

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800
JOHN OCEGUERA, *Assemblyman, Chairman*
Lorne J. Malkiewicz, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
BERNICE MATHEWS, *Senator, Co-Chair*
STEVEN HORSFORD, *Senator, Co-Chair*
Mark Krmptic, *Fiscal Analyst*
Tracy W. Raxter, *Fiscal Analyst*

LORNE J. MALKIEWICH, *Director*
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815
DONALD O. WILLIAMS, *Research Director* (775) 684-6825

Legislative Commission
Legislative Building
Carson City, Nevada

We have completed an audit of the Alcoholic Beverage Awareness Program Fines as required by Assembly Bill 432 of the 75th Session of the Nevada Legislature, 2009. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions. The results of our audit, including findings, conclusions, recommendations, and the Department of Taxation's response, are presented in this report.

We wish to express our appreciation to the management and staff of the Department of Taxation and to Nevada law enforcement officials for their assistance during the audit.

Respectfully presented,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA
Legislative Auditor

March 29, 2010
Carson City, Nevada

STATE OF NEVADA
ALCOHOLIC BEVERAGE AWARENESS PROGRAM FINES
AUDIT REPORT

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EXECUTIVE SUMMARY

ALCOHOLIC BEVERAGE AWARENESS PROGRAM FINES

Background

The requirement for alcoholic beverage awareness programs pursuant to NRS 369.630 applies to counties with at least 100,000 residents. Effective July 1, 2007, employees at certain establishments in Clark and Washoe Counties must complete an alcoholic beverage awareness program. These establishments include businesses that serve alcoholic beverages for consumption on the premises and those that sell alcohol for consumption off the premises.

To sell or serve alcohol, employees must complete a specific program of training every 4 years and hold a valid alcohol education card. Until its revision in 2009, NRS 369.630 stated law enforcement officers should report violations they discover to the Department of Taxation (Department). When notified of violations, the Department was required to levy and collect an administrative fine of \$500 upon the establishment for a first offense and higher fine amounts for repeat offenses.

The 2009 Legislature was informed the Department had not received any reports of NRS 369.630 violations from law enforcement since July 1, 2007, and no fines were imposed. This prompted passage of Assembly Bill 432 (AB 432), effective October 1, 2009, which revised and clarified the requirements and enforcement of alcoholic beverage awareness programs.

Purpose

The purpose of this audit was to determine if any fines were imposed pursuant to NRS 369.630, and, if so, the disposition of those fines. This included determining if the Department of Taxation has financial and administrative controls in place to ensure fines are properly imposed

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ALCOHOLIC BEVERAGE AWARENESS PROGRAM FINES

pursuant to NRS 369.630, and if any fines imposed are properly collected and recorded. This audit focused on fines imposed from July 1, 2007, through November 30, 2009, and included activities through January 2010 for certain areas.

Results in Brief

The Department imposed one fine upon an establishment pursuant to NRS 369.630, between July 1, 2007, and November 30, 2009, for a violation detected by staff. In December 2009, the Department informed us staff reported four more violations, and fines imposed totaled \$2,500. Of this, the Department collected \$500 in January 2010, but had not yet paid the funds to the two accounts designated to receive fines. Further, law enforcement agencies in Clark and Washoe Counties did not report any violations of the statute during the 29-month period ended November 30, 2009.

More emphasis is needed on enforcing the statute and reporting violations to the Department, including training law enforcement personnel to report violations and monitoring agencies' violation reporting activities. In addition, the Department can take steps to broaden enforcement resources by authorizing local officials to enforce the statute. Finally, the Department and law enforcement agencies in Clark and Washoe Counties need written procedures to ensure compliance with reporting requirements.

Principal Findings

- Law enforcement in Clark and Washoe Counties did not enforce the statutory requirement for alcoholic beverage awareness training of employees at liquor establishments. Although questionnaire responses indicated Clark and Washoe County law enforcement agencies had some awareness of the training

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requirement for liquor establishment employees, none of the agencies enforced the statute. Four of six (67%) law enforcement agencies in Clark County, and two of four (50%) in Washoe County responded they performed compliance checks at establishments. However, since July 1, 2007, law enforcement did not report any infractions to the Department, except for two reports from Washoe County in December 2009. (page 10)

- Law enforcement officers need training for effective local enforcement of NRS 369.630. We noted officers did not have clear guidance for enforcing the statute. For example, officers were not informed how to report infractions of NRS 369.630 to the Department. In addition, some officials testified during the 2009 Legislative Session that officers are familiar with issuing criminal citations for violations, not administrative citations. Agencies testified they were confused about how to report administrative violations of NRS 369.630. Some thought the fines were payable to their local courts or counties, and did not know the Department was responsible for fine administration. (page 10)
- Except for distributing the Notice of Civil Infraction form in October 2009, the Department did not contact officials concerning the lack of enforcement efforts. The Department can increase the likelihood officers will properly enforce the statute by monitoring agencies' violation reporting activity. (page 11)
- Six of ten law enforcement agencies we surveyed reported they were not aware a form for reporting violations existed. After AB 432 became effective October 1, 2009, the Department developed an infraction form and mailed it to the head of each law enforcement agency in Clark and Washoe Counties. However, based upon law enforcement officials responses to our survey, some agencies may not have informed officers the forms were available for citing violations of NRS 369.630. (page 12)

