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SENATE BILL NO. 373—SENATOR SCHNEIDER

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Revises certain provisions governing importation of liquor. (BDR 32-858)

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

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~{omitted material}~~ is material to be omitted.

Green numbers along left margin indicate location on the printed bill (e.g., 3-15 indicates page 3, line 15).

AN ACT relating to intoxicating liquor; revising certain provisions governing the importation of liquor by common or contract carrier¹; and providing other matters properly relating thereto.

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

1-1 **Section 1.** NRS 369.450 is hereby amended to read as follows:
1-2 369.450 1. ~~{The Department shall make regulations and~~
1-3 ~~provide forms for distribution free of charge to all persons~~
~~qualified~~
1-4 ~~as importers of liquor, to be filled out by exporters and carriers of~~
1-5 ~~liquor consigned to points in this state as evidence for~~
~~consideration~~

¹ Heading should be specific that it applies to importation by common or contract carriers who should be the sole entities that are authorized to carry product into the State of Nevada.

1-6 respecting the legality of such transactions.

1-7 ~~2-]~~ Every common carrier or regularly operating contract carrier²
shall ~~have with~~

Deleted: by special permit

1-8 ~~his or its agent or servant in immediate charge, or in the records~~
~~of~~

1-9 ~~the carrier, of every shipment of liquor into this state,]~~ **make**
1-10 **available to the Department** a statement or freight bill **for every**
1-11 **shipment of liquor into this state**, showing:

1-12 (a) The names of *the* consignor, consignee and carrier~~]~~ **of**
the

1-13 **shipment;**

1-14 (b) The date when and place where the shipment was received
1-15 ~~]~~ **; and**

1-16 (c) The destination~~]~~

1-17 ~~—(d) The number identifying the railroad car, truck or other~~
1-18 ~~conveyance used.~~

² Because the special permit is only for the purpose of "transportation of liquor within this state" (see subsection 4), it is not logical that this subsection should apply to a "common carrier by special permit" which only is authorized to transport liquor within the state. Rather, subsection 1 should apply to the common or contract carriers who are authorized to ship liquor into the state to which this subsection pertains.

2-1 ~~(e) The quantity and kind of liquor in the shipment, as the case~~
2-2 ~~may be, according to the designation of kind and quantity of~~
liquor

2-3 ~~appearing on the statement or freight bill.~~

2-4 ~~3.] of the shipment.~~

2-5 **2.** The Department may ~~{make rules requiring the}~~ *adopt*
2-6 *regulations requiring:*

2-7 *(a) The carrier to cause the consignee to sign a statement or a*
2-8 *postcard, which {statement or postcard shall} must be furnished*
by

2-9 the Department to the carrier without expense, for *the* receipt of
2-10 each such shipment before the carrier permits the consignee to
2-11 remove ~~{any such}~~ *the* shipment from the point of destination or
2-12 possession of the carrier and, after having been so signed by the
consignee, forward such statement or postcard to the consignor³,
~~and to cause the carrier} ; and~~

2-13 *(b) The consignor, upon the receipt of any such statement or*
2-14 *postcard after it has been signed by the consignee, to forward*
2-15 ~~{such}~~ *the* statement or postcard to the Department . ~~{after~~
having

2-16 ~~been so signed by the consignee.~~

2-17 ~~—4.]~~ **3.** No liquor ~~{shall}~~ *may* be imported into this state except
2-18 by common carrier, contract carrier regularly operating as such,
or a

2-19 carrier having a special permit ~~{so to do in the case of each~~
2-20 ~~shipment.~~

2-21 ~~5.] to do so.~~

2-22 **4.** By special permit, the Department may authorize the
2-23 transportation of liquor within this state by means of a
conveyance

³ This text should be added to help enforce the ability of the consignor to receive the statement or postcard to forward it to the Department. This is necessary because the new text in this subsection now provides for regulation requiring the consignor instead of the carrier to file the statement or postcard.

2-24 owned and operated by a licensed importer, or a conveyance
owned

2-25 and operated by another, not being a common carrier or a
regularly

2-26 operating contract carrier. As a condition of such permit the

2-27 Department may require that a sign be carried on such
conveyance

2-28 in letters at least 3 inches high, stating that ~~{such}~~ *the*
conveyance is

2-29 carrying wholesale liquor by special permit. Such carriers by
special

2-30 permit ~~{shall be governed by}~~ *are subject to* the same rules

2-31 respecting reports and deliveries of import liquors as ~~{in the case~~
~~of}~~

2-32 *are* common carriers and regularly operating contract carriers.

5. As used in this section: ⁴“common carrier” shall mean any person, firm or corporation that undertakes for hire, as a regular business, the transportation of liquor from place to place, offering its services to all who choose to employ it and pay its charges; and “regularly operating contract carrier” shall mean any person, firm or corporation that, as a regular business, transports from place to place liquor pursuant to continuing contractual obligations.

2-33 **Sec. 2.** NRS 369.4865 is hereby amended to read as follows:

2-34 369.4865 1. A retail liquor store that holds a nonrestricted
2-35 license may transfer an original package of liquor to another
retail

2-36 liquor store that holds a nonrestricted license, and that other
retail

2-37 liquor store may receive the original package of liquor pursuant
to

2-38 the transfer, if:

⁴ To avoid any chance that a liquor exporter can somehow be construed to operate hereunder as a carrier and attempt to contravene Nevada’s liquor importation laws, there should be a definition of “common carrier or regularly operating contract carrier.”

2-39 (a) Each retail liquor store:

2-40 (1) Holds its nonrestricted license for the purposes set forth
2-41 in subsection 2 of NRS 463.0177; and

2-42 (2) Is in the marketing area of the wholesale dealer from
2-43 which the original package of liquor was obtained by the initial
2-44 retail liquor store;

2-45 (b) The initial retail liquor store:

3-1 (1) Obtained the original package of liquor in compliance
3-2 with the provisions of this chapter;

3-3 (2) Is an affiliate of the retail liquor store that receives the
3-4 transfer; and

3-5 (3) Does not charge the retail liquor store that receives the
3-6 transfer for the original package of liquor;

3-7 (c) Immediately before the transfer, the original package of
3-8 liquor is located at the initial retail liquor store; and

3-9 (d) Pursuant to the transfer, the original package of liquor is
3-10 transported from the initial retail liquor store to the other retail
3-11 liquor store.

3-12 2. A transfer authorized by this section shall not be deemed a
3-13 sale.

3-14 3. A retail liquor store that transfers or receives an original
3-15 package of liquor as authorized by this section:

3-16 (a) Shall not be deemed to be engaged in business as a
3-17 wholesale dealer based upon the transfer authorized by this
section.

3-18 (b) Notwithstanding the provisions of subsection ~~{5}~~ 4 of NRS
3-19 369.450, may transport the original package of liquor from the
3-20 initial retail liquor store to the other retail liquor store without a
3-21 special permit for such transportation.

3-22 4. As used in this section:

3-23 (a) "Affiliate" has the meaning ascribed to it in NRS
463.0133.

3-24 (b) "Liquor" does not include beer.

3-25 (c) "Marketing area" has the meaning ascribed to it in
3-26 NRS 597.136.

3-27 (d) "Nonrestricted license" has the meaning ascribed to it in
3-28 NRS 463.0177.