

REQUIRES TWO-THIRDS MAJORITY VOTE

(§§ 1.4, 1.5, 2, 3)

(Reprinted with amendments adopted on May 31, 2015)

FIRST REPRINT

S.B. 266

SENATE BILL NO. 266—SENATORS LIPPARELLI, HARDY;
GOICOECHEA, HAMMOND, KIECKHEFER AND SETTELMAYER

MARCH 13, 2015

JOINT SPONSOR: ASSEMBLYWOMAN KIRKPATRICK

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions relating to the tax on live
entertainment. (BDR 32-720)

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 relating to the rate, imposition and calculation of the tax on live entertainment; revising provisions governing the exemptions and exclusions from the tax on live entertainment; revising provisions governing the distribution of certain proceeds of the tax on live entertainment; 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 providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law imposes an excise tax on admission to certain facilities where live
2 entertainment is provided. (Chapter 368A of NRS) Under existing law, if live
3 entertainment is provided at an establishment that is not a licensed gaming
4 establishment or certain smaller licensed gaming establishments, the tax is imposed
5 only if consideration is collected for admission to the area or premises where live
6 entertainment is provided. However, if live entertainment is provided at certain
7 larger licensed gaming establishments, the tax is imposed whenever live
8 entertainment is provided, regardless of whether consideration is collected for
9 admission to the area or premises where the live entertainment is provided.



* S B 2 6 6 R 1 *

10 (NRS 368A.060) **Section 1.5** of this bill revises these provisions to provide that,
11 regardless of whether live entertainment is provided at a gaming establishment, the
12 tax is imposed only if consideration is collected for admission to the area or
13 premises where live entertainment is provided.

14 Under existing law, the rate and imposition of the tax depends upon the size of
15 the facility in which the live entertainment is provided. If the live entertainment is
16 provided at a facility with a maximum occupancy of less than 7,500 persons, the
17 rate of the tax is 10 percent of the admission charge to the facility plus 10 percent
18 of any amounts paid for food, refreshments and merchandise purchased at the
19 facility. If the live entertainment is provided at a facility with a maximum
20 occupancy of at least 7,500 persons, the rate of the tax is 5 percent of the admission
21 charge to the facility. (NRS 368A.200) **Section 3** of this bill revises the rate of the
22 tax to provide that: (1) the rate of the tax is 9 percent of the admission charge to a
23 facility where live entertainment is provided; and (2) the tax is not imposed on
24 amounts paid for food, refreshments and merchandise. **Sections 1.03, 1.07, 1.5, 2,**
25 **2.1, 3 and 3.2** of this bill provides that the tax applies to escorts and escort services
26 and that the rate of the tax is 9 percent of the total amount of consideration paid for
27 the escort or escort service.

28 Under existing law, the "admission charge" on which the tax is based is defined
29 as the total amount of consideration paid for the right or privilege to enter, or have
30 access to, a facility where live entertainment is provided. (NRS 368A.010) **Section**
31 **1.4** of this bill revises this definition to specifically include in the tax membership
32 fees, certain service charges and any other charge that is required to be paid in
33 connection with admission to a facility where live entertainment is provided.
34 **Section 1.4** also excludes from the tax: (1) the value of certain admissions provided
35 to a patron on a complimentary basis; (2) a charge for access to a table, seat or
36 lounge or for food, beverages or merchandise that are in addition to the charge for
37 admission to the facility; and (3) certain license and rental fees for luxury suites,
38 boxes or other similar products at a facility with a maximum occupancy of more
39 than 7,500 persons.

40 Existing law excludes certain activities from the tax on admission to facilities
41 where live entertainment is provided. (NRS 368A.090, 368A.200) **Sections 2 and 3**
42 of this bill remove certain exclusions and, thus, pursuant to **section 1.5**, these
43 activities would be subject to the tax on live entertainment if they constitute live
44 entertainment and consideration is collected for admission to the facility where the
45 activity is provided. **Sections 2 and 3** also add provisions that exclude the
46 following from the tax: (1) certain uncompensated, spontaneous performances; (2)
47 activities that do not constitute a performance, including, without limitation, go-go
48 dancing; (3) certain marketing or promotional activities that are associated with the
49 serving of food and beverages; (4) live entertainment provided by the Nevada
50 Interscholastic Activities Association or by certain schools if only students or
51 faculty provide the entertainment; (5) athletic events provided by institutions of the
52 Nevada System of Higher Education, if students of such an institution are
53 contestants in the event; and (6) an athletic event conducted by a professional team
54 based in this State if that team is a participant in the event. Finally, under **section 3**,
55 the exclusion from the tax for race events at a race track in this State as a part of the
56 National Association for Stock Car Racing (NASCAR) Sprint Cup Series is
57 modified to apply only if two NASCAR races are held at the race track.

