

ASSEMBLY BILL NO. 508—COMMITTEE ON TAXATION

MAY 31, 2013

Referred to Committee on Taxation

SUMMARY—Revises provisions relating to taxation.
(BDR 32-1248)

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 taxation; revising provisions governing the imposition, rate and exemptions from the tax on live entertainment; revising provisions governing investigations by the State Gaming Control Board for violations relating to the tax on live entertainment; requiring certain reports concerning exemptions and exclusions from the tax on live entertainment to be provided to the Legislative Commission; requiring certain taxpayers to include information concerning admissions to a place of amusement, sport, recreation or other entertainment in returns filed with the Department of Taxation for the payroll tax; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law imposes an excise tax on admission to facilities where live
2 entertainment is provided. (Chapter 368A of NRS) Under existing law: (1) if the
3 live entertainment is provided at a facility with a maximum occupancy of less than
4 7,500 persons, the rate of the tax is 10 percent of the admission charge to the
5 facility plus 10 percent of any amounts paid for food, refreshments and
6 merchandise purchased at the facility; and (2) if the live entertainment is provided
7 at a facility with a maximum occupancy of at least 7,500 persons, the rate of the tax
8 is 5 percent of the admission charge to the facility. (NRS 368A.200)
9 This bill revises the imposition, rate and exemptions from the tax on live
10 entertainment. **Sections 3, 4 and 6** of this bill provide that the tax on live
11 entertainment applies to escorts and sightseeing tours. **Section 6** provides that the
12 rate of the tax for all taxpayers is 8 percent of certain charges and removes sales of
13 merchandise from the tax. **Section 6** further provides that the tax on live



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14 entertainment must be collected from the purchaser at the time of the sale of the
15 admission, whether or not the admission is purchased for resale.

16 **Sections 2, 3 and 6** of this bill revise the exemptions and exclusions from the
17 tax on live entertainment. Under **section 6**, the exemption under current law for
18 race events at a race track in this State as a part of the National Association for
19 Stock Car Auto Racing (NASCAR) Sprint Cup Series is modified to apply only if 2
20 NASCAR races are held at the race track. However, under **section 15** of this bill,
21 the exemption for NASCAR is temporarily modified for events occurring during
22 calendar years 2014 and 2015. **Section 5** of this bill requires the State Gaming
23 Control Board and the Department of Taxation to provide to the Legislative
24 Commission at least once every 5 years a report on the efficacy of the exemptions
25 and exclusions from the tax on live entertainment.

26 Existing law requires a promoter of live unarmed combat contests or
27 exhibitions to pay a license fee of 6 percent of the total gross receipts from
28 admission fees to the live contest or exhibition of unarmed combat, and, under
29 existing law, this license fee is deposited in the State General Fund. (NRS 467.040,
30 467.107) **Sections 10 and 11** of this bill remove this license fee so that admissions
31 to live contests or exhibitions of unarmed combat are subject to the provisions
32 governing the tax on live entertainment.

33 **Sections 17 and 18** of this bill provide that the provisions of this bill amending
34 the imposition and rate of the tax on live entertainment and the exclusions and
35 exemptions apply to live entertainment provided on or after January 1, 2014.
36 However, under **section 17**, the tax on live entertainment would apply to charges
37 for live entertainment provided on or after January 1, 2014, if the charge is
38 collected after the passage and approval of this bill. **Section 16** of this bill requires
39 certain reporting concerning charges collected before the effective date of this bill
40 for live entertainment provided on or after January 1, 2014. **Section 12** of this bill
41 authorizes a taxpayer who has not previously been subject to the live entertainment
42 tax to deduct and withhold from the taxes due for each period ending before
43 December 31, 2014 an amount equal to 0.25 percent of those taxes as
44 reimbursement for the cost of implementing the tax.

45 **Section 13** of this bill provides that, for each modified business tax return filed
46 for a period beginning on or after July 1, 2013 and ending on or before June 30,
47 2015, if the taxpayer has collected a charge for admission to a place of amusement,
48 sport, recreation or other entertainment, the Department of Taxation must require
49 the taxpayer to include in the return certain information concerning admission fees
50 and similar charges collected during the period covered by the return.

