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Senate Committee on Revenue and Economic Development  
This measure may be considered for action during today's work session.  
April 13, 2023

**Senate Bill 444**

**Revises provisions relating to the excise tax on live entertainment. (BDR 32-602)**

**Sponsored by: Senate Committee on Revenue and Economic Development**

**Date Heard: April 6, 2023**

**Fiscal Impact: Effect on Local Government: No.  
Effect on the State: Yes.**

**Summary**

Senate Bill 444 expands the excise tax that applies to the admission price of certain live entertainment events to also include the resale of admission to live entertainment by a reseller, other than an occasional sale. Senate Bill 444 also eliminates the exemption from the live entertainment tax granted under current law to an athletic contest, event or exhibition conducted by a professional team based in this State if such a team is a participant in the contest, event or exhibition.

**Amendments**

At the hearing, Senator Neal submitted Proposed Amendment 3567 to Senate Bill 444, which is attached to this document. This amendment makes the following changes to the bill:

- The live entertainment tax rate is reduced from 9 percent under current law to 7.87 percent; and
- The tax would be required to be collected and remitted by persons who directly or indirectly facilitate sales of admission, under certain circumstances.

After the hearing, Senator Neal requested amendments to Proposed Amendment 3567, as follows:

- The tax rate is restored to 9 percent; and
- The exemption from the live entertainment tax granted to an athletic contest, event or exhibition conducted by a professional team based in this State if such a team is a participant in the contest, event or exhibition, is restored.

**Special Note**

Senate Bill 444 was determined to be eligible for exemption by the Fiscal Analysis Division on March 30, 2023.

EXHIBIT J Senate Committee on Revenue and Economic Development	
Date: 4-13-2023	Total pages: 13
Exhibit begins with: J1	thru: J13

## MOCK-UP

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# PROPOSED AMENDMENT 3567 TO SENATE BILL NO. 444

*PREPARED FOR NEAL  
APRIL 5, 2023*

PREPARED BY THE LEGAL DIVISION

**NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.**

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.

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### Legislative Counsel's Digest:

Existing law provides for the imposition of an excise tax at a rate of 9 percent of the admission charge on admission to certain facilities where live entertainment is provided. (NRS 368A.200) Existing law additionally provides that such a tax must be collected from the purchaser at the time of purchase, whether or not the admission is purchased for resale. Existing law exempts from this tax an athletic contest, event or exhibition conducted by a professional team based in this State if such a team is a participant in the contest, event or exhibition. (NRS 368A.200) **Section 6** of this bill eliminates the exemption from the tax of such an athletic event. **Section 6 reduces the rate of the excise tax to 7.87 percent of the admission charge on admission to certain facilities where live entertainment is provided. Section 6 also reduces the rate of the excise tax on live entertainment provided by an escort who is escorting one or more persons at a location or locations in this State to 7.87 percent.** **Section 6** requires the excise tax imposed on admission to live entertainment events to also be imposed on each resale of admission by a reseller, other than an occasional sale. **Section 6** requires a reseller to retain certain records and to provide a credit to a purchaser on the amount of tax owed on the resale of an admission based on the amount of tax paid by the reseller at the time of the initial purchase of the admission.

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

1 Section 3.7 of this bill requires certain persons who receive a fee in exchange for  
2 listing or advertising admission to certain facilities where live entertainment is  
3 provided for a seller but do not collect money or other consideration from a customer  
4 to impose, collect and remit the tax if 200 or more sales result from referrals made by  
5 the person or the cumulative gross receipts of sales resulting from such referrals  
6 exceed \$100,000, unless the person complies with certain notice requirements and  
7 makes a monthly report to the Department of Taxation.

8 Sections ~~2, 3 and 5~~ 1.3-3.1 of this bill define certain terms relevant to ~~resellers,~~ the  
9 tax on admission to live entertainment events. Section 4 of this bill makes a conforming  
10 change to indicate the proper placement of sections ~~2 and 3~~ 1.3-3.1 in the Nevada Revised  
11 Statutes.