58 Under existing law, live entertainment provided by certain nonprofit
59 organizations is exempt from the tax on live entertainment. (NRS 368A.200)
60 **Section 3** provides that this exemption applies only if the number of tickets to the
61 live entertainment provided by the nonprofit organization which are offered for sale
62 or other distribution to patrons is less than 7,500. Thus, under **section 3**, the tax on
63 live entertainment applies to any live entertainment provided by a nonprofit



64 organization for which 7,500 or more tickets are offered for sale or other
65 distribution to patrons.

66 Existing law requires the State Gaming Control Board and the Department of
67 Taxation to deposit all taxes, interest and penalties they receive from the tax on live
68 entertainment in the State Treasury for credit to the State General Fund. (NRS
69 368A.240) **Section 3.1** of this bill requires the Department of Taxation, on or
70 before October 1 of each year, to deposit \$150,000 from the taxes, interest and
71 penalties it receives from the tax on live entertainment, for credit to the Nevada
72 Arts Council which is a division of the Department of Tourism and Cultural
73 Affairs. Under **section 3.1**, this money is authorized for expenditure by the Nevada
74 Arts Council as a continuing appropriation.

75 Existing law requires the State Gaming Control Board to make investigations
76 and to initiate a hearing by filing a complaint with the Nevada Gaming Commission
77 if the Board is satisfied that a person or entity which is licensed, registered, found
78 suitable or found preliminarily suitable or which previously obtained approval for
79 an activity for which Commission approval was required or permitted should be
80 limited, conditioned, suspended, revoked or fined. (NRS 463.310) **Section 5** of this
81 bill similarly requires the Board to make investigations and to initiate a hearing by
82 filing a complaint with the Commission if the Board is satisfied that such a person
83 or entity has violated certain provisions relating to the tax on live entertainment.

84 Existing law also: (1) requires a licensed gaming establishment to maintain
85 records relating to, report, pay and truthfully account for the tax on live
86 entertainment; and (2) prohibits certain practices relating to falsifying information
87 or books, records or accounts relating to the tax on live entertainment. (NRS
88 368A.160, 368A.350, 368A.360) **Section 4** of this bill provides that a violation of
89 such provisions by a licensed gaming establishment is an unsuitable method of
90 operation and is subject to investigation and disciplinary proceedings by the Board
91 and the Commission.

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 1.03 and 1.07 of
3 this act.

4 **Sec. 1.03. 1. “Escort” means a person who, for monetary**
5 **consideration, in the form of a fee, commission or salary, dates,**
6 **socializes, visits, consorts with or accompanies, or offers to date,**
7 **socialize, visit, consort with or accompany, another or others to or**
8 **about social affairs, entertainments or places of amusement or**
9 **within any place of public resort or within any private quarters.**
10 **The term does not include a person who advertises, or works as an**
11 **employee, agent or independent contractor for a person who**
12 **advertises, that sexual conduct will be provided to a patron, or who**
13 **solicits, offers to provide or provides acts of sexual conduct to a**
14 **patron.**

15 **2. As used in this section, “sexual conduct” means sexual**
16 **intercourse, oral-genital contact or any touching of the sexual**



1 *organs or other intimate parts of a person for the purpose of*
2 *arousing or gratifying the sexual desire of either person.*

3 **Sec. 1.07.** *1. "Escort service" means a person who, for a*
4 *fee, commission, profit, payment or other monetary consideration,*
5 *furnishes, refers or offers to furnish or refer an escort to a patron,*
6 *offers to introduce a patron to an escort, or who provides an escort*
7 *to a patron. The term does not include a person who advertises*
8 *that an escort will provide sexual conduct to a patron or who*
9 *solicits, offers to provide or provides acts of sexual conduct to a*
10 *patron.*

11 *2. As used in this section, "sexual conduct" has the meaning*
12 *ascribed to it in section 1.03 of this act.*

13 **Sec. 1.3.** NRS 368A.010 is hereby amended to read as
14 follows:

15 368A.010 As used in this chapter, unless the context otherwise
16 requires, the words and terms defined in NRS 368A.020 to
17 368A.115, inclusive, *and sections 1.03 and 1.07 of this act* have the
18 meanings ascribed to them in those sections.

