

Amendment No. 390

Senate Amendment to Senate Bill No. 444	(BDR 32-602)
Proposed by: Senate Committee on Revenue and Economic Development	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 444 (§ 6).
--

ASSEMBLY ACTION	Initial and Date		SENATE ACTION	Initial and Date	
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JFD/BJF



Date: 4/22/2023

S.B. No. 444—Revises provisions relating to the excise tax on live entertainment (BDR 32-602)



SENATE BILL NO. 444—COMMITTEE ON
REVENUE AND ECONOMIC DEVELOPMENT

MARCH 27, 2023

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions relating to the excise tax on admission to certain facilities where live entertainment is provided. (BDR 32-602)

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

~

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

AN ACT relating to taxation; imposing ~~an~~ the excise tax on certain resales of admission to live entertainment events; ~~repealing the exemption for certain athletic events involving a professional team based in this State from the excise tax on live entertainment;~~ requiring certain persons who facilitate resales of admission to live entertainment events to collect the excise tax on such resales which they facilitate; limiting the liability of such persons for failure to collect the tax under certain circumstances; authorizing the Department of Taxation to adopt regulations to require certain persons who list or advertise resales of admissions to live entertainment events to collect and remit the tax under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides for the imposition of an excise tax at a rate of 9 percent of the
2 admission charge on admission to certain facilities where live entertainment is provided.
3 (NRS 368A.200) Existing law additionally provides that such a tax must be collected from the
4 purchaser at the time of purchase, whether or not the admission is purchased for resale.
5 ~~Existing law exempts from this tax an athletic contest, event or exhibition conducted by a~~
6 ~~professional team based in this State if such a team is a participant in the contest, event or~~
7 ~~exhibition.~~ (NRS 368A.200) ~~Section 6 of this bill eliminates the exemption from the tax of~~
8 ~~such an athletic event.~~ **Section 6 of this bill** requires the excise tax imposed on admission to
9 live entertainment events to also be imposed on each resale of admission by a reseller, other
10 than an occasional sale. **Section 6** requires a reseller to retain certain records and to provide a
11 credit to a purchaser on the amount of tax owed on the resale of an admission based on the
12 amount of tax paid by the reseller at the time of the initial purchase of the admission.
13 Section 3.3 of this bill requires a person who directly or indirectly facilitates resales
14 of admission to certain facilities where live entertainment is provided to collect and
15 remit the tax if, in the immediately preceding calendar year or the current calendar
16 year, the facilitator had more than \$100,000 of gross receipts from certain transactions

17 or made or facilitated 200 or more sales transactions, on its own behalf or on behalf of a
 18 reseller, unless the facilitator enters into an agreement with a reseller whereby the
 19 reseller agrees to assume responsibility for the collection and imposition of the tax.
 20 Section 3.5 of this bill provides that such a facilitator is not liable for the payment of the
 21 tax under certain circumstances.

22 Section 3.7 of this bill authorizes the Department of Taxation to adopt regulations
 23 requiring certain persons who receive a fee in exchange for listing or advertising resales
 24 of admission to certain facilities where live entertainment is provided for a reseller but
 25 who do not collect money or other consideration from a customer to impose, collect and
 26 remit the tax if 200 or more sales transactions result from referrals made by the person
 27 or the cumulative gross receipts of sales resulting from such referrals exceed \$100,000.

28 Sections ~~2, 3~~ 1.3-3 and 5 of this bill define certain terms relevant to ~~resellers~~ the tax
 29 on admission to live entertainment events. Section 4 of this bill makes a conforming change
 30 to ~~indicate the proper placement of sections 2 and 3 in the Nevada Revised Statutes~~ make
 31 these definitions applicable to this tax.

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

1 **Section 1.** Chapter 368A of NRS is hereby amended by adding thereto the
 2 provisions set forth as sections ~~2 and 3~~ **1.3 to 3.9, inclusive**, of this act.

3 **Sec. 1.3.** “Affiliate” means a person who directly or indirectly owns or
 4 controls, is owned or controlled by, or is under common ownership or control
 5 with, another person. For the purposes of this section, control shall be presumed
 6 to exist if any person directly or indirectly owns, controls, holds with the power to
 7 vote or holds proxies representing 10 percent or more of the voting securities of
 8 any other person. This presumption may be rebutted by a showing that control
 9 does not exist in fact.