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ALCOHOLIC BEVERAGE AWARENESS PROGRAM FINES

- The Department could broaden its enforcement activities by authorizing certain local officials to enforce the statute. For example, business license and health department officials could check for valid alcohol education cards when they have contact with employees of liquor establishments. Effective October 1, 2009, AB 432 gave the Department authority to appoint other officials to enforce the statute. With thousands of liquor licensees in wide geographic areas in the two counties, the Department has severe limitations with its own enforcement capabilities. (page 12)
- Neither the Department nor law enforcement in Clark and Washoe Counties have developed procedures to assure required reports are submitted timely to the Director of the Legislative Counsel Bureau (Director). AB 432 requires the Department and each law enforcement agency in Clark and Washoe Counties submit reports to the Director on or before February 1, 2011. The reports must include enforcement actions taken and the number of violations discovered. In addition, the Department is also required to report the amount of money collected from fines it imposed. (page 13)

Recommendations

This audit report contains six recommendations to help ensure alcoholic beverage awareness program fines are properly imposed, collected, and recorded. Three recommendations address training Clark and Washoe Counties' law enforcement, monitoring agencies' violation reporting activity, and improving accessibility of blank violation forms. We also recommended the Department authorize other Clark and Washoe County officials to enforce the statute. Finally, we made two recommendations to help ensure agencies properly report enforcement actions and fine information. (page 27)

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ALCOHOLIC BEVERAGE AWARENESS PROGRAM FINES

Agency Response

The Department, in response to the audit report, accepted the six recommendations. (page 25)

Introduction

Background

The requirement for alcoholic beverage awareness programs pursuant to NRS 369.630 applies to counties with at least 100,000 residents. Effective July 1, 2007, employees at certain establishments in Clark and Washoe Counties must complete an alcoholic beverage awareness program. These establishments include businesses that serve alcoholic beverages for consumption on the premises and those that sell alcohol for consumption off the premises.

To sell or serve alcohol, employees must complete a specific program of training every 4 years and hold a valid alcohol education card. Until its revision in 2009, NRS 369.630 stated law enforcement officers should report violations they discover to the Department of Taxation (Department). When notified of violations, the Department was required to levy and collect an administrative fine of \$500 upon the establishment for a first offense and higher fine amounts for repeat offenses. Further, the Department was required to divide fines collected between the Victims of Crime Fund and an account designated to reimburse employees' alcoholic beverage awareness training costs.

Counties other than Clark and Washoe were excluded by statute, due to population thresholds. However, the statute allowed political subdivisions in these counties to adopt their own requirements for alcoholic beverage awareness training or to voluntarily agree to comply with the statute. Exhibit 1 shows three rural county law enforcement agencies we surveyed have local requirements for alcoholic beverage awareness training.

**Results of Law Enforcement Questionnaire
Counties with Populations Under 100,000**

Action	Response
Voluntarily adopted local requirements for employee training	3
Voluntarily agreed to be bound by NRS 369.630	0
Total questionnaires returned	17
Total questionnaires sent	22

Source: Responses to questionnaires sent to 22 law enforcement agencies in all Nevada counties except Clark and Washoe.

As shown in Exhibit 1, three jurisdictions voluntarily adopted local requirements for alcoholic beverage awareness programs. Employees of liquor establishments in Lincoln County are required to receive 4 hours of alcoholic beverage awareness training every 5 years. In addition, Lyon County and Carson City require employees complete alcohol server training for repeated violations of liquor laws.

The Department assigned responsibility for fine administration to three employees in the Excise Tax Unit. These employees are also responsible for enforcing excise tax compliance by alcohol and tobacco manufacturers, retailers, and wholesalers.

2009 Legislative Developments

The 2009 Legislature was informed the Department had not received any reports of NRS 369.630 violations from law enforcement since July 1, 2007, and no fines were imposed. This prompted passage of Assembly Bill 432 (AB 432), effective October 1, 2009, which revised and clarified the requirements and enforcement of alcoholic beverage awareness programs. The revisions included:

- Changing the accounts designated to receive fines collected to Aid for Victims of Domestic Violence and an account for the support of community juvenile justice programs that enforce underage drinking laws. The Division of Child and Family Services (DCFS) administers both accounts.
- Eliminating employee reimbursements of training costs.
- Requiring the Department provide a violation form to law enforcement.

- Authorizing the Department to appoint other officials to enforce the statute.
- Requiring agencies report enforcement and fine information to the Legislature in 2011.
- Requiring the Legislative Auditor conduct an audit of any fines imposed pursuant to NRS 369.630.

Scope and Objective

This audit is required by Section 4 of AB 432, of the 2009 Session of the Nevada Legislature. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This audit focused on fines imposed from July 1, 2007, through November 30, 2009, and included activities through January 2010 for certain areas. The objective of our audit was to determine if any fines were imposed pursuant to NRS 369.630, and, if so, the disposition of those fines. This included determining if the Department of Taxation has financial and administrative controls in place to ensure fines are properly imposed pursuant to NRS 369.630, and if any fines imposed are properly collected and recorded.

