

SENATE BILL NO. 307—SENATOR DONDERO LOOP

MARCH 22, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions related to the sale of alcoholic beverages. (BDR 52-945)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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 alcoholic beverages; requiring a supplier of liquor to approve certain transactions related to the ownership or assets of a wholesaler within a certain period of time under certain circumstances; prohibiting certain acts by suppliers with respect to wholesalers of liquor; authorizing a person who operates a brew pub to manufacture additional malt beverages for sale outside of this State; revising the criteria for the approval of a license to engage in certain activities related to alcohol; revising provisions governing certificates of compliance for suppliers; revising provisions governing the possession, sale and transportation of liquor; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law sets forth various requirements concerning a franchise between a  
2 supplier and a wholesaler of malt beverages, distilled spirits and wines. (NRS  
3 597.120-597.180) Existing law prohibits a supplier from unreasonably withholding  
4 or delaying approval of any assignment, sale or transfer of stock of a wholesaler or  
5 of all or any portion of a wholesaler’s assets, a wholesaler’s voting stock, the voting  
6 stock of any parent corporation or the beneficial ownership or control of any other  
7 entity owning or controlling the wholesaler if the person to be substituted under the  
8 terms of the franchise meets certain reasonable standards. (NRS 597.157) **Section 1**  
9 of this bill requires a supplier to approve any such transaction within 30 days after  
10 receiving notice of the transaction if the person to be substituted under the terms of  
11 the franchise meets certain reasonable standards.

12 **Section 3** of this bill prohibits a supplier from: (1) requiring a wholesaler to  
13 keep a minimum inventory of the alcoholic beverages of the supplier or any other  
14 item that exceeds the number of days of credit extended to the wholesaler by the



15 supplier; (2) requiring a wholesaler to make payments under terms that are  
16 materially different from the payment terms applicable to payments made by the  
17 supplier; or (3) entering into an agreement with a wholesaler which purports to  
18 waive the rights and remedies of the wholesaler if the supplier retaliates against the  
19 wholesaler for reporting a violation of law to the Department of Taxation.

20 Existing law regulates the operation of brew pubs in this State, including  
21 limiting the amount of malt beverages which a person who operates one or more  
22 brew pubs is authorized to manufacture per year to not more than 40,000 barrels.  
23 (NRS 597.230) **Section 4** of this bill authorizes a person who operates one or more  
24 brew pubs to manufacture and sell an additional 20,000 barrels of malt beverages to  
25 a wholesaler located outside of this State, subject to such auditing as the  
26 Department of Taxation establishes by regulation.

27 Existing law requires certain persons and businesses, including importers of  
28 liquor, wholesale dealers of alcoholic beverages, winemakers, instructional wine-  
29 making facilities, breweries, brew pubs and craft and estate distilleries to obtain a  
30 state license or permit to engage in certain activities involving alcoholic beverages.  
31 (NRS 369.180) Existing law further requires an application for a license for these  
32 persons or businesses to be made to the board of county commissioners or the  
33 governing body of the city in which the applicant maintains his or her principal  
34 place of business. (NRS 369.190) **Section 5** of this bill requires the board of county  
35 commissioners or the governing body of a city, in approving such an application, to  
36 require satisfactory proof that the applicant is not in violation of the prohibition  
37 against engaging in certain activities involving alcoholic beverages without a  
38 license and that the applicant is not applying for a license for a business in which he  
39 or she is prohibited by law from engaging.

40 **Section 6** of this bill revises terminology relating to applications for a  
41 certificate of compliance by suppliers of liquor by replacing the term "vendor" with  
42 "supplier."

43 Existing law prohibits a person from keeping or possessing for sale, furnishing  
44 or selling, or soliciting the purchase or sale of any liquor in this State, or  
45 transporting or importing or causing to be transported or imported any liquor in or  
46 into this State for delivery, storage, use or sale unless the person complies with the  
47 relevant provisions of law and holds the appropriate license, permit or certificate,  
48 except for certain limited exceptions for liquor purchased for household or personal  
49 use. (NRS 369.490) **Section 7** of this bill additionally requires a person to be duly  
50 designated by the supplier of such liquor or to have purchased the liquor from  
51 certain authorized sources. **Section 7** also revises an existing exception from  
52 licensing requirements for consumers who import 1 gallon or less of alcoholic  
53 beverage per month for household or personal use to provide that the exception  
54 applies only if the person enters this State with such alcoholic beverage rather than  
55 importing it.