10 **Sec. 1.5.** 1. “Marketplace facilitator” means a person, including any
 11 affiliate of the person, who:

12 (a) Directly or indirectly, does one or more of the following to facilitate the
 13 resale of admission to any facility in this State where live entertainment is
 14 provided:

15 (1) Lists, makes available or advertises admission to any facility in this
 16 State where live entertainment is provided for resale by a marketplace reseller in
 17 a marketplace owned, operated or controlled by the person;

18 (2) Facilitates the resale by a marketplace reseller of admission to any
 19 facility in this State where live entertainment is provided, through a marketplace
 20 by transmitting or otherwise communicating an offer or acceptance of a resale of
 21 admission to any facility in this State where live entertainment is provided
 22 between a marketplace reseller and a purchaser in a forum including a shop,
 23 store, booth, catalog, Internet site or similar forum;

24 (3) Owns, rents, licenses, makes available or operates any electronic or
 25 physical infrastructure or any property, process, method, copyright, trademark or
 26 patent that connects marketplace resellers to purchasers for the purpose of
 27 making resales of admission to any facility in this State where live entertainment
 28 is provided;

29 (4) Provides a marketplace for making resales of admission to any
 30 facility in this State where live entertainment is provided, or otherwise facilitates
 31 resales of admission to any facility in this State where live entertainment is
 32 provided, regardless of ownership or control of the right or privilege of admission
 33 to the facility in this State where live entertainment is provided that is the subject
 34 of the resale;

1 (5) Provides software development or research and development activities
2 related to any activity described in this subsection, if such software development
3 or research and development activities are directly related to the physical or
4 electronic marketplace provided by a marketplace provider;

5 (6) Provides or offers fulfillment or storage services for a marketplace
6 reseller;

7 (7) Sets prices for the resale by a marketplace reseller of admission to
8 any facility in this State where live entertainment is provided;

9 (8) Provides or offers customer service to a marketplace reseller or the
10 customers of a marketplace reseller, or accepts or assists with taking orders,
11 returns or exchanges of admission to any facility in this State where live
12 entertainment is provided which was resold by a marketplace reseller; or

13 (9) Brands or otherwise identifies resales as those of the marketplace
14 facilitator; and

15 (b) Directly or indirectly, does one or more of the following to facilitate a
16 sale:

17 (1) Collects the sales price or purchase price of a resale of admission to
18 any facility in this State where live entertainment is provided;

19 (2) Provides payment processing services for a resale of admission to any
20 facility in this State where live entertainment is provided;

21 (3) Charges, collects or otherwise receives selling fees, listing fees,
22 referral fees, closing fees, fees for inserting or making available the resale of
23 admission to any facility in this State where live entertainment is provided on a
24 marketplace or other consideration from the facilitation of a resale of admission
25 to any facility in this State where live entertainment is provided, regardless of
26 ownership or control of the right or privilege of admission to the facility in this
27 State where live entertainment is provided that is the subject of the resale;

28 (4) Through terms and conditions, agreements or arrangements with a
29 third party, collects payment in connection with a resale of admission to any
30 facility in this State where live entertainment is provided from a purchaser and
31 transmits that payment to the marketplace reseller, regardless of whether the
32 person collecting and transmitting such payment receives compensation or other
33 consideration in exchange for the service; or

34 (5) Provides a virtual currency that purchasers are allowed or required to
35 use to purchase a resale of admission to any facility in this State where live
36 entertainment is provided.

37 2. The term does not include a person who provides Internet advertising
38 services, including, without limitation, the listing for resale of admission to any
39 facility in this State where live entertainment is provided, if the person does not
40 directly or indirectly or through an affiliate:

41 (a) Transmit or otherwise communicate an offer or acceptance of a resale of
42 admission to any facility in this State where live entertainment is provided
43 between a marketplace reseller and a purchaser; and

44 (b) Do one or more of the activities listed in paragraph (b) of subsection 1.

45 Sec. 1.7. "Marketplace reseller" means:

46 1. A reseller who makes resales of admission to any facility in this State
47 where live entertainment is provided, through any physical or electronic
48 marketplace owned, operated or controlled by a marketplace facilitator, even if
49 such reseller would not have been required to collect and remit the tax imposed
50 by this chapter had the resale not been made through such marketplace; or

51 2. A reseller who makes resales of admission to any facility in this State
52 where live entertainment is provided, resulting from a referral by a referrer, even

1 if such reseller would not have been required to collect and remit the tax imposed
2 by this chapter had the resale not been made through such referrer.