Findings and Recommendations

The Department of Taxation (Department) imposed one fine upon an establishment pursuant to NRS 369.630, between July 1, 2007, and November 30, 2009, for a violation detected by staff. In December 2009, the Department informed us staff reported four more violations, and fines imposed totaled \$2,500. Of this, the Department collected \$500 in January 2010, but had not yet paid the funds to the two accounts designated to receive fines. Further, law enforcement agencies in Clark and Washoe Counties did not report any violations of the statute during the 29-month period ended November 30, 2009.

More emphasis is needed on enforcing the statute and reporting violations to the Department, including training law enforcement personnel to report violations and monitoring agencies' violation reporting activities. In addition, the Department can take steps to broaden enforcement resources by authorizing local officials to enforce the statute. Finally, the Department and law enforcement agencies in Clark and Washoe Counties need written procedures to ensure compliance with reporting requirements.

Alcoholic Beverage Awareness Programs Need Enforcement

Law enforcement in Clark and Washoe Counties have not enforced the statute for alcoholic beverage awareness training of employees at liquor establishments. Responses to our law enforcement questionnaire indicated that, although officers had some awareness of the training requirements, as of November 30, 2009, no violations were reported to the Department. The Washoe County Sheriff subsequently submitted two violation reports in December 2009.

Effective July 1, 2007, NRS 369.630(4) stated law enforcement officers in Clark and Washoe Counties should report violations to the Department. Assembly Bill 432 clarified the statute effective October 1, 2009, to require the Department provide a notice of infraction form for use by officers or others authorized by the Department to enforce the statute. Upon receipt of completed infraction forms, the Department is responsible for fining establishments \$500 for the first offense, \$1,000 for the second offense, and \$5,000 for the third and any subsequent offenses.

Law Enforcement Agencies Not Reporting Violations

Law enforcement in Clark and Washoe Counties did not enforce the statutory requirement for alcoholic beverage awareness training of employees at liquor establishments. Exhibit 2 shows law enforcement responses to our survey of the ten agencies in Clark and Washoe Counties.

Exhibit 2

Results of Law Enforcement Questionnaire Clark and Washoe Counties

Action	Clark County	Washoe County	Totals
Agency has policies and procedures for enforcing the statute.	0	0	0
Agency checks establishments for compliance with the statute.	4	2	6
Agency issues citations when officers detect statute violations. ⁽¹⁾	0	0	0
Jurisdiction has local ordinances similar to the statute. ⁽²⁾	1	0	1
Agency tracks enforcement action for reporting to the Legislature.	0	0	0
Total questionnaires sent and returned	6	4	10

Source: Responses to questionnaires sent to ten law enforcement agencies in Clark and Washoe Counties as follows: Las Vegas Metropolitan Police, North Las Vegas Police, Boulder City Police, Mesquite Police, Henderson Police, University of Nevada, Las Vegas Police, Washoe County Sheriff, Reno Police, Sparks Police, and University of Nevada, Reno Police.

⁽¹⁾ In December 2009, subsequent to our questionnaire timeframe, July 1, 2007, through October 31, 2009, the Washoe County Sheriff submitted two infraction reports to the Department of Taxation.

⁽²⁾ The Las Vegas Metropolitan Police Department is governed by two local ordinances, similar to the statute. Of these, the City of Las Vegas municipal ordinance conflicts with the statute, which is prohibited by NRS 369.630. For example, the local ordinance requires the police certify all training materials and administer certification exams to employees. Further, non-compliance with the local ordinance results in liquor license suspension, not civil fines payable to the Department of Taxation.

Although the questionnaire responses indicated Clark and Washoe County law enforcement agencies had some awareness of the training requirement for liquor establishment employees, none of the agencies enforced the statute. Four of six (67%) law enforcement agencies in Clark County, and two of four (50%) in Washoe County responded they performed compliance checks at establishments. However, since July 1, 2007, law enforcement did not report any infractions to the Department, except for two reports from Washoe County in December 2009.

Law Enforcement Agencies Need Training

Law enforcement officers need training for effective local enforcement of NRS 369.630. We noted officers did not have clear guidance for enforcing the statute. For

example, officers were not informed how to report infractions of NRS 369.630 to the Department. In addition, some officials testified during the 2009 Legislative Session that officers are familiar with issuing criminal citations for violations, not administrative citations. Agencies testified they were confused about how to report administrative violations of NRS 369.630. Some thought the fines were payable to their local courts or counties, and did not know the Department was responsible for fine administration.

Several entities' management informed us they were willing to assist the Department with training law enforcement officers to properly enforce the statute. These entities include the Nevada Commission on Peace Officers' Standards and Training (POST), the Nevada Sheriffs' and Chiefs' Association, and local coalitions that receive federal grants to enforce underage drinking laws.

With proper training, officers will be alert to check for compliance with NRS 369.630 when they are called to establishments. For example, officers can check for valid employee training cards during underage drinking stings at liquor establishments. In addition, many law enforcement agencies that periodically perform these operations receive federal funds for enforcing underage drinking laws.

Monitoring of Violation Reports Needed

Law enforcement agencies in Clark and Washoe Counties reported no violations of NRS 369.630 for the period from July 1, 2007, through November 30, 2009. Further, except for distributing the Notice of Civil Infraction form in October 2009, the Department did not contact officials concerning the lack of enforcement efforts.