51 Existing law requires the State Gaming Control Board to make investigations
52 and to initiate a hearing by filing a complaint with the Nevada Gaming Commission
53 if the Board is satisfied that a person or entity which is licensed, registered, found
54 suitable or found preliminarily suitable or which previously obtained approval for
55 which Commission approval was required or permitted should be limited,
56 conditioned, suspended, revoked or fined. (NRS 463.310) **Section 9** of this bill
57 requires the State Gaming Control Board to make investigations and to initiate a
58 hearing by filing a complaint with the Nevada Gaming Commission if the Board is
59 satisfied that such a person or entity has violated certain provisions relating to the
60 tax on live entertainment.

61 Existing law also: (1) requires a licensed gaming establishment to maintain
62 records relating to, report, pay, and truthfully account for the tax on live
63 entertainment; and (2) prohibits certain practices relating to falsifying information
64 on books, records or accounts relating to the tax on live entertainment. (NRS
65 368A.360) **Section 8** of this bill provides that a violation of such provisions relating
66 to the tax on live entertainment or, after it becomes effective, the Nevada
67 Entertainment and Admissions Tax, by a licensed gaming establishment is an



68 unsuitable method of operation and is subject to investigation and disciplinary
69 proceedings by the Board.

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

1 **Section 1.** NRS 368A.020 is hereby amended to read as
2 follows:

3 368A.020 “Admission charge” means the total amount,
4 expressed in terms of money, of consideration paid for the right or
5 privilege to have access to a facility where live entertainment is
6 provided ~~[- The term includes.]~~, **including**, without limitation, an
7 entertainment fee, a cover charge, a table reservation fee, ~~for] and~~ a
8 required minimum purchase of food ~~[- refreshments— or~~
9 **merchandise.] or refreshments.**

10 **Sec. 2.** NRS 368A.060 is hereby amended to read as follows:

11 368A.060 ~~H-]~~ “Facility” means ~~[-~~
12 ~~—(a) Any] any~~ area or premises, **indoors or outdoors**, where live
13 entertainment is provided and for which consideration is collected
14 for the right or privilege of entering that area or those premises. ~~[- if~~
15 **the live entertainment is provided at:**

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

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

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

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

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

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

36 **Sec. 3.** NRS 368A.090 is hereby amended to read as follows:

37 368A.090 1. “Live entertainment” means any activity
38 provided for pleasure, enjoyment, recreation, relaxation, diversion
39 or other similar purpose by a person or persons who are physically



1 present when providing that activity to a patron or group of patrons
2 who are physically present.

3 2. The term:

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

6 (1) Music or vocals provided by one or more professional or
7 amateur musicians or vocalists;

8 (2) Dancing performed by one or more professional or
9 amateur dancers or performers;

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

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

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

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

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

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

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

35 *(10) A tour guide who is providing a sightseeing tour or an*
36 *escort who is escorting one or more persons at a location or*
37 *locations in this State.*

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

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



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

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

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

20 (5) Television, radio, closed circuit or Internet broadcasts of
21 live entertainment;

22 (6) Entertainment provided by a patron or patrons, including,
23 without limitation, singing by patrons or dancing by or between
24 patrons; *and*

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

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

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

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

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

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

36 **Sec. 4.** NRS 368A.110 is hereby amended to read as follows:

37 368A.110 *1.* "Taxpayer" means:

38 ~~1. 1f]~~

39 *(a) Except as otherwise provided in paragraphs (d) and (e), if*
40 *live entertainment that is taxable under this chapter is provided at a*
41 *licensed gaming establishment, the person licensed to conduct*
42 *gaming at that establishment.*

43 ~~2.]~~ *(b) Except as otherwise provided in [subsection 3,]*
44 *paragraphs (c), (d) and (e), if live entertainment that is taxable*
45 *under this chapter is not provided at a licensed gaming*



1 establishment, the owner or operator of the facility where the live
2 entertainment is provided.