3 **Sec. 2.** “Resale” or “resell” means a transaction for the sale of the
4 admission to a facility in this State where live entertainment is provided which
5 occurs after the initial purchase of the admission. The term includes, without
6 limitation, a sale made in person or by telephone, Internet website or any other
7 means of communication or exchange.

8 **Sec. 3.** “Reseller” means any person who resells the admission to a facility
9 in this State where live entertainment is provided.

10 **Sec. 3.3.** 1. Except as otherwise provided in this section and section 3.5 of
11 this act, the provisions of this chapter relating to the imposition, collection and
12 remittance of the tax imposed by NRS 368A.200 apply to a marketplace facilitator
13 during a calendar year in which or during a calendar year immediately following
14 any calendar year in which:

15 (a) The cumulative gross receipts from retail sales of tangible personal
16 property to customers in this State and the sale of admission to any facility in this
17 State where live entertainment is provided, which are made or facilitated by the
18 marketplace facilitator on its own behalf or for one or more marketplace sellers,
19 exceed \$100,000; or

20 (b) The marketplace facilitator makes or facilitates a combined total of 200
21 or more separate sales transactions of tangible personal property to customers in
22 this State and admission to any facility in this State where live entertainment is
23 provided on his or her own behalf or for one or more marketplace sellers.

24 **2.** The provisions of this chapter relating to the imposition, collection and
25 remittance of the tax imposed by NRS 368A.200 do not apply to a marketplace
26 facilitator described in subsection 1 if:

27 (a) The marketplace facilitator and the marketplace reseller have entered
28 into a written agreement whereby the marketplace reseller assumes responsibility
29 for the collection and remittance of the tax imposed by NRS 368A.200 for resales
30 made by the marketplace reseller through the marketplace facilitator; and

31 (b) The marketplace reseller has registered with the Department to collect
32 and remit the tax imposed by NRS 368A.200.

33 ↳ Upon request of the Department, a marketplace facilitator shall provide to the
34 Department a report containing the name of each marketplace reseller with
35 whom the marketplace facilitator has entered into an agreement pursuant to this
36 subsection and such other information as the Department determines is necessary
37 to ensure that each marketplace reseller with whom the marketplace facilitator
38 has entered into an agreement pursuant to this subsection has registered with the
39 Department to collect and remit the tax imposed by NRS 368A.200.

40 **3.** Except as otherwise provided in this section and section 3.5 of this act,
41 the provisions of subsection 1 apply regardless of whether:

42 (a) The marketplace reseller for whom a marketplace facilitator makes or
43 facilitates a resale would not have been required to collect and remit the tax
44 pursuant to this chapter had the resale not been facilitated by the marketplace
45 facilitator;

46 (b) The marketplace reseller for whom a marketplace facilitator makes or
47 facilitates a resale was required to register with the Department to collect and
48 remit the tax imposed by NRS 368A.200; or

49 (c) The amount of the sales price of a resale will ultimately accrue to or
50 benefit the marketplace facilitator, the marketplace reseller or any other person.

51 **Sec. 3.5.** 1. In administering the provisions of this chapter, the
52 Department shall not hold a marketplace facilitator liable for the payment of any
53 tax imposed by this chapter which is attributable to a resale made or facilitated on

1 behalf of a marketplace reseller who is not an affiliate of the marketplace
2 facilitator if:

3 (a) The marketplace facilitator provides proof satisfactory to the Department
4 that the marketplace facilitator has made a reasonable effort to obtain accurate
5 information from the marketplace reseller about the sale; and

6 (b) The failure to collect and remit the correct tax on the resale was due to
7 incorrect information provided to the marketplace facilitator by the marketplace
8 reseller.

9 2. Except as otherwise provided in subsection 3, in administering the
10 provisions of this chapter, the Department shall not hold a marketplace facilitator
11 liable for the payment of any tax imposed by this chapter which is attributable to
12 a resale made or facilitated on behalf of a marketplace reseller who is not an
13 affiliate of the marketplace facilitator if the marketplace facilitator provides proof
14 satisfactory to the Department that the resale was made before January 1, 2026.

15 3. The relief from liability provided pursuant to subsection 2 for the 2024
16 and 2025 calendar years, respectively, must not exceed 5 percent of the total tax
17 imposed by NRS 368A.200 owed for the calendar year on the taxable receipts of
18 the marketplace facilitator from resales made or facilitated by the marketplace
19 facilitator for one or more marketplace resellers.