The Department can increase the likelihood officers will properly enforce the statute by monitoring agencies' violation reporting activity. For example, by periodically reviewing logs of infraction reports received, the Department can identify agencies with infrequent or no enforcement activities. The Department could send a letter to these agencies to encourage enforcement or offer assistance by providing training materials.

Best business practices include tracking violations agencies report and monitoring enforcement actions to ensure agencies properly enforce the statute. The Department should develop procedures that address the use of reports or logs for

monitoring, the frequency these reports are reviewed, when staff should contact agencies, and the appropriate method of contact.

Infraction Forms Should Be Readily Available

Six of ten law enforcement agencies we surveyed reported they were not aware a form for reporting violations existed. After AB 432 became effective October 1, 2009, the Department developed an infraction form and mailed it to the head of each law enforcement agency in Clark and Washoe Counties. The Notice of Civil Infraction form is shown at Appendix D which begins on page 23. However, based upon law enforcement officials' responses to our survey, which we began receiving November 17, 2009, some agencies may not have informed officers the forms were available for citing violations of NRS 369.630.

The Department's website includes many forms agencies commonly use. By including the Notice of Civil Infraction form and instructions on its website, the Department can assure the form is readily accessible to officials authorized to enforce NRS 369.630.

Local Officials Can Also Enforce the Statute

The Department could broaden its enforcement activities by authorizing certain local officials to enforce the statute. For example, business license and health department officials could check for valid alcohol education cards when they have contact with employees of liquor establishments. Effective October 1, 2009, AB 432 gave the Department authority to appoint other officials to enforce the statute. The Department assigned two staff and a supervisor responsibility for enforcing NRS 369.630 in October 2009, in addition to their duties concerning excise tax compliance.

Other western states we surveyed with similar ordinances have different structures for law enforcement. For example, three of four states which require server training (Oregon, Utah, and Washington) use state alcoholic beverage control officers to monitor compliance and enforce laws. The fourth state, New Mexico, uses state police for such enforcement. Exhibit 3 shows there are over 4,000 active liquor licensees in Clark and Washoe Counties required to comply with NRS 369.630.

**Liquor Licenses in Clark and Washoe Counties ⁽¹⁾
November 2009**

Jurisdiction	Active Licenses
Clark County unincorporated area	1,506
City of Las Vegas	905
City of Henderson	369
City of North Las Vegas	216
City of Mesquite	40
Boulder City	27
Washoe County	174
City of Reno	701
City of Sparks	205
Total	4,143

Source: City and county business license authorities in Clark and Washoe Counties as of November 2009.

⁽¹⁾ This does not reflect total liquor establishments because many establishments have multiple liquor licenses (e.g. restaurant, tavern, gift store). Excludes wholesale and private clubs not open to the public, which are exempt from the requirements of NRS 369.630.

With thousands of liquor licensees in wide geographic areas in the two counties, the Department has severe limitations with its own enforcement capabilities. Some jurisdictions in Clark and Washoe Counties require employees who sell or serve alcohol to obtain permits or licenses issued by officials at health departments or business license offices. These officials have contact with employees of liquor establishments or have occasion to inspect such establishments. The Department can enhance enforcement activities by authorizing certain local officials to enforce NRS 369.630.

Enforcement Reporting Procedures Not Developed

Neither the Department nor law enforcement in Clark and Washoe Counties have developed procedures to assure required reports are submitted timely to the Director of the Legislative Counsel Bureau (Director). AB 432 requires the Department and each law enforcement agency in Clark and Washoe Counties submit reports to the Director on or before February 1, 2011. The reports must include enforcement actions taken and the number of violations discovered. In addition, the Department is also required to report the amount of money collected from fines it imposed.

None of the Clark and Washoe County law enforcement agencies we surveyed have established policies and procedures for tracking NRS 369.630 enforcement action and infractions discovered. Furthermore, the Department's written procedures over NRS 369.630 do not address this reporting. Without written policies and procedures, there is increased risk agencies will not comply with the reporting requirements of AB 432, and, consequently, the Legislature will not know whether the statute was properly enforced or the extent of fines imposed and collected.

Recommendations

1. Provide Clark and Washoe County law enforcement with training in procedures for reporting violations of NRS 369.630 to the Department.
2. Develop procedures for monitoring violation reports to help ensure Clark and Washoe County agencies enforce the statute.
3. Consider posting a blank Notice of Civil Infraction form and instructions on the Department's website to ensure forms are available to officials authorized to report violations.
4. Authorize officials at agencies that have regular contact with Clark and Washoe County liquor licensees, such as health departments and business license offices, to report violations of the statute.
5. Develop procedures for reporting the Department's enforcement actions and fine information to the Legislature.
6. Develop procedures for communicating the reporting requirements of AB 432 to Clark and Washoe County law enforcement agencies.

Appendices

Appendix A Audit Methodology

To gain an understanding of the Alcoholic Beverage Awareness Program fines, we interviewed agency staff and reviewed applicable state laws, regulations, policies, and procedures. We also interviewed law enforcement, coordinators of federal grants for enforcing underage drinking laws, management of agencies that provide training and support to law enforcement, as well as management and staff of other state agencies. In addition, we reviewed minutes of various legislative committees, and other information describing alcoholic beverage awareness training programs.