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

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

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

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

25 *(a) Directly or indirectly, does one or more of the following to*  
26 *facilitate the sale of admission to any facility in this State where live*  
27 *entertainment is provided:*

28 *(1) Lists, makes available or advertises admission to any facility in*  
29 *this State where live entertainment is provided for sale by a marketplace*  
30 *seller in a marketplace owned, operated or controlled by the person;*

31 *(2) Facilitates the sale of admission to any facility in this State*  
32 *where live entertainment is provided by a marketplace seller through a*  
33 *marketplace by transmitting or otherwise communicating an offer or*  
34 *acceptance of a sale of admission to any facility in this State where live*  
35 *entertainment is provided between a marketplace seller and a purchaser*  
36 *in a forum including a shop, store, booth, catalog, Internet site or similar*  
37 *forum;*

38 *(3) Owns, rents, licenses, makes available or operates any*  
39 *electronic or physical infrastructure or any property, process, method,*  
40 *copyright, trademark or patent that connects marketplace sellers to*

1 purchasers for the purpose of making sales of admission to any facility  
2 in this State where live entertainment is provided;

3 (4) Provides a marketplace for making sales of admission to any  
4 facility in this State where live entertainment is provided, or otherwise  
5 facilitates sales of admission to any facility in this State where live  
6 entertainment is provided, regardless of ownership or control of the right  
7 or privilege of admission to any facility in this State where live  
8 entertainment is provided that is the subject of the sale;

9 (5) Provides software development or research and development  
10 activities related to any activity described in this subsection, if such  
11 software development or research and development activities are directly  
12 related to the physical or electronic marketplace provided by a  
13 marketplace provider;

14 (6) Provides or offers fulfillment or storage services for a  
15 marketplace seller;

16 (7) Sets prices for the sale by a marketplace seller of admission to  
17 any facility in this State where live entertainment is provided;

18 (8) Provides or offers customer service to a marketplace seller or  
19 the customers of a marketplace seller, or accepts or assists with taking  
20 orders, returns or exchanges of admission to any facility in this State  
21 where live entertainment is provided which was sold by a marketplace  
22 seller; or

23 (9) Brands or otherwise identifies sales as those of the  
24 marketplace facilitator; and

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

27 (1) Collects the sales price or purchase price of a sale of  
28 admission to any facility in this State where live entertainment is  
29 provided;

30 (2) Provides payment processing services for a sale of admission  
31 to any facility in this State where live entertainment is provided;

32 (3) Charges, collects or otherwise receives selling fees, listing fees,  
33 referral fees, closing fees, fees for inserting or making available  
34 admission to any facility in this State where live entertainment is  
35 provided on a marketplace or other consideration from the facilitation of  
36 a sale of admission to any facility in this State where live entertainment  
37 is provided, regardless of ownership or control of the right or privilege of  
38 admission to any facility in this State where live entertainment is  
39 provided that is the subject of the sale;

40 (4) Through terms and conditions, agreements or arrangements  
41 with a third party, collects payment in connection with a sale of  
42 admission to any facility in this State where live entertainment is  
43 provided from a purchaser and transmits that payment to the  
44 marketplace seller, regardless of whether the person collecting and

1 transmitting such payment receives compensation or other consideration  
2 in exchange for the service; or

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

6 2. The term does not include a person who provides Internet  
7 advertising services, including, without limitation, the listing of products  
8 for sale, if the person does not directly or indirectly or through an  
9 affiliate:

10 (a) Transmit or otherwise communicate an offer or acceptance of a  
11 sale of admission to any facility in this State where live entertainment is  
12 provided between a marketplace seller and a purchaser; and

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

15 Sec. 1.7. "Marketplace seller" means:

16 1. A seller who makes sales through any physical or electronic  
17 marketplace owned, operated or controlled by a marketplace facilitator,  
18 even if such seller would not have been required to collect and remit the  
19 tax imposed by this chapter had the sale not been made through such  
20 marketplace; or

21 2. A seller who makes sales resulting from a referral by a referrer,  
22 even if such seller would not have been required to collect and remit the  
23 tax imposed by this chapter had the sale not been made through such  
24 referrer.