3 ~~3. If~~

4 *(c) Except as otherwise provided in paragraphs (d) and (e), if*
5 *live entertainment that is taxable under this chapter is provided at a*
6 *publicly owned facility or on public land, the person who collects*
7 *the taxable receipts.*

8 *(d) If live entertainment that is taxable under this chapter is*
9 *provided by an escort, the escort or, if the escort works as an*
10 *employee, agent or independent contractor for an escort service,*
11 *the owner or operator of the escort service.*

12 *(e) If live entertainment that is taxable under this chapter is*
13 *provided by a tour guide, the owner or operator of the sightseeing*
14 *tour provided by the tour guide.*

15 2. *As used in this section:*

16 *(a) "Escort" has the meaning ascribed to it in NRS 368A.200.*

17 *(b) "Escort service" has the meaning ascribed to it in*
18 *NRS 368A.200.*

19 *(c) "Sightseeing tour" has the meaning ascribed to it in*
20 *NRS 368A.200.*

21 *(d) "Tour guide" has the meaning ascribed to it in*
22 *NRS 368A.200.*

23 **Sec. 5.** NRS 368A.140 is hereby amended to read as follows:

24 368A.140 1. The Board shall collect the tax imposed by this
25 chapter from taxpayers who are licensed gaming establishments.
26 The Commission shall adopt such regulations as are necessary to
27 carry out the provisions of this subsection. The regulations must be
28 adopted in accordance with the provisions of chapter 233B of NRS
29 and must be codified in the Nevada Administrative Code.

30 2. The Department shall:

31 (a) Collect the tax imposed by this chapter from all other
32 taxpayers; and

33 (b) Adopt such regulations as are necessary to carry out the
34 provisions of paragraph (a).

35 3. For the purposes of:

36 (a) Subsection 1, the provisions of chapter 463 of NRS relating
37 to the payment, collection, administration and enforcement of
38 gaming license fees and taxes, including, without limitation, any
39 provisions relating to the imposition of penalties and interest, shall
40 be deemed to apply to the payment, collection, administration and
41 enforcement of the taxes imposed by this chapter to the extent that
42 those provisions do not conflict with the provisions of this chapter.

43 (b) Subsection 2, the provisions of chapter 360 of NRS relating
44 to the payment, collection, administration and enforcement of taxes,
45 including, without limitation, any provisions relating to the



1 imposition of penalties and interest, shall be deemed to apply to the
2 payment, collection, administration and enforcement of the taxes
3 imposed by this chapter to the extent that those provisions do not
4 conflict with the provisions of this chapter.

5 4. To ensure that the tax imposed by NRS 368A.200 is
6 collected fairly and equitably, the Commission, the Board and the
7 Department shall:

8 (a) Jointly, coordinate the administration and collection of that
9 tax and the regulation of taxpayers who are liable for the payment of
10 the tax.

11 (b) Upon request, assist the other agencies in the collection of
12 that tax.

13 **5. At least once every 5 years, the Board and the Department**
14 **shall submit a report to the Director of the Legislative Counsel**
15 **Bureau for transmission to the Legislative Commission**
16 **concerning the efficacy of the exemptions and exclusions from the**
17 **tax imposed under this chapter. The report must provide, for each**
18 **exemption and exclusion:**

19 (a) *A description of the exemption or exclusion;*

20 (b) *The year in which the exemption or exclusion was enacted;*

21 (c) *The purpose for which the exemption or exclusion was*
22 *enacted;*

23 (d) *To the extent the pertinent information is available,*
24 *estimates of:*

25 (1) *The fiscal impact to this State and local governments of*
26 *the exemption or exclusion during the period for which the report*
27 *is prepared; and*

28 (2) *The revenue that would result from repeal of the*
29 *exemption or exclusion.*

30 (e) *A statement of whether the purpose for which the*
31 *exemption or exclusion was enacted is being accomplished.*

32 **Sec. 6.** 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†~~ **and on the**
36 **charge for live entertainment provided by a tour guide or an escort**
37 **at one or more locations in this State. The rate of the tax is:**