To determine the number of liquor licensees in Clark and Washoe Counties required to comply with NRS 369.630, we obtained liquor license listings from city and county licensing authorities.

To evaluate the Department's internal control procedures for NRS 369.630 fine administration, we reviewed the Department's procedures for enforcement, fine assessment, collection, accounting, and reporting. To determine if the Department collected any fines, we reviewed State accounting records. We also surveyed 10 western states to determine which require alcoholic beverage awareness training. Of those, we analyzed and compared other states' enforcement practices to those of Nevada.

To determine law enforcement efforts to enforce NRS 369.630, we sent questionnaires to 10 agencies in Clark and Washoe Counties as follows: Las Vegas Metropolitan Police, North Las Vegas Police, Boulder City Police, Mesquite Police, Henderson Police, UNLV Police, Washoe County Sheriff, Reno Police, Sparks Police, and the UNR Police. The inquiries were designed to determine the extent of NRS 369.630 enforcement in these jurisdictions and obstacles to proper enforcement. We contacted the authorities as considered necessary to clarify the agencies' responses.

To determine whether jurisdictions other than Clark and Washoe Counties voluntarily adopted provisions of NRS 369.630 or had similar local ordinances, we sent

questionnaires to 22 law enforcement agencies in the 15 rural counties. We contacted the authorities as considered necessary to clarify the agencies' responses.

Our audit work was conducted from August 2009 to January 2010. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In accordance with NRS 218.821, we furnished a copy of our preliminary report to the Executive Director of the Department of Taxation. On March 17, 2010, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix E which begins on page 25.

Contributors to this report included:

Diana Giovannoni, CPA
Deputy Legislative Auditor

Jane Bailey
Audit Supervisor

Appendix B

Nevada Revised Statute for Alcoholic Beverage Awareness Programs

NRS 369.630 Completion of certified program by certain employees of establishment: Duties of owner or operator of establishment; imposition and disposition of administrative fine; reporting of violations; applicability of provisions.

1. Except as otherwise provided in subsection 5, on and after July 1, 2007, a person who owns or operates an establishment shall not:
 - (a) Hire a person to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment unless:
 - (1) The person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or
 - (2) The person who owns or operates the establishment ensures that the person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, within 30 days after the date on which he is hired, successfully completes a certified program and obtains a valid alcohol education card; or
 - (b) Continue to employ a person who was hired before that date to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment unless:
 - (1) The person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or
 - (2) The person who owns or operates the establishment ensures that the person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, not later than July 31, 2007, successfully completes a certified program and obtains a valid alcohol education card.
2. The Department shall impose upon an owner or operator of an establishment who violates any of the provisions of this section an administrative fine of not more than:
 - (a) For the first violation within a 24-month period, \$500.
 - (b) For the second violation within a 24-month period, \$1,000.
 - (c) For the third and any subsequent violation within a 24-month period, \$5,000.
3. Of the money collected by the Department from fines pursuant to subsection 2:
 - (a) Fifty percent must be deposited with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime created by NRS 217.260.
 - (b) Fifty percent must be deposited in the Alcoholic Beverage Awareness Program Account, which is hereby created in the State General Fund. The Account must be administered by the Commission. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. The money in the Account must be used solely to reduce the costs for employees to complete programs certified by the Commission pursuant to subsection 3 of NRS 369.625.
4. Any law enforcement agency whose officer discovers a violation of this section shall report the violation to the Department.
5. The provisions of this section apply only in a jurisdiction that:
 - (a) Is located in a county whose population is 100,000 or more; or
 - (b) Is located in a county whose population is less than 100,000, if the governing body of the jurisdiction has, by the affirmative vote of a majority of its members, agreed to be bound by the provisions of this section.
6. As used in this section:
 - (a) "Certified program" means an alcoholic beverage awareness program certified by the Commission pursuant to NRS 369.625.
 - (b) "Valid alcohol education card" means a card issued by a certified program which has been obtained or renewed within the immediately preceding 4 years.

(Added to NRS by 2005, 2683)

Appendix C
Assembly Bill 432

Assembly Bill No. 432—Assembleymen
Smith and Ocegüera

CHAPTER.....

AN ACT relating to intoxicating liquors; revising provisions relating to alcoholic beverage awareness programs; providing for enforcement of certain provisions by peace officers; revising the distribution of civil fines paid for certain violations; requiring certain reports to be made to the Legislature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain employees of certain establishments that sell alcohol must have successfully completed an alcoholic beverage awareness program. The owner of an establishment that is not in compliance must pay an administrative fine, to be imposed by the Department of Taxation. Money from the administrative fines must be divided equally into the Fund for the Compensation of Victims of Crime and the Alcoholic Beverage Awareness Program Account in the State General Fund. (NRS 369.630) **Section 1** of this bill provides that peace officers may enforce the requirements of the provision relating to employees having successfully completed the program by issuing a notice of a civil infraction for violations. **Section 1** also revises the provision for distribution of the money received by the Department for fines from establishments found in violation, providing that instead of depositing 50 percent of the money in the Fund for the Compensation of Victims of Crime and 50 percent of the money in the Alcoholic Beverage Awareness Program Account, 50 percent of the money must be deposited in the Account for Aid for Victims of Domestic Violence and 50 percent of the money must be deposited in the account created in the State General Fund for the support of community juvenile justice programs and must be used only to enforce laws that prohibit the purchase, consumption or possession of alcoholic beverages by persons under the age of 21 years.