20 4. If a marketplace facilitator is relieved of liability for the collection and
21 remittance of any amount of the tax imposed by NRS 368A.200 pursuant to
22 subsection 1, the marketplace reseller is liable for the payment of such
23 uncollected, unpaid or unremitted tax.

24 5. To the extent that a marketplace facilitator is relieved of liability for the
25 collection and remittance of any tax pursuant to subsections 2 and 3, the
26 marketplace reseller for whom the marketplace facilitator made or facilitated the
27 resale giving rise to the tax is also relieved of such liability.

28 6. Nothing in this section shall be construed to relieve any person of
29 liability for collecting but failing to remit to the Department any tax imposed by
30 this chapter.

31 Sec. 3.7. 1. The Department may provide by regulation that, except as
32 otherwise provided in this section, the provisions of this chapter relating to the
33 imposition, collection and remittance of the tax imposed by NRS 368A.200 apply
34 to a referrer during a calendar year in which or during a calendar year
35 immediately following any calendar year in which:

36 (a) The cumulative gross receipts from retail sales of tangible personal
37 property to customers in this State and sales and resales of admission to any
38 facility in this State where live entertainment is provided, which result from
39 referrals from a platform of the referrer, are in excess of \$100,000; or

40 (b) There are 200 or more separate sales transactions involving sales of
41 tangible personal property to customers in this State and sales and resales of
42 admission to any facility in this State where live entertainment is provided
43 resulting from referrals from a platform of the referrer.

44 2. Any regulations adopted by the Department pursuant to subsection 1
45 must provide that the provisions of this chapter relating to the imposition,
46 collection and remittance of the tax imposed by NRS 368A.200 do not apply to a
47 referrer described in subsection 1 if the referrer:

48 (a) Posts a conspicuous notice on each platform of the referrer that includes
49 all of the following:

50 (I) A statement that the tax imposed by NRS 368A.200 is due on certain
51 purchases;

1 (2) A statement that the marketplace reseller from whom the person is
2 purchasing on the platform may or may not collect and remit the tax imposed by
3 NRS 368A.200 on a purchase;

4 (3) Information informing the purchaser that the notice is provided
5 under the requirements of this section; and

6 (4) Instructions for obtaining additional information from the
7 Department regarding whether and how to remit the tax imposed by NRS
8 368A.200;

9 (b) The referrer provides a monthly notice to each marketplace reseller to
10 whom the referrer made a referral of a potential customer for admission to any
11 facility in this State where live entertainment is provided during the previous
12 calendar year, which monthly notice shall contain all of the following:

13 (1) A statement that Nevada imposes the tax imposed by NRS 368A.200
14 on admission to any facility in this State where live entertainment is provided;

15 (2) A statement that a marketplace facilitator must collect and remit the
16 tax imposed by NRS 368A.200; and

17 (3) Instructions for obtaining additional information from the
18 Department regarding the collection and remittance of the tax imposed by NRS
19 368A.200; and

20 (c) The referrer provides the Department with periodic reports in an
21 electronic format and in the manner prescribed by the Department, which reports
22 contain all of the following:

23 (1) A list of marketplace resellers who received a notice from the referrer
24 pursuant to paragraph (b);

25 (2) A list of marketplace resellers that collect and remit the tax imposed
26 by NRS 368A.200 and that list or advertise the resale of admission to any facility
27 in this State where live entertainment is provided on a platform of the referrer;
28 and

29 (3) An affidavit signed under penalty of perjury from an officer of the
30 referrer affirming that the referrer made reasonable efforts to comply with the
31 applicable notice and reporting requirements of this subsection.

32 3. Any regulations adopted by the Department pursuant to subsection 1
33 must apply only to referrals by a referrer and shall not preclude the applicability
34 of other provisions of this chapter to a person who is a referrer and is also a
35 licensed gaming establishment, the owner or operator of the facility where the
36 live entertainment is provided, a reseller, a marketplace facilitator or a
37 marketplace reseller.

38 4. As used in this section:

39 (a) "Platform" means an electronic or physical medium, including, without
40 limitation, an Internet site or catalog, that is owned, operated or controlled by a
41 referrer.

42 (b) "Referral" means the transfer through telephone, Internet link or other
43 means by a referrer of a potential customer to a reseller who advertises or lists
44 admission to any facility in this State where live entertainment is provided for
45 resale on a platform of the referrer.