38 (a) **Except as otherwise provided in paragraph (c), for live**
39 **entertainment ~~†is†~~ provided at a facility with a maximum occupancy**
40 **of †:**

41 ~~—(a) Less†~~ **less** than 7,500 persons, ~~†the rate of the tax is 10†~~ **8**
42 **percent of the admission charge to the facility plus †† 8** percent of
43 **any amounts paid for food †† and refreshments †and merchandise†**
44 **purchased at the facility †**

45 ~~—(b) At†~~ **or for consumption in the facility.**



1 (b) *Except as otherwise provided in paragraph (c), for live*
2 *entertainment provided at a facility with a maximum occupancy of*
3 *at least 7,500 persons, ~~the rate of the tax is 5~~ 8 percent of the*
4 *admission charge to the facility.*

5 (c) *For live entertainment provided by a tour guide, 8 percent*
6 *of the total amount, expressed in terms of money, of consideration*
7 *paid for the live entertainment provided by the tour guide.*

8 (d) *For live entertainment provided by an escort, 8 percent of*
9 *the total amount, expressed in terms of money, of consideration*
10 *paid for the live entertainment provided by the escort.*

11 2. Amounts paid for:

12 (a) Admission charges *or charges for an escort or a tour guide,*
13 *which are* collected and retained by a nonprofit religious, charitable,
14 fraternal or other organization that qualifies as a tax-exempt
15 organization pursuant to 26 U.S.C. § ~~501(c).~~ *501(c)(3), or by a*
16 ~~nonprofit~~ corporation ~~organized or existing under the provisions~~
17 ~~of chapter 82 of NRS,~~ *for public benefit, as defined in NRS*
18 *82.021, are not taxable pursuant to this section.*

19 (b) *Admission charges collected for a single special event by*
20 *an entity that has been determined by the Department of Taxation*
21 *to meet the requirements of NRS 372.3261 are not taxable*
22 *pursuant to this section.*

23 (c) Gratuities directly or indirectly remitted to persons employed
24 at a facility where live entertainment is provided or for service
25 charges, including those imposed in connection with the use of
26 credit cards or debit cards, which are collected and retained by
27 persons other than the taxpayer are not taxable pursuant to this
28 section.

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

32 ~~— 4. — Any ticket for live entertainment must state whether the tax~~
33 ~~imposed by this section is included in the price of the ticket. If the~~
34 ~~ticket does not include such a statement, the taxpayer shall pay the~~
35 ~~tax based on the face amount of the ticket.] *The tax imposed by this*~~
36 *section must be added to and collected from the purchaser at the*
37 *time of purchase, whether or not the admission for live*
38 *entertainment is purchased for resale. Each ticket for admission to*
39 *a facility where live entertainment is provided must show on its*
40 *face the admission charge or the seller of the admission shall*
41 *prominently display a notice disclosing the admission charge at*
42 *the box office or other place where a charge is made.*

43 ~~5.]~~ 4. The tax imposed by subsection 1 does not apply to:



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

4 ~~(b) Live entertainment that is provided by or entirely for the~~
5 ~~benefit of a nonprofit religious, charitable, fraternal or other~~
6 ~~organization that qualifies as a tax exempt organization pursuant to~~
7 ~~26 U.S.C. § 501(c), or a nonprofit corporation organized or existing~~
8 ~~under the provisions of chapter 82 of NRS.~~

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

11 ~~—(d) Live entertainment {that is not provided at a licensed~~
12 ~~gaming establishment}~~ if the facility in which the live entertainment
13 is provided has a maximum occupancy of less than ~~{200}~~ **50**
14 persons.