Section 2 of this bill requires each recipient of money from the collection of fines for civil infractions to submit a report to the Legislature concerning the amount of money received and how the money was used. In addition, certain law enforcement agencies and the Department of Taxation are required to submit a report to the Legislature concerning the enforcement of the provisions requiring employees to participate in an alcoholic beverage awareness program.

Section 4 of this bill requires the Legislative Auditor to conduct an audit of any fines imposed pursuant to NRS 369.630 after July 1, 2007.

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

Section 1. NRS 369.630 is hereby amended to read as follows:
369.630 1. Except as otherwise provided in subsection ~~5~~ 7,
on and after July 1, 2007, a person who owns or operates an
establishment shall not:



Appendix C
Assembly Bill 432
(continued)

- 2 -

(a) Hire a person to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment unless:

(1) The person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or

(2) The person who owns or operates the establishment ensures that the person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, within 30 days after the date on which he is hired, successfully completes a certified program and obtains a valid alcohol education card; or

(b) Continue to employ a person who was hired before that date to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment unless:

(1) The person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or

(2) The person who owns or operates the establishment ensures that the person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, not later than July 31, 2007, successfully completes a certified program and obtains a valid alcohol education card.

2. ~~{The Department shall impose upon an owner or operator of an establishment who violates any of the provisions of this section an administrative fine of not more than:}~~ ***A violation of this section is a civil infraction, and when an owner or operator of an establishment is found in violation pursuant to subsection 3, a notice of infraction must be issued on a form prescribed by the Department, and must contain, without limitation, the following information:***

- (a) The location at which the violation occurred;***
- (b) The date and time of the violation;***
- (c) The name of the establishment and the owner;***
- (d) The signature of the person who issued the notice of infraction;***
- (e) A copy of this section which allegedly is being violated;***
- (f) Information which advises of the manner in which, and the time within which, the notice of infraction must be answered; and***
- (g) Any other reasonable information which is prescribed by the Department.***



Appendix C
Assembly Bill 432
(continued)

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3. *The notice of infraction may be issued by any peace officer or by any person who is authorized by the Department to issue such a notice. A duplicate of the notice of infraction must be served on the person to whom it is issued either in person, by providing the notice to the person in charge of the establishment at the time the notice of infraction is issued, or by affixing the notice to the establishment in a conspicuous place.*

4. *The notice of infraction or a facsimile thereof must be filed with the Department and retained by the Department and is deemed to be a public record of matters which are observed pursuant to a duty imposed by law and is prima facie evidence of the facts which are alleged therein.*

5. *A person who responds to the notice of infraction must:*

(a) *Admit the commission of the infraction by paying to the Department the appropriate civil fine:*

(1) *For the first violation within a 24-month period, \$500.*

~~[(b)]~~ (2) *For the second violation within a 24-month period, \$1,000.*

~~[(c)]~~ (3) *For the third and any subsequent violation within a 24-month period, \$5,000.*

~~[(d)]~~ (b) *Deny liability for the infraction by notifying the Department and requesting a hearing in the manner indicated on the notice of infraction. Upon receipt of such a request, the Department shall afford to the person making the request an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

6. *Of the money collected by the Department from ~~[(fines)]~~ a civil fine pursuant to subsection ~~[(2)]~~ 5:*

(a) *Fifty percent must be deposited with the State Treasurer for credit to the ~~[(Fund)]~~ Account for ~~[(the Compensation of)]~~ Aid for Victims of ~~[(Crime)]~~ Domestic Violence created by NRS ~~[(217.260)]~~ 217.440.*

(b) *Fifty percent must be deposited in the ~~[(Alcoholic Beverage Awareness Program Account, which is hereby created in the State General Fund. The Account must be administered by the Commission. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. The money in the Account must be used solely to reduce the costs for employees to complete programs certified by the Commission pursuant to subsection 3 of NRS 369.625.]~~*

~~4. Any law enforcement agency whose officer discovers a violation of this section shall report the violation to the Department.~~



Appendix C
Assembly Bill 432
(continued)

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~~5.~~ *account created in the State General Fund for the support of community juvenile justice programs and must be used only to enforce laws that prohibit the purchase, consumption or possession of alcoholic beverages by persons under the age of 21 years.*

7. The provisions of this section apply only in a jurisdiction that:

(a) Is located in a county whose population is 100,000 or more; or

(b) Is located in a county whose population is less than 100,000, if the governing body of the jurisdiction has, by the affirmative vote of a majority of its members, agreed to be bound by the provisions of this section.

~~6.~~ 8. As used in this section:

(a) "Certified program" means an alcoholic beverage awareness program certified by the Commission pursuant to NRS 369.625.

(b) "Valid alcohol education card" means a card issued by a certified program which has been obtained or renewed within the immediately preceding 4 years.