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

1 **Section 1.** NRS 597.157 is hereby amended to read as follows:

2 597.157 1. A supplier shall ~~not unreasonably withhold or~~  
3 ~~delay approval of~~ **approve** any assignment, sale or transfer of the  
4 stock of a wholesaler or of all or any portion of a wholesaler's  
5 assets, a wholesaler's voting stock, the voting stock of any parent  
6 corporation or the beneficial ownership or control of any other  
7 entity owning or controlling the wholesaler, including the



1 wholesaler's rights and obligations under the terms of a franchise,  
2 ~~[whenever a]~~ *within 30 days after receiving notice of the*  
3 *transaction if the* person to be substituted under the terms of the  
4 franchise meets reasonable standards imposed upon the wholesaler  
5 and any other wholesaler of the supplier of the same general class,  
6 after consideration of the size and location of the marketing area of  
7 the wholesaler.

8 2. Upon the death of a partner of a partnership that operates the  
9 business of a wholesaler, a supplier shall not unreasonably withhold  
10 or delay approval of maintaining the franchise between the supplier  
11 and each surviving partner.

12 3. Upon the death of any owner, controlling shareholder or  
13 operator of a wholesaler, a supplier shall not deny approval of any  
14 transfer of ownership to a surviving spouse, child or grandchild of  
15 the owner who has reached the age of majority at the time of death,  
16 controlling shareholder or operator. Any subsequent transfer of  
17 ownership by the spouse, child, grandchild, controlling shareholder  
18 or operator is subject to the provisions of subsection 1.

19 4. In addition to the provisions of NRS 597.170, a supplier who  
20 unreasonably delays or withholds consent, *fails to grant approval*  
21 *in the time set forth in subsection 1* or unreasonably denies  
22 approval of a sale, transfer or assignment of any ownership interest  
23 in a wholesaler is liable to the wholesaler for the laid-in costs of  
24 inventory of each affected brand of liquor and any diminution in the  
25 fair market value of the business of the wholesaler in relation to  
26 each affected brand. The damages recoverable pursuant to this  
27 section include, without limitation, all reasonable costs of bringing  
28 the action and attorney's fees. For the purpose of this subsection, the  
29 fair market value of a business of a wholesaler includes, without  
30 limitation, the good will of the business and its value as a going  
31 concern, if any.

32 5. The provisions of this section may not be modified by  
33 agreement. Any provision in an agreement is void if the provision  
34 includes such a modification.

35 **Sec. 2.** (Deleted by amendment.)

36 **Sec. 3.** NRS 597.162 is hereby amended to read as follows:

37 597.162 A supplier shall not:

38 1. Prohibit a wholesaler from selling an alcoholic beverage of  
39 any other supplier;

40 2. Prevent a wholesaler from using best efforts to sell, market,  
41 advertise or promote an alcoholic beverage of any other supplier;

42 3. Provide any reward or penalty to, or in any other way  
43 condition its relationship with, a wholesaler based upon the amount  
44 of sales the wholesaler makes of an alcoholic beverage of any other  
45 supplier;



1 4. Disapprove a wholesaler's selection of a general manager or  
2 successor general manager based on the wholesaler's sales,  
3 marketing, advertising, promotion or retail placement of an  
4 alcoholic beverage of any other supplier;

5 5. Require a wholesaler to report to the supplier any of the  
6 wholesaler's financial information associated with the purchase, sale  
7 or distribution of an alcoholic beverage of any other supplier;

8 6. Fix or maintain the price at which a wholesaler may resell an  
9 alcoholic beverage purchased from the supplier;

10 7. Require a wholesaler to pay to the supplier all or any portion  
11 of the difference in the suggested retail price of an alcoholic  
12 beverage and the actual price at which the wholesaler sells the  
13 alcoholic beverage;

14 8. Require a wholesaler to accept delivery of any alcoholic  
15 beverage or any other item that is not voluntarily ordered by the  
16 wholesaler ~~for otherwise not required under the franchise between~~  
17 ~~the supplier and wholesaler~~ or is in violation of any levels of  
18 inventory that are mutually agreed upon in writing by the supplier  
19 and wholesaler;