46 (c) "Referrer":

47 (1) Means a person who does all of the following:

48 (I) Contracts or otherwise agrees with a reseller or marketplace
49 facilitator to list or advertise for resale admission to any facility in this State
50 where live entertainment is provided on behalf of a reseller or marketplace
51 facilitator on a platform, provided such listing or advertisement identifies
52 whether or not the reseller or marketplace facilitator collects the tax imposed by
53 NRS 368A.200;

1 (II) Receives a commission, fee or other consideration from the
 2 reseller or marketplace facilitator for the listing or advertisement;

3 (III) Provides referrals to a reseller or marketplace facilitator, or an
 4 affiliate of a reseller or marketplace facilitator; and

5 (IV) Does not collect money or other consideration from the
 6 customer for the transaction.

7 (2) Does not include:

8 (I) A person primarily engaged in the business of printing or
 9 publishing a newspaper; or

10 (II) A person who does not provide the reseller's or marketplace
 11 facilitator's shipping terms and who does not advertise whether a reseller or
 12 marketplace facilitator collects the tax imposed by NRS 368A.200.

13 Sec. 3.9. 1. Nothing in sections 3.3 to 3.9, inclusive, of this act shall be
 14 construed to create any remedy or private right of action against a marketplace
 15 facilitator.

16 2. A marketplace facilitator that is required to collect taxes imposed by this
 17 chapter is immune from civil liability for claims arising from or related to the
 18 overpayment of taxes imposed by this chapter if the marketplace facilitator acted
 19 in good faith and without malicious intent.

20 3. Nothing in this section applies to or otherwise limits:

21 (a) Any claim, action, mandate, power, remedy or discretion of the
 22 Department, or an agent or designee of the Department.

23 (b) The right of a taxpayer to seek a refund pursuant to NRS 368A.250 to
 24 368A.340, inclusive.

25 Sec. 4. NRS 368A.010 is hereby amended to read as follows:

26 368A.010 As used in this chapter, unless the context otherwise requires, the
 27 words and terms defined in NRS 368A.020 to 368A.115, inclusive, ~~and sections 4~~
 28 ~~and 5~~ 1.3 to 3.3, inclusive, of this act have the meanings ascribed to them in those
 29 sections.

30 Sec. 5. NRS 368A.110 is hereby amended to read as follows:

31 368A.110 "Taxpayer" means:

32 1. Except as otherwise provided in ~~subsection~~ subsections 4, ~~and~~ 5 ~~and~~
 33 6, if live entertainment that is taxable under this chapter is provided at a licensed
 34 gaming establishment, the person licensed to conduct gaming at that establishment.

35 2. Except as otherwise provided in ~~subsections 3, and 4, and 5,~~ to 6,
 36 inclusive, if live entertainment that is taxable under this chapter is not provided at a
 37 licensed gaming establishment, the owner or operator of the facility where the live
 38 entertainment is provided.

39 3. Except as otherwise provided in ~~subsection~~ subsections 4, ~~and~~ 5 ~~and~~
 40 6, if live entertainment that is taxable under this chapter is provided at a publicly
 41 owned facility or on public land, the person who collects the taxable receipts.

42 4. If live entertainment that is taxable under this chapter is provided by an
 43 escort, the escort or, if the escort works as an employee, agent or independent
 44 contractor for an escort service, the owner or operator of the escort service.

45 ~~5. With~~ 5. Except as otherwise provided in subsection 6, with respect to any
 46 tax which is due for the resale of the admission to a facility in this State where
 47 live entertainment is provided, the reseller.

48 6. With respect to any tax imposed by this chapter which is due for the
 49 resale of the admission to a facility in this State where live entertainment is
 50 provided and which a marketplace facilitator or referrer is required to collect, the
 51 marketplace facilitator or referrer.

1 **Sec. 6.** NRS 368A.200 is hereby amended to read as follows:

2 368A.200 1. Except as otherwise provided in this section, there is hereby
3 imposed an excise tax on admission to any facility in this State where live
4 entertainment is provided and on the charge for live entertainment provided by an
5 escort at one or more locations in this State. The rate of the tax is:

6 (a) Except as otherwise provided in paragraph (b), for admission to a facility in
7 this State where live entertainment is provided, 9 percent of the admission charge to
8 the facility.

9 (b) For live entertainment provided by an escort who is escorting one or more
10 persons at a location or locations in this State, 9 percent of the total amount,
11 expressed in terms of money, of consideration paid for the live entertainment
12 provided by the escort.

13 2. Amounts paid for:

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

22 (b) Gratuities directly or indirectly remitted to persons employed at a facility
23 where live entertainment is provided are not taxable pursuant to this section.

