

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.

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

AN ACT relating to taxation; imposing the excise tax on certain resales of admission to live entertainment events; 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
2 of the admission charge on admission to certain facilities where live entertainment
3 is provided. (NRS 368A.200) Existing law additionally provides that such a tax
4 must be collected from the purchaser at the time of purchase, whether or not the
5 admission is purchased for resale. (NRS 368A.200) **Section 6** of this bill requires
6 the excise tax imposed on admission to live entertainment events to also be
7 imposed on each resale of admission by a reseller, other than an occasional sale.
8 **Section 6** requires a reseller to retain certain records and to provide a credit to a
9 purchaser on the amount of tax owed on the resale of an admission based on the
10 amount of tax paid by the reseller at the time of the initial purchase of the
11 admission.



12 **Section 3.3** of this bill requires a person who directly or indirectly facilitates
13 resales of admission to certain facilities where live entertainment is provided to
14 collect and remit the tax if, in the immediately preceding calendar year or the
15 current calendar year, the facilitator had more than \$100,000 of gross receipts from
16 certain transactions or made or facilitated 200 or more sales transactions, on its own
17 behalf or on behalf of a reseller, unless the facilitator enters into an agreement with
18 a reseller whereby the reseller agrees to assume responsibility for the collection and
19 imposition of the tax. **Section 3.5** of this bill provides that such a facilitator is not
20 liable for the payment of the tax under certain circumstances.

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

28 **Sections 1.3-3 and 5** of this bill define certain terms relevant to the tax on
29 admission to live entertainment events. **Section 4** of this bill makes a conforming
30 change to make 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
2 adding thereto the provisions set forth as sections 1.3 to 3.9,
3 inclusive, of this act.

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

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

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

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

21 (2) *Facilitates the resale by a marketplace reseller of*
22 *admission to any facility in this State where live entertainment is*
23 *provided, through a marketplace by transmitting or otherwise*
24 *communicating an offer or acceptance of a resale of admission to*
25 *any facility in this State where live entertainment is provided*



1 *between a marketplace reseller and a purchaser in a forum*
2 *including a shop, store, booth, catalog, Internet site or similar*
3 *forum;*

4 (3) *Owns, rents, licenses, makes available or operates any*
5 *electronic or physical infrastructure or any property, process,*
6 *method, copyright, trademark or patent that connects marketplace*
7 *resellers to purchasers for the purpose of making resales of*
8 *admission to any facility in this State where live entertainment is*
9 *provided;*

10 (4) *Provides a marketplace for making resales of admission*
11 *to any facility in this State where live entertainment is provided, or*
12 *otherwise facilitates resales of admission to any facility in this*
13 *State where live entertainment is provided, regardless of*
14 *ownership or control of the right or privilege of admission to the*
15 *facility in this State where live entertainment is provided that is the*
16 *subject of the resale;*

17 (5) *Provides software development or research and*
18 *development activities related to any activity described in this*
19 *subsection, if such software development or research and*
20 *development activities are directly related to the physical or*
21 *electronic marketplace provided by a marketplace provider;*

22 (6) *Provides or offers fulfillment or storage services for a*
23 *marketplace reseller;*

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

27 (8) *Provides or offers customer service to a marketplace*
28 *reseller or the customers of a marketplace reseller, or accepts or*
29 *assists with taking orders, returns or exchanges of admission to*
30 *any facility in this State where live entertainment is provided*
31 *which was resold by a marketplace reseller; or*

32 (9) *Brands or otherwise identifies resales as those of the*
33 *marketplace facilitator; and*

34 (b) *Directly or indirectly, does one or more of the following to*
35 *facilitate a sale:*

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

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

42 (3) *Charges, collects or otherwise receives selling fees,*
43 *listing fees, referral fees, closing fees, fees for inserting or making*
44 *available the resale of admission to any facility in this State where*
45 *live entertainment is provided on a marketplace or other*



1 *consideration from the facilitation of a resale of admission to any*
2 *facility in this State where live entertainment is provided,*
3 *regardless of ownership or control of the right or privilege of*
4 *admission to the facility in this State where live entertainment is*
5 *provided that is the subject of the resale;*