20 9. *Require a wholesaler to keep a minimum inventory of any*  
21 *alcoholic beverage of the supplier or any other item that exceeds*  
22 *the number of days of credit extended to the wholesaler by the*  
23 *supplier;*

24 10. Prohibit or restrain, directly or indirectly, a wholesaler  
25 from participating in an organization that represents the interests of  
26 wholesalers for any lawful purpose;

27 ~~10.~~ 11. Discriminate against, penalize or otherwise retaliate  
28 against a wholesaler because the wholesaler raises, alleges or  
29 otherwise brings to the attention of the Department of Taxation an  
30 actual, potential or perceived violation of this chapter *or enter into*  
31 *an agreement with a wholesaler which purports to waive any right*  
32 *or remedy of the wholesaler pursuant to this subsection;* ~~11.~~

33 ~~11.~~ 12. Require a wholesaler to participate in or contribute to  
34 any advertising fund or promotional activity that:

35 (a) Is not used for advertising or a promotional activity in the  
36 marketing area of the wholesaler; or

37 (b) Requires a contribution by the wholesaler that exceeds any  
38 amount specified for that purpose in the franchise ~~12.~~; *or*

39 13. *Require a wholesaler to make payments to the supplier*  
40 *under terms which are materially different from the payment*  
41 *terms applicable to the supplier when making payments to the*  
42 *wholesaler.*

43 **Sec. 4.** NRS 597.230 is hereby amended to read as follows:

44 597.230 1. In any county, a person may operate a brew pub:



1 (a) In any redevelopment area established in that county  
2 pursuant to chapter 279 of NRS;

3 (b) In any historic district established in that county pursuant to  
4 NRS 384.005;

5 (c) In any retail liquor store as that term is defined in NRS  
6 369.090; or

7 (d) In any other area in the county designated by the board of  
8 county commissioners for the operation of brew pubs. In a city  
9 which is located in that county, a person may operate a brew pub in  
10 any area in the city designated by the governing body of that city for  
11 the operation of brew pubs.

12 ➔ **[A] Except as otherwise provided in paragraph (e) of subsection**  
13 **3, a** person who operates one or more brew pubs may not  
14 manufacture more than 40,000 barrels of malt beverages for all the  
15 brew pubs he or she operates in this State in any calendar year.

16 2. The premises of any brew pub operated pursuant to this  
17 section must be conspicuously identified as a "brew pub."

18 3. Except as otherwise provided in subsection 4, a person who  
19 operates one or more brew pubs pursuant to this section may, upon  
20 obtaining a license pursuant to chapter 369 of NRS and complying  
21 with any other applicable governmental requirements:

22 (a) Manufacture and store malt beverages on the premises of one  
23 or more of the brew pubs and:

24 (1) Sell and transport the malt beverages manufactured on  
25 the premises to a person holding a valid wholesale wine and liquor  
26 dealer's license or wholesale beer dealer's license issued pursuant to  
27 chapter 369 of NRS.

28 (2) Donate for charitable or nonprofit purposes and, for the  
29 purposes of the donation, transport the malt beverages manufactured  
30 on the premises in accordance with the terms and conditions of  
31 a special permit for the transportation of the malt beverages obtained  
32 from the Department of Taxation pursuant to subsection 4 of  
33 NRS 369.450.

34 (3) Transfer in bulk the malt beverages manufactured on the  
35 premises:

36 (I) To a person holding a valid wholesale wine and liquor  
37 dealer's license or wholesale beer dealer's license issued pursuant to  
38 chapter 369 of NRS for the purpose of transferring in bulk the malt  
39 beverages to an estate distillery for the purpose of distillation and  
40 blending, which transfer is taxable only as provided in NRS  
41 597.237; or

42 (II) If there is no wholesaler who is able or willing to  
43 accept and transfer in bulk the malt beverages pursuant to sub-  
44 subparagraph (I), to a person holding a valid license to operate an  
45 estate distillery issued pursuant to chapter 369 of NRS for the



1 purpose of distillation and blending, which transfer is taxable only  
2 as provided in NRS 597.237 and must be performed in accordance  
3 with the terms and conditions of a special permit for the  
4 transportation of the malt beverages obtained from the Department  
5 of Taxation pursuant to subsection 4 of NRS 369.450.