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

30 3. The tax imposed by this section must be added to and collected from the
31 purchaser at the time of purchase, whether or not the admission for live
32 entertainment is purchased for resale.

33 4. *Except as otherwise provided in this subsection, in addition to the tax*
34 *imposed pursuant to subsection 1 with respect to the initial sale of admission to*
35 *any facility in this State where live entertainment is provided, the tax imposed*
36 *pursuant to subsection 1 shall also be collected by a reseller from the purchaser*
37 *at the time of resale of the admission to a facility in this State where live*
38 *entertainment is provided. A reseller must maintain records documenting the*
39 *admission charge and tax paid by the reseller for the initial purchase of the*
40 *admission and the admission charge and tax collected when the reseller resells*
41 *the admission. The reseller shall pass through to the purchaser the amount of the*
42 *tax imposed pursuant to this section which was paid by the reseller at the time of*
43 *the initial purchase by giving the purchaser a credit on the amount of tax owed*
44 *pursuant to this section on the resale, except that the amount of the credit may*
45 *not exceed:*

46 (a) *The amount of tax paid pursuant to this section on the initial purchase of*
47 *the admission by the reseller; or*

48 (b) *The amount of tax owed pursuant to this section on the resale of the*
49 *admission.*

50 ↪ *If the resale or admission to any facility in this State where live entertainment*
51 *is provided is an occasional sale, as defined in NRS 372.035, such a resale is*
52 *exempt from the payment of any additional amount of excise tax pursuant to this*
53 *subsection. For the purposes of this subsection, an "occasional sale" is a resale*

1 of admission to a facility in this State where live entertainment is provided by a
2 person who is not engaged in the business of reselling such admission, provided
3 that such resale is not one of a series of resales sufficient in number, scope and
4 character to constitute the activity of engaging in the business of making such
5 resales.

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

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

9 (b) Live entertainment that is governed by the Nevada Interscholastic
10 Activities Association pursuant to chapter 385B of NRS or is provided or sponsored
11 by an elementary school, junior high school, middle school or high school, if only
12 pupils or faculty provide the live entertainment.

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

16 (d) Live entertainment that is provided by or entirely for the benefit of a
17 nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-
18 exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation
19 organized or existing under the provisions of chapter 82 of NRS, only if the number
20 of tickets to the live entertainment which are offered for sale or other distribution to
21 patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or
22 other collaborator, is less than 7,500.

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

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

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

32 (h) Live entertainment that is provided at a trade show.

33 (i) Music performed by musicians who move constantly through the audience
34 if no other form of live entertainment is afforded to the patrons.

35 (j) Live entertainment that is provided at a licensed gaming establishment at
36 private meetings or dinners attended by members of a particular organization or by
37 a casual assemblage if the purpose of the event is not primarily for entertainment.

38 (k) Live entertainment that is provided in the common area of a shopping mall,
39 unless the entertainment is provided in a facility located within the mall.

40 (l) Food and product demonstrations provided at a shopping mall, a craft show
41 or an establishment that sells grocery products, housewares, hardware or other
42 supplies for the home.

43 (m) Live entertainment that is incidental to an amusement ride, a motion
44 simulator or a similar digital, electronic, mechanical or electromechanical
45 attraction. For the purposes of this paragraph, live entertainment shall be deemed to
46 be incidental to an amusement ride, a motion simulator or a similar digital,
47 electronic, mechanical or electromechanical attraction if the live entertainment is:

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

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

51 (n) A race scheduled at a race track in this State and sanctioned by the National
52 Association for Stock Car Auto Racing, if two or more such races are held at that
53 race track during the same calendar year.

1 (o) An athletic contest, event or exhibition conducted by a professional team
2 based in this State if the professional team based in this State is a participant in the
3 contest, event or exhibition.

4 (p) Live entertainment that is provided by or entirely for the benefit of a
5 governmental entity.

6 ~~[5.]~~ 6. As used in this section:

7 (a) ~~“Affiliate” has the meaning ascribed to it in NRS 462.0122.~~

8 ~~(b)~~ “Maximum occupancy” means, in the following order of priority:

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

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

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

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

21 **Sec. 7.** 1. This section becomes effective upon passage and approval.

22 2. Sections 1 to 6, inclusive, of this act become effective:

23 (a) Upon passage and approval for the purpose of adopting any regulations and
24 performing any other preparatory administrative tasks that are necessary to carry
25 out the provisions of this act; and

26 (b) On January 1, 2024, for all other purposes.