where live entertainment is provided is the full amount stated on the menu or otherwise advertised as the price of the food, beverages or other refreshments or the amount paid for the food, beverages or other refreshments, whichever is greater. **Section 10** further provides that the tax must be collected



from the purchaser at the time of the sale of the admission to the place of amusement, sport, recreation or other entertainment, whether or not the admission is purchased for resale.

Sections 8 and 10 of this bill remove existing exclusions and exemptions from the tax on live entertainment and, instead, provide that the Nevada Entertainment and Admissions Tax does not apply to admission charges and the sales of food, beverages and other refreshments collected and retained by: (1) facilities with a seating capacity of less than 50 persons where live entertainment is provided; (2) nonprofit corporations and charitable organizations; and (3) political subdivisions of this State. Additionally, **section 10** provides that the tax does not apply to: (1) gratuities and service charges; and (2) amusement, sport, recreation or other entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution. **Section 11** of this bill authorizes the Nevada Gaming Commission, with the advice and assistance of the Board, to adopt regulations to provide for limited exceptions to the applicability of the Nevada Entertainment and Admissions Tax if the Commission determines that complimentary admissions and food, beverages and other refreshments for certain patrons of licensed gaming establishments is a necessary and critical business practice. The regulations: (1) must ensure fair and equal taxation of all similarly situated taxpayer and must not significantly reduce the proceeds of the Nevada Entertainment and Admissions Tax; and (2) must be proposed and adopted in accordance with the Nevada Administrative Procedures Act.

Existing law imposes certain license fees based on the gross receipts from admission fees to a live contest or exhibition of unarmed combat. (NRS 467.104, 467.107) **Sections 15, 16 and 17**



of this bill remove these license fees so that such unarmed combat contests or exhibitions are subject only to the applicable tax rate under the Nevada Entertainment and Admissions Tax.

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

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

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



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

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

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

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

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

2. A private club or membership club providing recreational or physical fitness facilities, including, without limitation, golf, tennis, swimming, yachting, boating, athletic, exercise or



fitness facilities other than physical fitness facilities owned or operated by a hospital, as defined in NRS 449.012, which is licensed pursuant to chapter 449 of NRS; and

3. A facility where live entertainment is provided.

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

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

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

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

368A.020 “Admission charge” means the total amount, expressed in terms of money, of consideration paid for ~~[the right or privilege to have access]~~ *admission* to a ~~[facility where live entertainment is provided.]~~ *place of amusement, sport, recreation or other entertainment or the actual value of such admission, whichever is greater.* The term includes, without limitation, an entertainment fee, a cover charge, a table reservation fee, ~~[or]~~ *a membership fee*, a required minimum purchase of food, *beverages or other* refreshments or merchandise ~~[]~~ *, and any dues or fees paid to a private club or membership club providing recreational or physical fitness facilities, including, without limitation, golf, tennis, swimming, yachting, boating, athletic,*



exercise or fitness facilities other than physical fitness facilities owned or operated by a hospital, as defined in NRS 449.012, which is licensed pursuant to chapter 449 of NRS.

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

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

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

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

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

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

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

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



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

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

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

2. The term ~~is~~:

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

~~[(1)]~~ (a) Music or vocals provided by one or more professional or amateur musicians or vocalists;

~~[(2)]~~ (b) Dancing performed by one or more professional or amateur dancers or performers;

~~[(3)]~~ (c) Acting or drama provided by one or more professional or amateur actors or players;

~~[(4)]~~ (d) Acrobatics or stunts provided by one or more professional or amateur acrobats, performers or stunt persons;

~~[(5)]~~ (e) Animal stunts or performances induced by one or more animal handlers or trainers ~~[, except as otherwise provided in subparagraph (7) of paragraph (b);~~

~~—(6)] ;~~



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

~~[(7)]~~ (g) Comedy or magic provided by one or more professional or amateur comedians, magicians, illusionists, entertainers or performers;

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

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

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

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

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



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

~~— (4) Performances in areas other than in nightclubs, lounges, restaurants or showrooms, if the performances occur in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, which enhance the theme of the establishment or attract patrons to the areas of the performances, as long as any seating provided in the immediate area of the performers is limited to seating at slot machines or gaming tables;~~

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

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

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

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

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

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

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



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

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

368A.110 “Taxpayer” means:

1. If ~~[live entertainment]~~ *any activity* that is taxable under this chapter is provided at a licensed gaming establishment, the person licensed to conduct gaming at that establishment.