19 **Sec. 1.4.** NRS 368A.020 is hereby amended to read as
20 follows:

21 368A.020 ~~["Admission]~~

22 *1. Except as otherwise provided in this section, "admission*
23 *charge" means the total amount, expressed in terms of money, of*
24 *consideration paid for the right or privilege to enter or have access*
25 *to a facility where live entertainment is provided. ~~["He"]~~*

26 *2. Except as otherwise provided in this section or NRS*
27 *368A.200 or any other specific statute, the term includes, without*
28 *limitation, an entertainment fee, a cover charge, ~~["a table reservation~~*
29 *fee, or] a required minimum purchase of food, ~~["refreshments]~~*
30 *beverages or merchandise ~~["]~~, a membership fee and a service*
31 *charge or any other fee or charge that is required to be paid in*
32 *exchange for admission to a facility where live entertainment is*
33 *provided.*

34 *3. The term does not include:*

35 *(a) The value of an admission to a facility provided to a patron*
36 *on a complimentary basis, unless the complimentary admission is*
37 *associated with a separate purchase that is required for the patron*
38 *to enter or have access to the facility; or*

39 *(b) A charge for the right or privilege of entering, or having*
40 *access to, a particular portion within a facility, that is in addition*
41 *to a charge described in subsection 1 or 2, including, without*
42 *limitation, a charge for:*

43 *(1) Food, beverages or merchandise that is in addition to a*
44 *required minimum purchase of food, beverages or merchandise as*
45 *described in subsection 2; or*



1 (2) Access to tables, seats, lounge chairs or particular areas
2 near a swimming pool.

3 4. Except as otherwise provided in this subsection, the term
4 does not include license or rental fees for luxury suites, boxes or
5 similar products at facilities with a maximum occupancy of at
6 least 7,500 persons. If the license or rental fee includes the
7 admission of a certain number of patrons to a facility where a live
8 entertainment event is provided, the admission charge is an
9 amount equal to the lowest priced admission charge for the live
10 entertainment event multiplied by the number of admissions to the
11 live entertainment event included in the license or rental fee.

12 Sec. 1.5. NRS 368A.060 is hereby amended to read as
13 follows:

14 368A.060 ~~[-]~~ "Facility" means ~~[-]~~:

15 ~~—(a) Any~~ any area or premises, *indoor or outdoor*, where live
16 entertainment is provided and for which consideration is collected
17 for the right or privilege of entering, *or having access to*, that area
18 or those premises. ~~[-]~~ ~~if the live entertainment is provided at:~~

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

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

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

27 ~~2. "Facility" encompasses, if live entertainment is provided at a~~
28 ~~licensed gaming establishment that is licensed for:~~

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

36 ~~—(b) At least 51 slot machines or at least 6 games, any designated~~
37 ~~area on the premises of the licensed gaming establishment within~~
38 ~~which the live entertainment is provided.]~~

39 Sec. 2. NRS 368A.090 is hereby amended to read as follows:

40 368A.090 1. "Live entertainment" means any activity
41 provided for pleasure, enjoyment, recreation, relaxation, diversion
42 or other similar purpose by a person or persons who are physically
43 present when providing that activity to a patron or group of patrons
44 who are physically present.