6 (4) *Through terms and conditions, agreements or*
7 *arrangements with a third party, collects payment in connection*
8 *with a resale of admission to any facility in this State where live*
9 *entertainment is provided from a purchaser and transmits that*
10 *payment to the marketplace reseller, regardless of whether the*
11 *person collecting and transmitting such payment receives*
12 *compensation or other consideration in exchange for the service;*
13 *or*

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

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

22 (a) *Transmit or otherwise communicate an offer or acceptance*
23 *of a resale of admission to any facility in this State where live*
24 *entertainment is provided between a marketplace reseller and a*
25 *purchaser; and*

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

28 **Sec. 1.7. “Marketplace reseller” means:**

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

35 2. *A reseller who makes resales of admission to any facility in*
36 *this State where live entertainment is provided, resulting from a*
37 *referral by a referrer, even if such reseller would not have been*
38 *required to collect and remit the tax imposed by this chapter had*
39 *the resale not been made through such referrer.*

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



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

4 **Sec. 3.3.** *1. Except as otherwise provided in this section and*
5 *section 3.5 of this act, the provisions of this chapter relating to the*
6 *imposition, collection and remittance of the tax imposed by NRS*
7 *368A.200 apply to a marketplace facilitator during a calendar year*
8 *in which or during a calendar year immediately following any*
9 *calendar year in which:*

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

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

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

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

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

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

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

44 *(a) The marketplace reseller for whom a marketplace*
45 *facilitator makes or facilitates a resale would not have been*



1 *required to collect and remit the tax pursuant to this chapter had*
2 *the resale not been facilitated by the marketplace facilitator;*

3 (b) *The marketplace reseller for whom a marketplace*
4 *facilitator makes or facilitates a resale was required to register*
5 *with the Department to collect and remit the tax imposed by NRS*
6 *368A.200; or*

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

10 **Sec. 3.5.** 1. *In administering the provisions of this chapter,*
11 *the Department shall not hold a marketplace facilitator liable for*
12 *the payment of any tax imposed by this chapter which is*
13 *attributable to a resale made or facilitated on behalf of a*
14 *marketplace reseller who is not an affiliate of the marketplace*
15 *facilitator if:*

16 (a) *The marketplace facilitator provides proof satisfactory to*
17 *the Department that the marketplace facilitator has made a*
18 *reasonable effort to obtain accurate information from the*
19 *marketplace reseller about the sale; and*

20 (b) *The failure to collect and remit the correct tax on the resale*
21 *was due to incorrect information provided to the marketplace*
22 *facilitator by the marketplace reseller.*

23 2. *Except as otherwise provided in subsection 3, in*
24 *administering the provisions of this chapter, the Department shall*
25 *not hold a marketplace facilitator liable for the payment of any tax*
26 *imposed by this chapter which is attributable to a resale made or*
27 *facilitated on behalf of a marketplace reseller who is not an*
28 *affiliate of the marketplace facilitator if the marketplace facilitator*
29 *provides proof satisfactory to the Department that the resale was*
30 *made before January 1, 2026.*

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

37 4. *If a marketplace facilitator is relieved of liability for the*
38 *collection and remittance of any amount of the tax imposed by*
39 *NRS 368A.200 pursuant to subsection 1, the marketplace reseller*
40 *is liable for the payment of such uncollected, unpaid or unremitted*
41 *tax.*

42 5. *To the extent that a marketplace facilitator is relieved of*
43 *liability for the collection and remittance of any tax pursuant to*
44 *subsections 2 and 3, the marketplace reseller for whom the*



1 marketplace facilitator made or facilitated the resale giving rise to
2 the tax is also relieved of such liability.

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

6 **Sec. 3.7. 1.** The Department may provide by regulation
7 that, except as otherwise provided in this section, the provisions of
8 this chapter relating to the imposition, collection and remittance of
9 the tax imposed by NRS 368A.200 apply to a referrer during a
10 calendar year in which or during a calendar year immediately
11 following any calendar year in which:

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

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

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

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

29 (1) A statement that the tax imposed by NRS 368A.200 is
30 due on certain purchases;

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

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

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

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



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

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

6 (3) *Instructions for obtaining additional information from*
7 *the Department regarding the collection and remittance of the tax*
8 *imposed by NRS 368A.200; and*

9 (c) *The referrer provides the Department with periodic reports*
10 *in an electronic format and in the manner prescribed by the*
11 *Department, which reports contain all of the following:*