15 ~~{(e) Live entertainment that is provided at a licensed gaming~~
16 ~~establishment that is licensed for less than 51 slot machines, less~~
17 ~~than 6 games, or any combination of slot machines and games~~
18 ~~within those respective limits, if the facility in which the live~~
19 ~~entertainment is provided has a maximum occupancy of less than~~
20 ~~200 persons.~~

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

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

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

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

32 ~~{(j) (e) Live entertainment that is provided in the common area~~
33 ~~of a shopping mall, unless the entertainment is provided in a facility~~
34 ~~located within the mall.~~

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

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

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



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

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

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

9 ~~— (o) Beginning July 1, 2007, race}~~

10 **(g) Race** events scheduled at a race track in this State as a part
11 of the National Association for Stock Car Auto Racing **{Nextel}**
12 **Sprint** Cup Series, or its successor racing series, and all races
13 associated therewith **{**

14 **— (p) , if at least 2 such race events are held at that race track**
15 **during the same calendar year.**

16 **(h)** Beginning July 1, 2007, a baseball contest, event or
17 exhibition conducted by professional minor league baseball players
18 at a stadium in this State.

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

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

31 ~~— 7.} 5. As used in this section **{** ~~“maximum”~~ **and NRS**
32 **368A.090 and 368A.240:**~~

33 **(a) “Escort” means a person who, for monetary consideration**
34 **in the form of a fee, commission or salary, dates, socializes, visits,**
35 **consorts with or accompanies, or offers to date, socialize, visit,**
36 **consort with, or accompany, another or others to or about social**
37 **affairs, entertainments or places of amusement or within any**
38 **place of public resort or within any private quarters. The term**
39 **does not include a person who advertises, or works, as an**
40 **employee, agent or independent contractor, for a person who**
41 **advertises, that sexual conduct will be provided to a patron, or who**
42 **solicits, offers to provide or provides acts of sexual conduct to a**
43 **patron.**

44 **(b) “Escort service” means a person who, for a fee,**
45 **commission, profit, payment or other monetary consideration,**



1 *furnishes, refers or offers to furnish or refer an escort to a patron,*
2 *offers to introduce a patron to an escort, or who provides an escort*
3 *to a patron. The term does not include a person who advertises*
4 *that an escort will provide sexual conduct to a patron or who*
5 *solicits, offers to provide or provides acts of sexual conduct to a*
6 *patron.*

7 (c) "Maximum occupancy" means, in the following order of
8 priority:

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

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

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

20 (d) "Sexual conduct" means sexual intercourse, oral-genital
21 contact or any touching of the sexual organs or other intimate
22 parts of a person for the purpose of arousing or gratifying the
23 sexual desire of either person.

24 (e) "Sightseeing tour" means an excursion that:

25 (1) Has a duration of 24 hours or less;

26 (2) Travels to one or more points of interest;

27 (3) Is conducted using one or more means of motorized
28 conveyance, including, without limitation, an airplane, bus,
29 helicopter, tour boat or touring raft; and

30 (4) Normally returns a participant to the point of origin.

31 (f) "Tour guide" means a person who conducts a sightseeing
32 tour or drives or operates a motorized conveyance, including,
33 without limitation, the airplane, bus, helicopter, tour boat or
34 touring raft, through which a sightseeing tour is provided.

35 Sec. 7. NRS 368A.240 is hereby amended to read as follows:

36 368A.240 1. If a taxpayer:

37 (a) Is unable to collect all or part of an admission charge, ~~for~~
38 charges for food ~~and~~ refreshments ~~and merchandise~~ or charge
39 for an escort or tour guide, which were included in the taxable
40 receipts reported for a previous reporting period; and

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

44 ➔ the taxpayer is entitled to receive a credit for the amount of tax
45 paid on account of that uncollected amount. The credit may be used



1 against the amount of tax that the taxpayer is subsequently required
2 to pay pursuant to this chapter.

3 2. If the Internal Revenue Service disallows a deduction
4 described in paragraph (b) of subsection 1 and the taxpayer claimed
5 a credit on a return for a previous reporting period pursuant to
6 subsection 1, the taxpayer shall include the amount of that credit in
7 the amount of taxes reported pursuant to this chapter in the first
8 return filed with the Board or the Department after the deduction is
9 disallowed.