45 2. The term:



1 (a) Includes, without limitation, any one or more of the
2 following activities:

3 (1) Music or vocals provided by one or more professional or
4 amateur musicians or vocalists;

5 (2) Dancing performed by one or more professional or
6 amateur dancers or performers ~~†~~, *including, without limitation,*
7 *dancing performed by one or more persons who are nude or*
8 *partially nude;*

9 (3) Acting or drama provided by one or more professional or
10 amateur actors or players;

11 (4) Acrobatics or stunts provided by one or more
12 professional or amateur acrobats, performers or stunt persons;

13 (5) Animal stunts or performances induced by one or more
14 animal handlers or trainers, except as otherwise provided in
15 subparagraph ~~†(7)†~~ (3) of paragraph (b);

16 (6) Athletic or sporting contests, events or exhibitions
17 provided by one or more professional or amateur athletes, sportsmen
18 or sportswomen;

19 (7) Comedy or magic provided by one or more professional
20 or amateur comedians, magicians, illusionists, entertainers or
21 performers;

22 (8) A show or production involving any combination of the
23 activities described in subparagraphs (1) to (7), inclusive; ~~†and†~~

24 (9) A performance ~~†involving one or more of the activities~~
25 ~~†described in this paragraph†~~ by a disc jockey who presents recorded
26 music ~~†. For the purposes of this subparagraph, a disc jockey shall~~
27 ~~†not be deemed to have engaged in a performance involving one or~~
28 ~~†more of the activities described in this paragraph if the disc jockey~~
29 ~~†generally limits his or her interaction with patrons to introducing the~~
30 ~~†recorded music, making announcements of general interest to~~
31 ~~†patrons, and explaining, encouraging or directing participatory~~
32 ~~†activities between patrons.†~~; *and*

33 *(10) An escort who is escorting one or more persons at a*
34 *location or locations in this State.*

35 (b) ~~†Excludes.†~~ *Except as otherwise provided in subsection 3,*
36 *excludes,* without limitation, any one or more of the following
37 activities:

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

43 ~~†(2) Occasional performances by employees whose primary~~
44 ~~†job function is that of preparing, selling or serving food;~~



1 refreshments or beverages to patrons, if such performances are not
2 advertised as entertainment to the public;

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

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

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

20 ~~{(6)} (2) Entertainment provided by a patron or patrons,~~
21 ~~including, without limitation, singing by patrons or dancing by or~~
22 ~~between patrons;~~

23 ~~{(7)} (3) Animal behaviors induced by animal trainers or~~
24 ~~caretakers primarily for the purpose of education and scientific~~
25 ~~research; and~~

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

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

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

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

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

34 *(4) An activity that is an uncompensated, spontaneous*
35 *performance that is not longer than 20 minutes during a*
36 *60-minute period;*

37 *(5) An activity described in subparagraphs (1) to (8) of*
38 *paragraph (a) that does not constitute a performance, including,*
39 *without limitation, go-go dancing; or*

40 *(6) Marketing or promotional activities, including, without*
41 *limitation, dancing or singing that is for a period that does not*
42 *exceed 20 minutes during a 60-minute period and that is*
43 *associated with the serving of food and beverages.*

44 *3. The exclusions set forth in paragraph (b) of subsection 2*
45 *do not apply to an activity provided by a nonprofit religious,*



1 *charitable, fraternal or other organization that qualifies as a tax-*
2 *exempt organization pursuant to 26 U.S.C. § 501(c), or by a*
3 *nonprofit corporation organized or existing under the provisions*
4 *of chapter 82 of NRS, when the number of tickets to the activity*
5 *offered for sale or other distribution is 15,000 or more.*

6 4. As used in this section, “person who is nude or partially
7 nude” means a natural person with any of the following less than
8 completely or opaquely covered:

9 (a) His or her genitals;

10 (b) The pubic region; or

11 (c) A female breast below a point immediately above the top of
12 the areola.

13 **Sec. 2.1.** NRS 368A.110 is hereby amended to read as
14 follows:

15 368A.110 “Taxpayer” means:

16 1. ~~##~~ *Except as otherwise provided in subsection 4, if* live
17 entertainment that is taxable under this chapter is provided at a
18 licensed gaming establishment, the person licensed to conduct
19 gaming at that establishment.

20 2. Except as otherwise provided in ~~subsection~~ *subsections* 3
21 ~~##~~ *and 4, if* live entertainment that is taxable under this chapter is
22 not provided at a licensed gaming establishment, the owner or
23 operator of the facility where the live entertainment is provided.

24 3. ~~##~~ *Except as otherwise provided in subsection 4, if* live
25 entertainment that is taxable under this chapter is provided at a
26 publicly owned facility or on public land, the person who collects
27 the taxable receipts.