6 (b) Manufacture and store malt beverages on the premises of  
7 one or more of the brew pubs and transport the malt beverages  
8 manufactured on the premises to a retailer, other than a person who  
9 operates a brew pub pursuant to this section, that holds a valid  
10 license pursuant to chapter 369 of NRS for the purpose of selling the  
11 malt beverages at a special event in accordance with the terms and  
12 conditions of a special permit for the transportation of the malt  
13 beverages obtained from the Department of Taxation pursuant to  
14 subsection 4 of NRS 369.450. For the purposes of this paragraph,  
15 the person who operates one or more brew pubs shall not obtain  
16 more than 20 such special permits for the transportation of the malt  
17 beverages from the Department of Taxation pursuant to subsection 4  
18 of NRS 369.450 within a calendar year.

19 (c) Sell at retail, not for resale, malt beverages manufactured on  
20 or off the premises of one or more of the brew pubs for consumption  
21 on the premises.

22 (d) Sell at retail, not for resale, in packages sealed on the  
23 premises of one or more of the brew pubs, malt beverages, including  
24 malt beverages in unpasteurized form, manufactured on the  
25 premises for consumption off the premises.

26 (e) *In a calendar year, in addition to the amount of malt*  
27 *beverages which may be manufactured pursuant to subsection 1,*  
28 *manufacture and sell 20,000 barrels of malt beverages for all the*  
29 *brew pubs he or she operates in this State provided such barrels*  
30 *are sold to a wholesaler located outside of this State, subject to*  
31 *such periodic auditing as the Department of Taxation shall*  
32 *require by regulation.*

33 4. The amount of malt beverages sold pursuant to paragraphs  
34 (b), (c) and (d) of subsection 3 must not exceed a total of 5,000  
35 barrels in any calendar year. Of the 5,000 barrels, not more than  
36 1,000 barrels may be sold in kegs.

37 **Sec. 5.** NRS 369.190 is hereby amended to read as follows:

38 369.190 1. An application for any of the licenses described in  
39 NRS 369.180 must be made to:

40 (a) The board of county commissioners of the county in which  
41 the applicant maintains his or her principal place of business if the  
42 applicant does not maintain his or her principal place of business  
43 within the boundaries of an incorporated city; or

44 (b) The governing body of the city in which the applicant  
45 maintains his or her principal place of business if the applicant



1 maintains his or her principal place of business within the  
2 boundaries of an incorporated city.

3 2. Each application must:

4 (a) Be made on such form as the Department prescribes.

5 (b) Include the name and address of the applicant. If the  
6 applicant is:

7 (1) A partnership, the application must include the names  
8 and addresses of all partners.

9 (2) A corporation, association or other organization, the  
10 application must include the names and addresses of the president,  
11 vice president, secretary and managing officer or officers.

12 (3) A person carrying on or transacting business in this state  
13 under an assumed or fictitious name, the person making the  
14 application must attach to the application:

15 (I) A certified copy of the certificate required by NRS  
16 602.010 or any renewal certificate required by NRS 602.035.

17 (II) A certificate signed by an officer of the corporation or  
18 by each person interested in, or conducting or carrying on such  
19 business, or intending so to do, and acknowledged before a person  
20 authorized to take acknowledgments of conveyances of real  
21 property, indicating the name of the authorized representative whose  
22 signature may be required on the license under the provisions of this  
23 chapter.

24 (c) Specify the location, by street and number, of the premises  
25 for which the license is sought.

26 (d) Be accompanied by the annual license fee required for the  
27 particular license for which application is made.

28 3. The board of county commissioners or the governing body  
29 of a city, as applicable, shall examine all applications filed with it,  
30 and shall require satisfactory evidence that the applicant is ~~fit~~:

31 (a) A person of good moral character ~~fit~~;

32 (b) *Not acting in violation of NRS 369.180; and*

33 (c) *Not applying for a license for a business in which the*  
34 *applicant is prohibited from engaging pursuant to NRS 369.382.*

35 **Sec. 6.** NRS 369.430 is hereby amended to read as follows:

36 369.430 1. By regulation, the Department shall prescribe the  
37 form of application for and the form of a certificate of compliance,  
38 which must be printed and distributed to exporters of liquor into this  
39 State to assist them in legally exporting liquor into this State.

