

Audit Highlights



Highlights of Legislative Auditor report on the Alcoholic Beverage Awareness Program Fines issued on April 13, 2010. Report # LA10-14.

Background

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

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

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

Purpose of Audit

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

Audit Recommendations

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

Status of Recommendations

The Department's 60-day plan for corrective action is due on July 8, 2010. In addition, the six-month report on the status of audit recommendations is due on January 10, 2011.

Alcoholic Beverage Awareness Program Fines

Department of Taxation

Results in Brief

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

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

Principal Findings

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

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

Except for distributing the Notice of Civil Infraction form in October 2009, the Department did not contact officials concerning the lack of enforcement efforts. The Department can increase the likelihood officers will properly enforce the statute by monitoring agencies' violation reporting activity.

Six of ten law enforcement agencies we surveyed reported they were not aware a form for reporting violations existed. After AB 432 became effective October 1, 2009, the Department developed an infraction form and mailed it to the head of each law enforcement agency in Clark and Washoe Counties. However, based upon law enforcement officials' responses to our survey, some agencies may not have informed officers the forms were available for citing violations of NRS 369.630.

The Department could broaden its enforcement activities by authorizing certain local officials to enforce the statute. For example, business license and health department officials could check for valid alcohol education cards when they have contact with employees of liquor establishments. Effective October 1, 2009, AB 432 gave the Department authority to appoint other officials to enforce the statute. With thousands of liquor licensees in wide geographic areas in the two counties, the Department has severe limitations with its own enforcement capabilities.

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