25 Sec. 2. "Resale" or "resell" means a transaction for the sale of the  
26 admission to a facility in this State where live entertainment is provided  
27 which occurs after the initial purchase of the admission. The term  
28 includes, without limitation, a sale made in person or by telephone,  
29 Internet website or any other means of communication or exchange.

30 Sec. 3. "Reseller" means any person who resells the admission to a  
31 facility in this State where live entertainment is provided.

32 Sec. 3.1. "Seller" means any person who sells admission to a  
33 facility in this State where live entertainment is provided, including,  
34 without limitation, a reseller.

35 Sec. 3.3. 1. Except as otherwise provided in this section and  
36 section 3.5 of this act, the provisions of this chapter relating to the  
37 imposition, collection and remittance of the tax imposed by NRS  
38 368A.200 apply to a marketplace facilitator during a calendar year in  
39 which or during a calendar year immediately following any calendar  
40 year in which:

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



1 (b) The marketplace facilitator makes or facilitates 200 or more  
2 separate sales transactions of tangible personal property to customers in  
3 this State or admission to any facility in this State where live  
4 entertainment is provided on his or her own behalf or for one or more  
5 marketplace sellers.

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

9 (a) The marketplace facilitator and the marketplace seller have  
10 entered into a written agreement whereby the marketplace seller assumes  
11 responsibility for the collection and remittance of the tax imposed by  
12 NRS 368A.200 for sales made by the marketplace seller through the  
13 marketplace facilitator; and

14 (b) The marketplace seller has obtained a permit pursuant to NRS  
15 360.5971 or is registered pursuant to NRS 360B.200.

16 ↪ Upon request of the Department, a marketplace facilitator shall  
17 provide to the Department a report containing the name of each  
18 marketplace seller with whom the marketplace facilitator has entered  
19 into an agreement pursuant to this subsection and such other  
20 information as the Department determines is necessary to ensure that  
21 each marketplace seller with whom the marketplace facilitator has  
22 entered into an agreement pursuant to this subsection has obtained a  
23 permit pursuant to NRS 360.5971 or registered pursuant to NRS  
24 360B.200.

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

27 (a) The marketplace seller for whom a marketplace facilitator makes  
28 or facilitates a sale would not have been required to collect and remit the  
29 tax pursuant to this chapter had the sale not been facilitated by the  
30 marketplace facilitator;

31 (b) The marketplace seller for whom a marketplace facilitator makes  
32 or facilitates a sale was required to register with the Department  
33 pursuant to NRS 360B.200 or obtain a permit pursuant to NRS  
34 360.5971; or

35 (c) The amount of the sales price of a sale will ultimately accrue to or  
36 benefit the marketplace facilitator, the marketplace seller or any other  
37 person.

38 Sec. 3.5. 1. In administering the provisions of this chapter, the  
39 Department shall not hold a marketplace facilitator liable for the  
40 payment of any tax imposed by this chapter which is attributable to a sale  
41 made or facilitated on behalf of a marketplace seller who is not an  
42 affiliate of the marketplace facilitator if:

43 (a) The marketplace facilitator provides proof satisfactory to the  
44 Department that the marketplace facilitator has made a reasonable effort

1 to obtain accurate information from the marketplace seller about the  
2 sale; and

3 (b) The failure to collect and remit the correct tax on the sale was  
4 due to incorrect information provided to the marketplace facilitator by  
5 the marketplace seller.

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

13 3. The relief from liability provided pursuant to subsection 2 for the  
14 2024 and 2025 calendar years, respectively, must not exceed 5 percent of  
15 the total tax imposed by NRS 368A.200 owed for the calendar year on the  
16 taxable receipts of the marketplace facilitator from sales made or  
17 facilitated by the marketplace facilitator for one or more marketplace  
18 sellors.