10 3. If a taxpayer collects all or part of an admission charge, ~~for~~
11 charges for food ~~;~~ and refreshments ~~and merchandise~~ or charges
12 *for an escort or tour guide*, for which the taxpayer claimed a credit
13 on a return for a previous reporting period pursuant to subsection 2,
14 the taxpayer shall include:

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

17 (b) The tax payable on the amount collected in the amount of
18 taxes reported,
19 in the first return filed with the Board or the Department after that
20 collection.

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

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

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

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

35 5. For the purposes of subsection 4, if the first violation of this
36 section by any taxpayer was determined by the Board or the
37 Department through an audit which covered more than one return
38 of the taxpayer, the Board or the Department shall treat all
39 returns which were determined through the same audit to contain a
40 violation or violations in the manner provided in paragraph (a) of
41 subsection 4.

42 6. *As used in this section:*

43 (a) *“Escort” has the meaning ascribed to it in NRS 368A.200.*

44 (b) *“Tour guide” has the meaning ascribed to it in*
45 *NRS 368A.200.*



1 **Sec. 8.** NRS 368A.360 is hereby amended to read as follows:

2 368A.360 *1.* Any licensed gaming establishment liable for
3 the payment of the tax imposed by NRS 368A.200 who willfully
4 fails to report, pay or truthfully account for the tax is subject to the
5 ~~revocation of~~ *investigatory and disciplinary proceedings that are*
6 *set forth in NRS 463.310 to 463.318, inclusive, and may have its*
7 gaming license *revoked* by the Commission.

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

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

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

15 **Sec. 9.** NRS 463.310 is hereby amended to read as follows:

16 463.310 *1.* The Board shall make appropriate investigations:

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

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

23 (iii) To aid in adopting regulations.

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

27 (v) As directed by the Commission.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

44 6. If the Commission limits, conditions, suspends or revokes
45 any license or imposes a fine, or limits, conditions, suspends or



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

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

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

12 **Sec. 10.** NRS 467.107 is hereby amended to read as follows:

13 467.107 1. In addition to the payment of any other fees and
14 money due under this chapter, every promoter, except as provided in
15 subsection 2, shall pay a license fee of ~~1~~:

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

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

24 ~~1~~ without any deductions for commissions, brokerage fees,
25 distribution fees, advertising, contestants' purses or any other
26 expenses or charges.

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

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

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

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

40 **Sec. 11.** NRS 467.137 is hereby amended to read as follows:

41 467.137 1. A promoter and a broadcasting network for
42 television shall each, at least 72 hours before a contest or exhibition
43 of unarmed combat, or combination of those events is to be held,
44 file with the Commission's Executive Director a copy of all



1 contracts entered into for the sale, lease or other exploitation of
2 television rights for the contest or exhibition.

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

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

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

17 **Sec. 12.** For any taxes imposed by chapter 368A of NRS
18 which are due for any period ending on or before December 31,
19 2014, if the taxes imposed by chapter 368A of NRS are paid in
20 accordance with NRS 368A.220, a taxpayer who was not required to
21 pay any taxes imposed by chapter 368A of NRS for live
22 entertainment provided before January 1, 2014, may deduct and
23 withhold from the taxes otherwise due 0.25 percent of those taxes as
24 reimbursement for the cost of implementing the tax.

25 **Sec. 13.** 1. For each return of the tax imposed by chapter
26 363B of NRS for a period beginning on or after July 1, 2013 and
27 ending on or before June 30, 2015, if a taxpayer has collected a
28 charge for admission to a place of amusement, sport, recreation or
29 other entertainment during the period covered by the return and is
30 not required to pay the tax imposed by chapter 368A of NRS for
31 such charge, the Department of Taxation shall require the taxpayer
32 who files the return to include in the return a report of:

33 (a) The number of persons admitted to the place of amusement,
34 sport, recreation or other entertainment during the period covered by
35 the return, whether in return for consideration or on a
36 complimentary basis; and

37 (b) The total amount of the admission charges collected for the
38 period covered by the return.

39 2. As used in this section:

40 (a) "Admission" means the right or privilege to have access to a
41 place of amusement, sport, recreation or other entertainment.

42 (b) "Facility" has the meaning ascribed to it in NRS 368A.060.