28 4. *If live entertainment that is taxable under this chapter is*
29 *provided by an escort, the escort or, if the escort works as an*
30 *employee, agent or independent contractor for an escort service,*
31 *the owner or operator of the escort service.*

32 **Sec. 3.** NRS 368A.200 is hereby amended to read as follows:

33 368A.200 1. Except as otherwise provided in this section,
34 there is hereby imposed an excise tax on admission to any facility in
35 this State where live entertainment is provided ~~+. If the live~~
36 ~~entertainment is provided at a facility with a maximum occupancy~~
37 ~~of:~~

38 ~~—(a) Less than 7,500 persons, the} and on the charge for live~~
39 ~~entertainment provided by an escort at one or more locations in~~
40 ~~this State. The rate of the tax is ## :~~

41 (a) *Except as otherwise provided in paragraph (b), for*
42 *admission to a facility in this State where live entertainment is*
43 *provided, 9 percent of the admission charge to the facility . ~~plus 10~~*
44 ~~percent of any amounts paid for food, refreshments and merchandise~~
45 ~~purchased at the facility.~~



1 (b) ~~At least 7,500 persons, the rate of the tax is 5~~ *For live*
2 *entertainment provided by an escort who is escorting one or more*
3 *persons at a location or locations in this State, 9 percent of the*
4 ~~admission charge to the facility.~~ *total amount, expressed in terms*
5 *of money, of consideration paid for the live entertainment*
6 *provided by the escort.*

7 2. Amounts paid for:

8 (a) Admission charges collected and retained by a nonprofit
9 religious, charitable, fraternal or other organization that qualifies as
10 a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a
11 nonprofit corporation organized or existing under the provisions of
12 chapter 82 of NRS, are not taxable pursuant to this section ~~+~~, *only*
13 *if the number of tickets to the live entertainment which are offered*
14 *for sale or other distribution to patrons, either directly or*
15 *indirectly through a partner, subsidiary, client, affiliate or other*
16 *collaborator, is less than 7,500.*

17 (b) Gratuities directly or indirectly remitted to persons employed
18 at a facility where live entertainment is provided ~~for for service~~
19 ~~charges, including those imposed in connection with the use of~~
20 ~~credit cards or debit cards, which are collected and retained by~~
21 ~~persons other than the taxpayer~~ are not taxable pursuant to this
22 section.

23 (c) *Fees imposed, collected and retained by an independent*
24 *financial institution in connection with the use of credit cards or*
25 *debit cards to pay the admission charge to a facility where live*
26 *entertainment is provided are not taxable pursuant to this section.*
27 *As used in this paragraph, "independent financial institution"*
28 *means a financial institution that is not the taxpayer or an owner*
29 *or operator of the facility where the live entertainment is provided*
30 *or an affiliate of any of those persons.*

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

34 ~~4. Any ticket for live entertainment must state whether the tax~~
35 ~~imposed by this section is included in the price of the ticket. If the~~
36 ~~ticket does not include such a statement, the taxpayer shall pay the~~
37 ~~tax based on the face amount of the ticket.~~

38 ~~5. The tax imposed by this section must be added to and~~
39 ~~collected from the purchaser at the time of purchase, whether or~~
40 ~~not the admission for live entertainment is purchased for resale.~~
41 *Each ticket for admission to a facility where live entertainment is*
42 *provided must show on its face the admission charge or the seller*
43 *of the admission shall prominently display a notice disclosing the*
44 *admission charge at the box office or other place where the charge*
45 *is made.*



1 4. The tax imposed by subsection 1 does not apply to:

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

5 (b) *Live entertainment that is governed by the Nevada*
6 *Interscholastic Activities Association pursuant to NRS 386.420 to*
7 *386.470, inclusive, or is provided or sponsored by an elementary*
8 *school, junior high school, middle school or high school, if only*
9 *student or faculty provide the live entertainment.*

10 (c) *An athletic contest, event, tournament or exhibition*
11 *provided by an institution of the Nevada System of Higher*
12 *Education, if students of such an institution are contestants in the*
13 *contest, event, tournament or exhibition.*

14 (d) Live entertainment that is provided by or entirely for the
15 benefit of a nonprofit religious, charitable, fraternal or other
16 organization that qualifies as a tax-exempt organization pursuant to
17 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing
18 under the provisions of chapter 82 of NRS †

19 ~~(e)~~, *only if the number of tickets to the live entertainment*
20 *which are offered for sale or other distribution to patrons, either*
21 *directly or indirectly through a partner, subsidiary, client, affiliate*
22 *or other collaborator, is less than 7,500.*

23 (e) Any boxing contest or exhibition governed by the provisions
24 of chapter 467 of NRS.