Sec. 2. 1. Each recipient of money pursuant to subsection 6 of section 1 of this act shall submit a report to the Director of the Legislative Counsel Bureau on or before February 1, 2011, for distribution to the Legislature setting forth the amount of money received during the biennium, the manner in which the money was used and the amount of money that remains in the account of the recipient.

2. Each law enforcement agency in a county subject to the provisions of NRS 369.630 and the Department of Taxation shall prepare and submit a report to the Director of the Legislative Counsel Bureau on or before February 1, 2011, for distribution to the Legislature which sets forth the actions taken by the agency or the Department, as applicable, to enforce the provisions of NRS 369.600 to 369.635, inclusive, and the number of violations of those provisions that were discovered by them. The Department shall also include in the report the amount of money collected from fines imposed for such violations.

Sec. 3. (Deleted by amendment.)

Sec. 4. 1. The Legislative Auditor shall conduct an audit concerning any fines imposed by the Department of Taxation pursuant to NRS 369.630 after July 1, 2007.

2. The audit must include, without limitation, an analysis of:

(a) Whether any fines were imposed pursuant to NRS 369.630; and



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Assembly Bill 432
(continued)

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(b) If any fines were imposed pursuant to NRS 369.630, the disposition of all such fines that were imposed.

3. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011. A copy of the final written report must be provided to the Department of Taxation not later than February 7, 2011.

4. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

5. The Department of Taxation shall use the results of the audit to improve the efficiency and effectiveness of imposing and collecting fines pursuant to NRS 369.630.

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Appendix D Notice of Civil Infraction Form

Nevada Department of Taxation
1550 College Pkwy, Suite 115
Carson City, NV 89706
(775) 684-2000

For Department Use Only:
TID: _____
Entered in TAS (Date & Initials): _____
Amount of Fine: <input type="checkbox"/> 1 st violation \$500 <input type="checkbox"/> 2 nd violation \$1,000 <input type="checkbox"/> 3 or more violations \$5,000

Notice of Civil Infraction pursuant to Nevada Revised Statutes § 369.630 (Failure to comply with Alcohol Awareness Training requirements) (See Instructions on reverse side)

VIOLATION	
DATE OF VIOLATION	
TIME	

Establishment Information:

OWNER	
NAME OF ESTABLISHMENT (DBA)	
PHYSICAL LOCATION OF ESTABLISHMENT	
CITY, STATE, ZIP	

Employee Information:

FIRST NAME				MIDDLE		LAST NAME	
DRIVER LICENSE/ID NO.				STATE		BIRTHDATE	
RACE/ETHNICITY	SEX	HAIR	EYES	HEIGHT	WEIGHT	OTHER DES.	

How was notice of violation served?

<input type="checkbox"/> Served Upon Owner/Manager on Duty	Full Name of Owner/Manager on Duty
<input type="checkbox"/> Posted at establishment in a conspicuous place	Place where notice was posted

Print Full Name of Officer/Department Authorized Personnel	Department/Agency
--	-------------------

I certify or declare under the penalty of perjury under the laws of the State of Nevada that there are reasonable grounds or probable cause to believe the above named employee violated NRS 369.630.

Signature of Peace Officer or Department Authorized Personnel Date

LAF 01.01
Revised 8/25/09

Appendix D
Notice of Civil Infraction Form
(continued)

Alcohol Awareness Training Violation Information

Effective July 1, 2007, Nevada Revised Statutes (“NRS”) § 369.630 requires owners or operators of liquor establishments who hire or employ persons to sell or serve alcoholic beverages, or act as security guards at such establishments, to ensure such person complete a State certified Alcohol Beverage Awareness program and hold a valid alcohol education card.

These provisions apply to establishments in all counties whose population is 100,000 or more (Clark and Washoe Counties). An establishment is defined as a business that sells alcoholic beverages by the drink for consumption on the premises and businesses that sell alcoholic beverages in corked or sealed containers or receptacles for consumption off the premises. These provisions do not apply to a Nevada Licensed Wholesale Dealer, or a private club, or other facility which is not open to the public.

An establishment who violates any of these provisions pertaining to Alcohol Awareness Training is subject to an administrative fine ranging from \$500 to \$5,000.

A list of approved Alcohol Awareness Training Schools can be found at <http://www.cpe.state.nv.us>. A copy of NRS 369.630 is attached to this citation. More information may be obtained at the Legislative Counsel Bureau’s website at <http://www.leg.state.nv.us>

HOW TO RESPOND TO THIS NOTICE OF VIOLATION:

1. You will receive a bill from the Nevada Department of Taxation for the appropriate civil fine. The civil fines are as follows:
 - a. \$500 for the 1st violation within a 24 month period;
 - b. \$1,000 for the 2nd violation with a 24 month period; and
 - c. \$5,000 for the 3rd or subsequent violation within a 24 month period.

OR

2. If you believe this violation is in error, then you can request a hearing by notifying the Department of Taxation in writing within 45 days of the date of this violation notice. When requesting a hearing you will need to state the grounds upon which you seek a hearing (the reason why you believe this violation notice is incorrect). Include a copy of this notice with your request for hearing.

If you have further questions regarding this notice, please contact the Nevada Department of Taxation’s Liquor Tax Section at 775-684-2122.