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

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

18 (3) *An affidavit signed under penalty of perjury from an*
19 *officer of the referrer affirming that the referrer made reasonable*
20 *efforts to comply with the applicable notice and reporting*
21 *requirements of this subsection.*

22 3. *Any regulations adopted by the Department pursuant to*
23 *subsection 1 must apply only to referrals by a referrer and shall*
24 *not preclude the applicability of other provisions of this chapter to*
25 *a person who is a referrer and is also a licensed gaming*
26 *establishment, the owner or operator of the facility where the live*
27 *entertainment is provided, a reseller, a marketplace facilitator or a*
28 *marketplace reseller.*

29 4. *As used in this section:*

30 (a) *“Platform” means an electronic or physical medium,*
31 *including, without limitation, an Internet site or catalog, that is*
32 *owned, operated or controlled by a referrer.*

33 (b) *“Referral” means the transfer through telephone, Internet*
34 *link or other means by a referrer of a potential customer to a*
35 *reseller who advertises or lists admission to any facility in this*
36 *State where live entertainment is provided for resale on a platform*
37 *of the referrer.*

38 (c) *“Referrer”:*

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

40 (I) *Contracts or otherwise agrees with a reseller or*
41 *marketplace facilitator to list or advertise for resale admission to*
42 *any facility in this State where live entertainment is provided on*
43 *behalf of a reseller or marketplace facilitator on a platform,*
44 *provided such listing or advertisement identifies whether or not*



1 *the reseller or marketplace facilitator collects the tax imposed by*
2 *NRS 368A.200;*

3 *(II) Receives a commission, fee or other consideration*
4 *from the reseller or marketplace facilitator for the listing or*
5 *advertisement;*

6 *(III) Provides referrals to a reseller or marketplace*
7 *facilitator, or an affiliate of a reseller or marketplace facilitator;*
8 *and*

9 *(IV) Does not collect money or other consideration from*
10 *the customer for the transaction.*

11 *(2) Does not include:*

12 *(I) A person primarily engaged in the business of*
13 *printing or publishing a newspaper; or*

14 *(II) A person who does not provide the reseller's or*
15 *marketplace facilitator's shipping terms and who does not*
16 *advertise whether a reseller or marketplace facilitator collects the*
17 *tax imposed by NRS 368A.200.*

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

21 *2. A marketplace facilitator that is required to collect taxes*
22 *imposed by this chapter is immune from civil liability for claims*
23 *arising from or related to the overpayment of taxes imposed by this*
24 *chapter if the marketplace facilitator acted in good faith and*
25 *without malicious intent.*

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

27 *(a) Any claim, action, mandate, power, remedy or discretion of*
28 *the Department, or an agent or designee of the Department.*

29 *(b) The right of a taxpayer to seek a refund pursuant to NRS*
30 *368A.250 to 368A.340, inclusive.*

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

32 368A.010 As used in this chapter, unless the context otherwise
33 requires, the words and terms defined in NRS 368A.020 to
34 368A.115, inclusive, *and sections 1.3 to 3.3, inclusive, of this act*
35 *have the meanings ascribed to them in those sections.*

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

37 368A.110 "Taxpayer" means:

38 1. Except as otherwise provided in **[subsection]** *subsections 4,*
39 *5 and 6,* if live entertainment that is taxable under this chapter is
40 provided at a licensed gaming establishment, the person licensed to
41 conduct gaming at that establishment.

42 2. Except as otherwise provided in subsections 3 **[, and 4,]** *to 6,*
43 *inclusive,* if live entertainment that is taxable under this chapter is
44 not provided at a licensed gaming establishment, the owner or
45 operator of the facility where the live entertainment is provided.



1 3. Except as otherwise provided in ~~[subsection]~~ *subsections* 4,
2 *5 and 6*, if live entertainment that is taxable under this chapter is
3 provided at a publicly owned facility or on public land, the person
4 who collects the taxable receipts.