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

23 5. To the extent that a marketplace facilitator is relieved of liability  
24 for the collection and remittance of any tax pursuant to subsections 2  
25 and 3, the marketplace seller for whom the marketplace facilitator made  
26 or facilitated the sale giving rise to the tax is also relieved of such  
27 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  
30 imposed by this chapter.

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

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

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

1 2. Any regulations adopted by the Department pursuant to  
2 subsection 1 must provide that the provisions of this chapter relating to  
3 the imposition, collection and remittance of the tax imposed by NRS  
4 368A.200 do not apply to a referrer described in subsection 1 if the  
5 referrer:

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

8 (1) A statement that tax imposed by NRS 368A.200 is due on  
9 certain purchases;

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

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

15 (5) Instructions for obtaining additional information from the  
16 Department regarding whether and how to remit the tax imposed by NRS  
17 368A.200;

18 (b) The referrer provides a monthly notice to each marketplace seller  
19 to whom the referrer made a referral of a potential customer for  
20 admission to any facility in this State where live entertainment is  
21 provided during the previous calendar year, which monthly notice shall  
22 contain all of the following:

23 (1) A statement that Nevada imposes the tax imposed by NRS  
24 368A.200 on admission to any facility in this State where live  
25 entertainment is provided;

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

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

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

34 (1) A list of marketplace sellers who received a notice from the  
35 referrer pursuant to paragraph (b);

36 (2) A list of marketplace sellers that collect and remit the tax  
37 imposed by NRS 368A.200 and that list or advertise the sale of admission  
38 to any facility in this State where live entertainment is provided on a  
39 platform of the referrer; and

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

43 3. Any regulations adopted by the Department pursuant to  
44 subsection 1 must apply only to referrals by a referrer and shall not  
45 preclude the applicability of other provisions of this chapter to a person



1 who is a referrer and is also a licensed gaming establishment, the owner  
2 or operator of the facility where the live entertainment is provided, a  
3 reseller, a marketplace facilitator or a marketplace seller.

4 5. As used in this section:

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

8 (b) "Referral" means the transfer through telephone, Internet link or  
9 other means by a referrer of a potential customer to a seller who  
10 advertises or lists admission to any facility in this State where live  
11 entertainment is provided for sale on a platform of the referrer.

12 (c) "Referrer":

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

14 (I) Contracts or otherwise agrees with a seller or marketplace  
15 facilitator to list or advertise for sale admission to any facility in this  
16 State where live entertainment is provided on behalf of a seller or  
17 marketplace facilitator on a platform, provided such listing or  
18 advertisement identifies whether or not the seller or marketplace  
19 facilitator collects the tax imposed by NRS 368A.200;

20 (II) Receives a commission, fee or other consideration from  
21 the seller or marketplace facilitator for the listing or advertisement;

22 (III) Provides referrals to a seller or marketplace facilitator, or  
23 an affiliate of a seller or marketplace facilitator; and

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

26 (2) Does not include:

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

29 (II) A person who does not provide the seller's or marketplace  
30 facilitator's shipping terms and who does not advertise whether a seller  
31 or marketplace facilitator collects the tax imposed by NRS 368A.200.

32 Sec. 3.9. 1. Nothing in sections 3.1 to 3.9, inclusive, of this act  
33 shall be construed to create any remedy or private right of action against  
34 a marketplace facilitator.

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

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

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

42 (b) The right of a taxpayer to seek a refund pursuant to NRS  
43 368A.250 to 368A.340, inclusive.

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

2 368A.010 As used in this chapter, unless the context otherwise  
3 requires, the words and terms defined in NRS 368A.020 to 368A.115,  
4 inclusive, *and sections ~~2 and 3~~ 1.3 to 3.1, inclusive, of this act* have the  
5 meanings ascribed to them in those sections.

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

7 368A.110 "Taxpayer" means:

8 1. Except as otherwise provided in ~~{subsection}~~ *subsections* 4 ~~1, and~~  
9 ~~5~~ and 6 if live entertainment that is taxable under this chapter is provided  
10 at a licensed gaming establishment, the person licensed to conduct gaming  
11 at that establishment.