LAF 01.01
Revised 8/25/09

Appendix E
Response From the Department of Taxation



JIM GIBBONS
Governor
ROBERT R BARENGO
Chair, Nevada Tax Commission
DINO DICIANNO
Executive Director

STATE OF NEVADA
DEPARTMENT OF TAXATION
Web Site: <http://tax.state.nv.us>
1550 College Parkway, Suite 115
Carson City, Nevada 89706-7937
Phone: (775) 684-2000 Fax: (775) 684-2020

LAS VEGAS OFFICE
Grant Sawyer Office Building, Suite 1300
555 E. Washington Avenue
Las Vegas, Nevada 89101
Phone: (702) 486-2300 Fax: (702) 486-2373

RENO OFFICE
4600 Kietzke Lane
Building L, Suite 235
Reno, Nevada 89502
Phone: (775) 688-1295
Fax: (775) 688-1303

HENDERSON OFFICE
2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074
Phone: (702) 486-2300
Fax: (702) 486-3377

March 29, 2010

Mr. Paul V. Townsend, CPA
Legislative Counsel Bureau
Legislative Building
401 S. Carson St.
Carson City, NV 89701

Dear Mr. Townsend:

As requested, pursuant to your correspondence dated March 8, 2010, please find the Department's response to the findings and recommendations contained in the Legislative Audit Report on the Alcoholic Beverage Awareness Fine Program. The Department has accepted all 6 recommendations as follows:

Recommendation 1. Provide Clark and Washoe County law enforcement with training in procedures for reporting violations of NRS 369.630 to the Department.

RESPONSE: Accepted.

COMMENT: The Department is currently putting together a presentation for law enforcement that will address procedures and training for the Alcoholic Beverage Awareness Fine. This presentation will be sent to law enforcement personnel to use for training. Additionally, the Department will offer to conduct the training when requested.

Recommendation 2. Develop procedures for monitoring violation reports to help ensure Clark and Washoe County agencies enforce the statute.

RESPONSE: Accepted.

COMMENT: The Department is in the process of designing a quarterly report of violations issued. This report will be sent to all law enforcement agencies within Clark and Washoe counties, so they are able to see at a glance the enforcement efforts that have been made to date. Along with the report the Department will issue a memo reminding the agencies of the statutory requirements and offering assistance with training staff.

Recommendation 3. Consider posting a blank Notice of Civil Infraction form and instructions on the Department's website to ensure forms are available to officials authorized to report violations.

RESPONSE: Accepted.

COMMENT: The Department has already posted the Notice of Civil Infraction on our website. This form is located under Common Forms, Liquor Tax. The Department will be notifying law enforcement agencies within Clark and Washoe Counties how to obtain this form online. The Department has also posted an informational article on the website under Quick Links regarding Alcohol Awareness Training Information.

Recommendation 4. Authorize officials at agencies that have regular contact with Clark and Washoe County liquor licensees, such as health departments and business license offices, to report violations of the statute.

RESPONSE: Accepted.

COMMENT: The Department will reach out to these agencies and authorize officials who are interested in assisting the Department with the enforcement of NRS 369.630.

Recommendation 5. Develop procedures for reporting the Department's enforcement actions and fine information to the Legislature.

RESPONSE: Accepted.

COMMENT: The Department has begun developing procedures and a report in regards to this recommendation. The procedures and report should be completed by April 30, 2010.

Recommendation 6. Develop procedures for communicating the reporting requirements of AB 432 to Clark and Washoe County law enforcement agencies.

RESPONSE: Accepted.

COMMENT: On October 16, 2009, the Department sent a notification to all law enforcement agencies in Clark and Washoe Counties, explaining the procedure for reporting violations of NRS 369.630. Along with the notification, the Department enclosed a copy of the Notice of Civil Infraction to be used by law enforcement personnel. Additionally, the Department plans on providing the reporting requirements for NRS 369.630 with the memorandum mentioned in Recommendation 2. The Department will follow up quarterly with a phone call to the respective law enforcement agencies to ensure they received the correspondence and to offer any additional assistance.

Sincerely,



Dino DiCianno
Executive Director
Nevada Department of Taxation
775-684-2060

**Department of Taxation
Response to Audit Recommendations**

<u>Recommendation Number</u>		<u>Accepted</u>	<u>Rejected</u>
1	Provide Clark and Washoe County law enforcement with training in procedures for reporting violations of NRS 369.630 to the Department.	<u> X </u>	<u> </u>
2	Develop procedures for monitoring violation reports to help ensure Clark and Washoe County agencies enforce the statute.....	<u> X </u>	<u> </u>
3	Consider posting a blank Notice of Civil Infraction form and instructions on the Department's website to ensure forms are available to officials authorized to report violations.	<u> X </u>	<u> </u>
4	Authorize officials at agencies that have regular contact with Clark and Washoe County liquor licensees, such as health departments and business license offices, to report violations of the statute.	<u> X </u>	<u> </u>
5	Develop procedures for reporting the Department's enforcement actions and fine information to the Legislature.....	<u> X </u>	<u> </u>
6	Develop procedures for communicating the reporting requirements of AB 432 to Clark and Washoe County law enforcement agencies..	<u> X </u>	<u> </u>
	TOTALS	<u> 6 </u>	<u> 0 </u>