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

9 *5. Except as otherwise provided in subsection 6, with respect*
10 *to any tax which is due for the resale of the admission to a facility*
11 *in this State where live entertainment is provided, the reseller.*

12 *6. With respect to any tax imposed by this chapter which is*
13 *due for the resale of the admission to a facility in this State where*
14 *live entertainment is provided and which a marketplace facilitator*
15 *or referrer is required to collect, the marketplace facilitator or*
16 *referrer.*

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

18 368A.200 1. Except as otherwise provided in this section,
19 there is hereby imposed an excise tax on admission to any facility in
20 this State where live entertainment is provided and on the charge for
21 live entertainment provided by an escort at one or more locations in
22 this State. The rate of the tax is:

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

26 (b) For live entertainment provided by an escort who is
27 escorting one or more persons at a location or locations in this State,
28 9 percent of the total amount, expressed in terms of money, of
29 consideration paid for the live entertainment provided by the escort.

30 2. Amounts paid for:

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

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

43 (c) Fees imposed, collected and retained by an independent
44 financial institution in connection with the use of credit cards or
45 debit cards to pay the admission charge to a facility where live



1 entertainment is provided are not taxable pursuant to this section. As
2 used in this paragraph, "independent financial institution" means a
3 financial institution that is not the taxpayer or an owner or operator
4 of the facility where the live entertainment is provided or an affiliate
5 of any of those persons.

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

9 4. *Except as otherwise provided in this subsection, in addition*
10 *to the tax imposed pursuant to subsection 1 with respect to the*
11 *initial sale of admission to any facility in this State where live*
12 *entertainment is provided, the tax imposed pursuant to subsection*
13 *1 shall also be collected by a reseller from the purchaser at the*
14 *time of resale of the admission to a facility in this State where live*
15 *entertainment is provided. A reseller must maintain records*
16 *documenting the admission charge and tax paid by the reseller for*
17 *the initial purchase of the admission and the admission charge*
18 *and tax collected when the reseller resells the admission. The*
19 *reseller shall pass through to the purchaser the amount of the tax*
20 *imposed pursuant to this section which was paid by the reseller at*
21 *the time of the initial purchase by giving the purchaser a credit on*
22 *the amount of tax owed pursuant to this section on the resale,*
23 *except that the amount of the credit may not exceed:*

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

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

28 *↳ If the resale or admission to any facility in this State where live*
29 *entertainment is provided is an occasional sale, as defined in NRS*
30 *372.035, such a resale is exempt from the payment of any*
31 *additional amount of excise tax pursuant to this subsection. For*
32 *the purposes of this subsection, an "occasional sale" is a resale of*
33 *admission to a facility in this State where live entertainment is*
34 *provided by a person who is not engaged in the business of*
35 *reselling such admission, provided that such resale is not one of a*
36 *series of resales sufficient in number, scope and character to*
37 *constitute the activity of engaging in the business of making such*
38 *resales.*

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

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

43 (b) Live entertainment that is governed by the Nevada
44 Interscholastic Activities Association pursuant to chapter 385B of
45 NRS or is provided or sponsored by an elementary school, junior



1 high school, middle school or high school, if only pupils or faculty
2 provide the live entertainment.

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

7 (d) Live entertainment that is provided by or entirely for the
8 benefit of a nonprofit religious, charitable, fraternal or other
9 organization that qualifies as a tax-exempt organization pursuant to
10 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing
11 under the provisions of chapter 82 of NRS, only if the number of
12 tickets to the live entertainment which are offered for sale or other
13 distribution to patrons, either directly or indirectly through a partner,
14 subsidiary, client, affiliate or other collaborator, is less than 7,500.

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

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

20 (g) Live entertainment that is provided at a licensed gaming
21 establishment that is licensed for less than 51 slot machines, less
22 than 6 games, or any combination of slot machines and games
23 within those respective limits, if the facility in which the live
24 entertainment is provided has a maximum occupancy of less than
25 200 persons.

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

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

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

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

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

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



1 (1) Not the predominant element of the attraction; and
2 (2) Not the primary purpose for which the public rides,
3 attends or otherwise participates in the attraction.

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

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

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

13 ~~5.~~ 6. As used in this section:

14 (a) ~~“Affiliate” has the meaning ascribed to it in NRS 463.0133.~~
15 ~~—(b)~~ “Maximum occupancy” means, in the following order of
16 priority:

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

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

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

27 ~~(e)~~ (b) “Operator” includes, without limitation, a person who
28 operates a facility where live entertainment is provided or who
29 presents, produces or otherwise provides live entertainment.

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

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

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

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