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

28 ~~(e)~~ (g) Live entertainment that is provided at a licensed
29 gaming establishment that is licensed for less than 51 slot machines,
30 less than 6 games, or any combination of slot machines and games
31 within those respective limits, if the facility in which the live
32 entertainment is provided has a maximum occupancy of less than
33 200 persons.

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

37 ~~(g)~~ † (h) Live entertainment that is provided at a trade show.

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

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



1 ~~(k)~~ *(k)* Live entertainment that is provided in the common area
2 of a shopping mall, unless the entertainment is provided in a facility
3 located within the mall.

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

7 ~~(k)~~ *(m)* Live entertainment that is incidental to an amusement
8 ride, a motion simulator or a similar digital, electronic, mechanical
9 or electromechanical attraction. For the purposes of this paragraph,
10 live entertainment shall be deemed to be incidental to an amusement
11 ride, a motion simulator or a similar digital, electronic, mechanical
12 or electromechanical attraction if the live entertainment is:

13 (1) Not the predominant element of the attraction; and

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

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

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

22 ~~—(o) Beginning July 1, 2007, race events]~~

23 *(n) A race* scheduled at a race track in this State ~~has a part of]~~
24 *and sanctioned by* the National Association for Stock Car Auto
25 Racing ~~[Nextel Cup Series, or its successor racing series, and all
26 races associated therewith.~~

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

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

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

42 ~~—7.] , if two or more such races are held at that race track
43 during the same calendar year.~~

44 *(o) An athletic contest, event or exhibition conducted by a
45 professional team based in this State if the professional team*



1 *based in this State is a participant in the contest, event or*
2 *exhibition.*

3 5. As used in this section, ~~“maximum”~~ :

4 (a) *“Affiliate” has the meaning ascribed to it in NRS 463.0133.*

5 (b) *“Maximum occupancy” means, in the following order of*
6 *priority:*

7 ~~(a)~~ (1) *The maximum occupancy of the facility in which live*
8 *entertainment is provided, as determined by the State Fire Marshal*
9 *or the local governmental agency that has the authority to determine*
10 *the maximum occupancy of the facility;*

11 ~~(b)~~ (2) *If such a maximum occupancy has not been*
12 *determined, the maximum occupancy of the facility designated in*
13 *any permit required to be obtained in order to provide the live*
14 *entertainment; or*

15 ~~(c)~~ (3) *If such a permit does not designate the maximum*
16 *occupancy of the facility, the actual seating capacity of the facility*
17 *in which the live entertainment is provided.*

18 (c) *“Operator” includes, without limitation, a person who*
19 *operates a facility where live entertainment is provided or who*
20 *presents, produces or otherwise provides live entertainment.*

21 **Sec. 3.1.** NRS 368A.220 is hereby amended to read as
22 follows:

23 368A.220 1. Except as otherwise provided in this section:

24 (a) Each taxpayer who is a licensed gaming establishment shall
25 file with the Board, on or before the 15th day of each month, a
26 report showing the amount of all taxable receipts for the preceding
27 month or the month in which the taxable events occurred. The report
28 must be in a form prescribed by the Board.

29 (b) All other taxpayers shall file with the Department, on or
30 before the last day of each month, a report showing the amount of
31 all taxable receipts for the preceding month. The report must be in a
32 form prescribed by the Department.

33 2. The Board or the Department, if it deems it necessary to
34 ensure payment to or facilitate the collection by the State of the tax
35 imposed by NRS 368A.200, may require reports to be filed not later
36 than 10 days after the end of each calendar quarter.

37 3. Each report required to be filed by this section must be
38 accompanied by the amount of the tax that is due for the period
39 covered by the report.