40 2. An intending importer may not legally receive or accept any  
41 shipment of liquor except from a holder of a certificate of  
42 compliance.

43 3. Before a person may engage in business as a supplier ~~fit~~ *of*  
44 *liquor in this State*, the person must obtain a certificate of  
45 compliance from the Department.



1 4. The Department shall grant a certificate of compliance to  
2 any out-of-state ~~{vendor of liquors}~~ *supplier* who undertakes in  
3 writing:

4 (a) To furnish the Department on or before the 10th day of each  
5 month a report under oath showing the quantity and type of liquor  
6 sold and shipped by the ~~{vendor}~~ *out-of-state supplier* to each  
7 licensed importer of liquor in Nevada during the preceding month;

8 (b) That the ~~{vendor}~~ *out-of-state supplier* and all his or her  
9 agents and any other agencies controlled by the ~~{vendor}~~ *out-of-*  
10 *state supplier* will comply faithfully with all laws of this State and  
11 all regulations of the Department respecting the exporting of liquor  
12 into this State;

13 (c) That the ~~{vendor}~~ *out-of-state supplier* will make available  
14 for inspection and copying by the Department any books,  
15 documents and records, whether within or outside this State, which  
16 are pertinent to his or her activities or the activities of his or her  
17 agents or any other agencies controlled by the ~~{vendor}~~ *out-of-state*  
18 *supplier* within this State and which relate to the sale and  
19 distribution of his or her liquors within this State; and

20 (d) That the ~~{vendor}~~ *out-of-state supplier* will appoint a  
21 resident of this State as his or her agent for service of process or any  
22 notice which may be issued by the Department.

23 5. If any holder of a certificate of compliance fails to keep any  
24 undertaking or condition made or imposed in connection therewith,  
25 the Department may suspend the certificate and conduct a hearing,  
26 giving the holder thereof a reasonable opportunity to appear and be  
27 heard on the question of vacating the suspension order or order  
28 finally revoking the certificate.

29 6. An applicant for a certificate of compliance must pay a fee  
30 of \$50 to the Department for the certificate. On or before July 1 of  
31 each year, the certificate holder must renew the certificate by  
32 satisfying the conditions of the original certificate and paying a fee  
33 of \$50 to the Department.

34 **Sec. 7.** NRS 369.490 is hereby amended to read as follows:

35 369.490 1. Except as otherwise provided in subsection 2 and  
36 NRS 369.176, a person shall not directly or indirectly, himself or  
37 herself or by his or her clerk, agent or employee, offer, keep or  
38 possess for sale, furnish or sell, or solicit the purchase or sale of any  
39 liquor in this State, or transport or import or cause to be transported  
40 or imported any liquor in or into this State for delivery, storage, use  
41 or sale therein, unless the person:

42 (a) Has complied fully with the provisions of this chapter; ~~{and}~~

43 (b) Holds an appropriate, valid license, permit or certificate  
44 issued by the Department ~~{;}~~ *and*





1       (c) *Has been duly designated by the supplier of that liquor*  
2 *pursuant to NRS 369.386 or purchased the liquor in compliance*  
3 *with NRS 369.486.*

4       2. Except as otherwise provided in subsection 3, the provisions  
5 of this chapter do not apply to a person:

6       (a) Entering this State with a quantity of alcoholic beverage for  
7 household or personal use which is exempt from federal import  
8 duty;

9       (b) ~~[Who imports]~~ *Entering this State with* 1 gallon or less of  
10 alcoholic beverage per month from another state for his or her own  
11 household or personal use;

12       (c) Who:

13           (1) Is a resident of this State;

14           (2) Is 21 years of age or older; and

15           (3) Imports 12 cases or less of wine per year for his or her  
16 own household or personal use; or

17       (d) Who is lawfully in possession of wine produced on the  
18 premises of an instructional wine-making facility for his or her own  
19 household or personal use and who is acting in a manner authorized  
20 by NRS 597.245.

21       3. The provisions of subsection 2 do not apply to a supplier,  
22 wholesaler or retailer while he or she is acting in his or her  
23 professional capacity.

24       4. A person who accepts liquor shipped into this State pursuant  
25 to paragraph (b) or (c) of subsection 2 must be 21 years of age or  
26 older.

27       **Sec. 8.** This act becomes effective on July 1, 2021.