12 2. Except as otherwise provided in subsections 3 ~~1, and 4, and 5,~~ to  
13 6, inclusive, if live entertainment that is taxable under this chapter is not  
14 provided at a licensed gaming establishment, the owner or operator of the  
15 facility where the live entertainment is provided.

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

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

24 *5. With respect to any tax which is due for the resale of the*  
25 *admission to a facility in this State where live entertainment is provided,*  
26 *the reseller.*

27 6. With respect to any tax imposed by this chapter which a  
28 marketplace facilitator or referrer is required to collect, the marketplace  
29 facilitator or referrer.

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

31 368A.200 1. Except as otherwise provided in this section, there is  
32 hereby imposed an excise tax on admission to any facility in this State  
33 where live entertainment is provided and on the charge for live  
34 entertainment provided by an escort at one or more locations in this State.  
35 The rate of the tax is:

36 (a) Except as otherwise provided in paragraph (b), for admission to a  
37 facility in this State where live entertainment is provided, ~~19~~ 7.87 percent  
38 of the admission charge to the facility.

39 (b) For live entertainment provided by an escort who is escorting one  
40 or more persons at a location or locations in this State, ~~19~~ 7.87 percent of  
41 the total amount, expressed in terms of money, of consideration paid for  
42 the live entertainment provided by the escort.

43 2. Amounts paid for:

44 (a) Admission charges collected and retained by a nonprofit religious,  
45 charitable, fraternal or other organization that qualifies as a tax-exempt

1 organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation  
2 organized or existing under the provisions of chapter 82 of NRS, are not  
3 taxable pursuant to this section, only if the number of tickets to the live  
4 entertainment which are offered for sale or other distribution to patrons,  
5 either directly or indirectly through a partner, subsidiary, client, affiliate or  
6 other collaborator, is less than 7,500.

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

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

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

20 4. *Except as otherwise provided in this subsection, in addition to the*  
21 *tax imposed pursuant to subsection 1 with respect to the initial sale of*  
22 *admission to any facility in this State where live entertainment is*  
23 *provided, the tax imposed pursuant to subsection 1 shall also be collected*  
24 *by a reseller from the purchaser at the time of resale of the admission to*  
25 *a facility in this State where live entertainment is provided. A reseller*  
26 *must maintain records documenting the admission charge and tax paid*  
27 *by the reseller for the initial purchase of the admission and the*  
28 *admission charge and tax collected when the reseller resells the*  
29 *admission. The reseller shall pass through to the purchaser the amount*  
30 *of the tax imposed pursuant to this section which was paid by the reseller*  
31 *at the time of the initial purchase by giving the purchaser a credit on the*  
32 *amount of tax owed pursuant to this section on the resale, except that the*  
33 *amount of the credit may not exceed:*

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

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

38 ↪ *If the resale or admission to any facility in this State where live*  
39 *entertainment is provided is an occasional sale, as defined in NRS*  
40 *372.035, such a resale is exempt from the payment of any additional*  
41 *amount of excise tax pursuant to this subsection.*

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

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

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

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

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

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

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

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

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

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

30 (j) Live entertainment that is provided at a licensed gaming  
31 establishment at private meetings or dinners attended by members of a  
32 particular organization or by a casual assemblage if the purpose of the  
33 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 located  
36 within the mall.

37 (l) Food and product demonstrations provided at a shopping mall, a  
38 craft show or an establishment that sells grocery products, housewares,  
39 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 ride, a  
44 motion simulator or a similar digital, electronic, mechanical or  
45 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, attends or  
3 otherwise participates in the attraction.

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

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

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

12 ~~5.~~ 6. As used in this section:

13 (a) ~~["Affiliate" has the meaning ascribed to it in NRS 463.0133.~~

14 ~~(b)~~ "Maximum occupancy" means, in the following order of priority:

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

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

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

25 ~~(c)~~ (b) "Operator" includes, without limitation, a person who  
26 operates a facility where live entertainment is provided or who presents,  
27 produces or otherwise provides live entertainment.

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

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

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

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