40 4. ~~The~~ *Except as otherwise provided in this subsection, the*
41 *Board and the Department shall deposit all taxes, interest and*
42 *penalties ~~it receives~~ they receive pursuant to this chapter in the*
43 *State Treasury for credit to the State General Fund. **On or before***
44 ***October 1 of each year, the Department shall deposit \$150,000***
45 ***from the taxes, interest and penalties it receives pursuant to this***



1 *chapter in the State Treasury for credit to the Nevada Arts Council*
2 *created by NRS 233C.025. The amount deposited in the State*
3 *Treasury for credit to the Nevada Arts Council pursuant to this*
4 *subsection is hereby authorized for expenditure by the Nevada*
5 *Arts Council as a continuing appropriation.*

6 **Sec. 3.2.** NRS 368A.240 is hereby amended to read as
7 follows:

8 368A.240 1. If a taxpayer:

9 (a) Is unable to collect all or part of an admission charge ~~for~~
10 ~~charges for food, refreshments and merchandise~~ *or charge for live*
11 *entertainment provided by an escort*, which were included in the
12 taxable receipts reported for a previous reporting period; and

13 (b) Has taken a deduction on his or her federal income tax return
14 pursuant to 26 U.S.C. § 166(a) for the amount which the taxpayer is
15 unable to collect,

16 ➔ the taxpayer is entitled to receive a credit for the amount of tax
17 paid on account of that uncollected amount. The credit may be used
18 against the amount of tax that the taxpayer is subsequently required
19 to pay pursuant to this chapter.

20 2. If the Internal Revenue Service disallows a deduction
21 described in paragraph (b) of subsection 1 and the taxpayer claimed
22 a credit on a return for a previous reporting period pursuant to
23 subsection 1, the taxpayer shall include the amount of that credit in
24 the amount of taxes reported pursuant to this chapter in the first
25 return filed with the Board or the Department after the deduction is
26 disallowed.

27 3. If a taxpayer collects all or part of an admission charge ~~for~~
28 ~~charges for food, refreshments and merchandise~~ *or charge for live*
29 *entertainment provided by an escort*, for which the taxpayer
30 claimed a credit on a return for a previous reporting period pursuant
31 to subsection 2, the taxpayer shall include:

32 (a) The amount collected in the charges reported pursuant to
33 paragraph (a) of subsection 1; and

34 (b) The tax payable on the amount collected in the amount of
35 taxes reported,

36 ➔ in the first return filed with the Board or the Department after that
37 collection.

38 4. Except as otherwise provided in subsection 5, upon
39 determining that a taxpayer has filed a return which contains one or
40 more violations of the provisions of this section, the Board or the
41 Department shall:

42 (a) For the first return of any taxpayer that contains one or more
43 violations, issue a letter of warning to the taxpayer which provides
44 an explanation of the violation or violations contained in the return.



* S B 2 6 6 R 1 *

1 (b) For the first or second return, other than a return described in
2 paragraph (a), in any calendar year which contains one or more
3 violations, assess a penalty equal to the amount of the tax which was
4 not reported.

5 (c) For the third and each subsequent return in any calendar year
6 which contains one or more violations, assess a penalty of three
7 times the amount of the tax which was not reported.

8 5. For the purposes of subsection 4, if the first violation of this
9 section by any taxpayer was determined by the Board or the
10 Department through an audit which covered more than one return of
11 the taxpayer, the Board or the Department shall treat all
12 returns which were determined through the same audit to contain a
13 violation or violations in the manner provided in paragraph (a) of
14 subsection 4.

15 **Sec. 4.** NRS 368A.360 is hereby amended to read as follows:

16 368A.360 *1.* Any licensed gaming establishment liable for
17 the payment of the tax imposed by NRS 368A.200 who willfully
18 fails to report, pay or truthfully account for the tax is subject to the
19 ~~revocation of~~ *investigatory or disciplinary proceedings that are*
20 *set forth in NRS 463.310 to 463.318, inclusive, and may have* its
21 gaming license *revoked* by the Commission.

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

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

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

29 **Sec. 4.1.** NRS 463.15995 is hereby amended to read as
30 follows:

31 463.15995 *1.* The Commission shall, with the advice and
32 assistance of the Board, adopt regulations authorizing a gaming
33 licensee to charge a fee for admission to an area in which gaming is
34 conducted in accordance with the provisions of this section.