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

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

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

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

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



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

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

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

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

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

(2) *Nonprofit* religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § ~~[501(e)]~~ *501(c)(3)*, or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS . ~~[, are not taxable pursuant to this section.]~~

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

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the



use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer . ~~[are not taxable pursuant to this section.]~~

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

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

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

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

(a) The face amount of the ticket ~~[~~

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

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

~~—(b) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax exempt organization pursuant to~~



~~26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS.~~

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

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

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

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

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

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

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

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

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



~~—(l) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:~~

~~——(1) Not the predominant element of the attraction; and~~

~~——(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.~~

~~—(m) Live entertainment that is provided to the public in an outdoor area, without any requirements for the payment of an admission charge or the purchase of any food, refreshments or merchandise.~~

~~—(n) An outdoor concert, unless the concert is provided on the premises of a licensed gaming establishment.~~

~~—(o) Beginning July 1, 2007, race events scheduled at a race track in this State as a part of the National Association for Stock Car Auto Racing Nextel Cup Series, or its successor racing series, and all races associated therewith.~~

~~—(p) Beginning July 1, 2007, a baseball contest, event or exhibition conducted by professional minor league baseball players at a stadium in this State.~~

~~—(q) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.~~



~~—6.— The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph (q) of subsection 5. The regulations must require the taxpayer to seek an administrative ruling from the Chair of the Board, provide a procedure for appealing that ruling to the Commission and further describe the forms of incidental or ambient entertainment exempted pursuant to that paragraph.~~

~~—7.— As used in this section, “maximum occupancy” means, in the following order of priority:~~

~~—(a) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;~~

~~—(b) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or~~

~~—(c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.]~~ *or the admission charge displayed by the seller pursuant to this subsection; or*

(b) If the admission charge consists of a required minimum purchase of food, beverages or other refreshments or merchandise, the consideration paid for the food, beverages or other refreshments or the sales price thereof, whichever is greater, and the consideration paid for the merchandise or the actual retail value of the merchandise, whichever is greater,

↪ even if the admission charge is discounted or complimentary.



Sec. 11. NRS 368A.360 is hereby amended to read as follows:

368A.360 *1.* Any licensed gaming establishment liable for the payment of the tax imposed by NRS 368A.200 who willfully fails to report, pay or truthfully account for the tax is subject to the ~~[revocation of]~~ *investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and may have* its gaming license *revoked* by the Commission.

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

(a) An unsuitable method of operation; and

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

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

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



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

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

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

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

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

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

(1) The size of the area;

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

(3) The types and quantity of gaming offered;

(4) The business purpose of the area;

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

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

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



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

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

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

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

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

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

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

(4) Shall, at all times that a fee is charged for admission to an area pursuant to this section in an establishment for which a restricted license has been issued, post a sign of a suitable size in a conspicuous place near the entrance of the establishment that provides notice to patrons that they do not need to pay an admission fee or cover charge to engage in gaming.

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



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

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

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

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

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

463.310 1. The Board shall make appropriate investigations:

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

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

(c) To aid in adopting regulations.



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

(e) As directed by the Commission.

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

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

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

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

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

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



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

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

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

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

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

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



chapter or chapter **368A**, 464 or 465 of NRS or of ~~the~~ **any** regulations ~~of the Commission~~ **adopted thereunder** which is the subject of any subsequent complaint.

↪ All fines must be paid to the State Treasurer for deposit in the State General Fund.

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

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

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

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

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

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

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



- (a) Increase the licensee's game operations during holidays or special events; or
- (b) Provide persons who are attending a special event with gaming in an area of the licensee's establishment to which access by the general public may be restricted.

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

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

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

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

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

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



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

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

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

~~{→}~~ without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or any other expenses or charges.

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

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

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

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

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



467.137 1. A promoter and a broadcasting network for television shall each, at least 72 hours before a contest or exhibition of unarmed combat, or combination of those events is to be held, file with the Commission's Executive Director a copy of all contracts entered into for the sale, lease or other exploitation of television rights for the contest or exhibition.

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

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

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

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

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

- (a) The Governor.
- (b) Except as otherwise provided in NRS 209.221, the Department of Corrections.
- (c) The Nevada System of Higher Education.



- (d) The Office of the Military.
- (e) The State Gaming Control Board.
- (f) Except as otherwise provided in NRS 368A.140 ~~and~~ *and 368A.360*, the Nevada Gaming Commission.
- (g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.
- (h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.
- (i) The State Board of Examiners acting pursuant to chapter 217 of NRS.
- (j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.
- (k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.
- (l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.
- (m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.
- (n) The Silver State Health Insurance Exchange.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on



Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

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

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

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

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

↪ prevail over the general provisions of this chapter.

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

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

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



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

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

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

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

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

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

2. Sections 1 to 10, inclusive, 12, 14 to 16, inclusive, and 18 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preparatory administrative tasks; and

(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.**