43 (c) "Live entertainment" has the meaning ascribed to it in
44 NRS 368A.090.



1 (d) "Place of amusement, sport, recreation or other
2 entertainment" includes, without limitation:

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

13 (2) A private club or membership club providing recreational
14 or physical fitness facilities, including, without limitation, golf,
15 tennis, swimming, yachting, boating, athletic, exercise or fitness
16 facilities other than physical fitness facilities owned or operated by a
17 hospital, as defined in NRS 449.012, which is licensed pursuant to
18 chapter 449 of NRS; and

19 (3) A facility where live entertainment is provided.

20 **Sec. 14.** 1. Any administrative regulations relating to the tax
21 on live entertainment imposed pursuant to chapter 368A of NRS
22 which were adopted by the Nevada Tax Commission or the Nevada
23 Gaming Commission before January 1, 2014 and which conflict or
24 are inconsistent with the provisions of this act are void, unless those
25 regulations are amended before January 1, 2014 to be consistent
26 with the provisions of this act.

27 2. Any administrative regulations adopted by the Nevada
28 Athletic Commission to administer the tax imposed by paragraph (b)
29 of subsection 1 of NRS 467.107 remain in force until amended by
30 the officer or agency that is responsible for the adoption of the
31 regulations to administer the tax imposed by chapter 368A of NRS.

32 **Sec. 15.** 1. Notwithstanding the provisions of subsection 4 of
33 NRS 368A.200, as amended by section 3 of this act, the tax imposed
34 by chapter 368A of NRS does not apply to race events held during
35 calendar years 2014 and 2015 at a race track in this State and all
36 races associated therewith, if the taxpayer agrees to schedule at least
37 2 race events at that race track for calendar year 2015 that are part of
38 the National Association for Stock Car Auto Racing Sprint Cup
39 series, or its successor racing series.

40 2. If an agreement pursuant to subsection 1 is made but at least
41 2 race events are not held at the race track as a part of the National
42 Association for Stock Car Auto Racing Sprint Cup Series, or its
43 successor racing series, for the 2015 calendar year, the taxpayer is
44 liable for the amount of any tax imposed by chapter 368A of NRS



1 that was exempted from the tax pursuant to subsection 4 of NRS
2 368A.200, as amended by section 3 of this act.

3 **Sec. 16.** Any person who, before the effective date of this act,
4 sold or transferred an admission to live entertainment or collected a
5 charge for live entertainment provided by an escort or tour guide,
6 which is provided on or after January 1, 2014 and which would have
7 been taxable under chapter 368A of NRS, as amended by this act,
8 must:

9 1. If the taxpayer is a licensed gaming establishment, submit
10 report to the State Gaming Control Board which includes:

11 (a) The number of admissions to the live entertainment sold or
12 transferred sold before the effective date of this act;

13 (b) The date on which each admission was sold or transferred;

14 (c) The total dollar amount or revenue collected for such sales or
15 transfers; and

16 (d) The number of admissions sold or transferred to an ultimate
17 user and the number of admissions sold or transferred for resale.

18 2. If the taxpayer is not at a licensed gaming establishment,
19 submit report to the Department of Taxation which includes:

20 (a) The number of admissions for the event sold or transferred
21 sold before the effective date of this act or the number of
22 transactions by which live entertainment provided by an escort or
23 tour guide is purchased, whichever is applicable.

24 (b) The date on which each admission or service was sold or
25 transferred;

26 (c) The total dollar amount or revenue collected for such sales or
27 transfers; and

28 (d) The number of sales or transfers to an ultimate user and the
29 number of admissions sold or transferred for resale.

30 **Sec. 17.** The amendatory provisions of sections 1 to 4,
31 inclusive, 6, 7, 10 and 11 of this act apply only to taxable live
32 entertainment that is provided on or after January 1, 2014.

33 **Sec. 18.** 1. This section and sections 1 to 12, inclusive, and
34 14 to 17, inclusive, of this act become effective upon passage and
35 approval.

36 2. Section 13 of this act becomes effective on July 1, 2013.