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

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

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

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

43 *(b)* The Chair of the Board may, in the Chair's sole and absolute
44 discretion, grant, deny, limit, condition, restrict, revoke or suspend
45 any administrative approval of a request by a gaming licensee to



1 charge a fee pursuant to this section. In considering such a request,
2 the Chair of the Board shall consider all relevant factors, including,
3 without limitation:

- 4 (1) The size of the area;
- 5 (2) The amount of gaming that occurs within the area;
- 6 (3) The types and quantity of gaming offered;
- 7 (4) The business purpose of the area;
- 8 (5) Other amenities that are offered within the area;
- 9 (6) The amount of the costs and expenses incurred in

10 creating the area;

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

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

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

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

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

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

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

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

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

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

44 (6) Shall not restrict admission to the area for which a fee for
45 admission is charged to a patron on the ground of race, color,



1 religion, national origin or disability of the patron, and any
2 unresolved dispute with a patron concerning restriction of admission
3 shall be deemed a dispute as to the manner in which a game is
4 conducted pursuant to NRS 463.362 and must be resolved pursuant
5 to NRS 463.362 to 463.366, inclusive.

6 (d) If a gaming licensee who holds a nonrestricted license
7 charges a fee pursuant to this section, unless the area for which a fee
8 for admission is charged is otherwise subject to the excise tax on
9 admission to any facility in this State where live entertainment is
10 provided pursuant to chapter 368A of NRS, the determination of the
11 amount of the liability of the gaming licensee for that tax:

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

14 (2) Does not include charges for food, ~~refreshments~~
15 *beverages* and merchandise collected in the area for which
16 admission is charged.

17 **Sec. 5.** NRS 463.310 is hereby amended to read as follows:

18 463.310 1. The Board shall make appropriate investigations:

19 (a) To determine whether there has been any violation of this
20 chapter or chapter **368A**, 462, 464, 465 or 466 of NRS or any
21 regulations adopted thereunder.

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

25 (c) To aid in adopting regulations.

26 (d) To secure information as a basis for recommending
27 legislation relating to this chapter or chapter **368A**, 462, 464, 465 or
28 466 of NRS.

29 (e) As directed by the Commission.

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

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

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

43 ➔ the Board shall initiate a hearing before the Commission by filing
44 a complaint with the Commission in accordance with NRS 463.312
45 and transmit therewith a summary of evidence in its possession



1 bearing on the matter and the transcript of testimony at any
2 investigative hearing conducted by or on behalf of the Board.

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

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

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

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

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

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

27 (1) Not less than \$25,000 and not more than \$250,000 for
28 each separate violation of any regulation adopted pursuant to NRS
29 463.125 which is the subject of an initial or subsequent complaint;
30 or

31 (2) Except as otherwise provided in subparagraph (1), not
32 more than \$100,000 for each separate violation of the provisions of
33 this chapter or chapter **368A**, 464 or 465 of NRS or of ~~the~~ **any**
34 regulations ~~of the Commission~~ **adopted thereunder**, which is the
35 subject of an initial complaint and not more than \$250,000 for each
36 separate violation of the provisions of this chapter or chapter **368A**,
37 464 or 465 of NRS or of ~~the~~ **any** regulations ~~of the Commission~~
38 **adopted thereunder**, which is the subject of any subsequent
39 complaint.

40 ➤ All fines must be paid to the State Treasurer for deposit in the
41 State General Fund.

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



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

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

11 8. Judicial review of any such order or decision of the
12 Commission may be had in accordance with NRS 463.315 to
13 463.318, inclusive.

14 **Sec. 6.** Any administrative regulations relating to the tax on
15 live entertainment imposed pursuant to chapter 368A of NRS which
16 were adopted by the Nevada Tax Commission or the Nevada
17 Gaming Commission before July 1, 2015, and which conflict or are
18 inconsistent with the provisions of this act are void, unless those
19 regulations are amended before July 1, 2015, to be consistent with
20 the provisions of this act.

21 **Sec. 6.5.** The provisions of this act apply only to taxable
22 receipts that are collected pursuant to the provisions of chapter
23 368A of NRS on or after October 1, 2015.

24 **Sec. 7.** 1. This act becomes effective upon passage and
25 approval for the purpose of adopting regulations and performing any
26 other preparatory administrative tasks that are necessary to carry out
27 the provisions of this act.

28 2. Section 3.1 of this act becomes effective on July 1, 2015, for
29 all other purposes.

30 3. Sections 1 to 3, inclusive, and 3.2 to 6.5, inclusive, become
31 effective on October 1, 2015, for all other purposes.



