



KENNY C. GUINN  
*Governor*

STATE OF NEVADA  
**GAMING CONTROL BOARD**

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**TO: ALL NONRESTRICTED LICENSEES AND INTERESTED PERSONS**

**SUBJECT: CHANGES TO THE LIVE ENTERTAINMENT TAX DURING 2005 LEGISLATIVE SESSION**

On June 17, 2005, Governor Guinn signed two bills that affect the Live Entertainment Tax. The first of these bills is Assembly Bill 554 which was adopted by the Legislature on June 7, 2005. The second is Senate Bill 3 adopted during the 22<sup>nd</sup> Special Session. The changes to the existing LET law, which are all effective on July 1, 2005, are summarized in the attachment. Copies of the two bills may be obtained from the Nevada Legislature's website at <http://www.leg.state.nv.us>.

Questions about the revised LET should be directed to Chief Deputy Auditor Lynda Hartzell via email at [lhartzell@gcb.nv.gov](mailto:lhartzell@gcb.nv.gov) or at (702) 486-2060. Group II licensees should direct questions to Tax and License Division Chief Steve Hixon at [shixon@gcb.nv.gov](mailto:shixon@gcb.nv.gov) or at (775) 684-7770.

Sincerely,

Dennis K. Neilander  
Chairman

DKN/LLH

Attachment

cc: Bobby L. Siller, Board Member  
Mark A. Clayton, Board Member  
Audit Division  
Tax and License Division  
Records and Research Services

<u>Section/Description</u>	<u>Source (Bill #)</u>	<u>Effect on Taxation or Procedure</u>
Add the definition of “casual assemblage.”	AB554 Section 3	No effect. This definition mirrors what is presently in NAC 368A.
Add the definition of “shopping mall.”	AB554 Section 4	No effect. This definition mirrors what is presently in NAC368A.
Add the definition of “trade show.”	AB554 Section 5	No effect. This definition mirrors what is presently in NAC 368A.
NRS 368A.020, expanded definition of “admission charge.”	AB554 Section 7	No effect. This definition now includes the language existing in NRS 368A.020 and also the language from NAC 368A.
NRS 368A.060, expanded “facility” definition.	AB554 Section 8	No effect. This definition now includes the language existing in NRS 368A.060 and also the language from NAC 368A.
NRS 368A.090, expanded definition of “live entertainment.”	AB554 Section 9	<p>The definitions now incorporated into NRS 368A.200 were derived primarily from the NAC. There are no new definitions of what <u>is</u> live entertainment.</p> <p>There is a new exclusion for incidental activities, including, without limitation, dancing, where all of the following tests are met:</p> <ol style="list-style-type: none"> <li>1. Activity is occasional;</li> <li>2. Activity does not constitute a performance;</li> <li>3. Activity is not advertised as entertainment to the public;</li> <li>4. Activity serves primarily to provide ambience to the facility; <u>and</u></li> <li>5. Activity is conducted by an employee whose primary job function is not that of an entertainer.</li> </ol>

<u>Section/Description</u>	<u>Source (Bill #)</u>	<u>Effect on Taxation or Procedure</u>
<p>NRS 368A.140, Nevada Gaming Commission (NGC), rather than the Gaming Control Board (GCB), is to adopt regulations concerning the Live Entertainment Tax.</p> <p>NRS 368A.160, NGC rather than GCB is to adopt regulations pertaining to recordkeeping.</p>	<p>SB3 (22<sup>nd</sup> Special) Sections 36 and 37</p>	<p>This affects the procedure to be used when NAC 368A requires amendment. There is no effect on taxation.</p>
<p>NRS 368A.200, expanded exclusion for non-profits.</p>	<p>AB554 Section 10 and SB3 (22<sup>nd</sup> Special) Section 38</p>	<p>Non-profits are now defined both by their IRS ruling and the statutory definition.</p> <p>Furthermore, SB3 specifies that proceeds from ticket sales by nonprofits retained by the nonprofit are not subject to the tax. This is consistent with the Board's general policy to tax only the receipts collected by the operator of the entertainment, and therefore does not alter the current taxation.</p>
<p>NRS 368A.200, changed exemption for maximum seating capacity from 300 to 200.</p>	<p>AB554 Section 10</p>	<p>Now only those venues that have a seating capacity of less than 200 are exempt from the live entertainment tax. Note that this exemption applies only to those gaming licensees who have fewer than 51 slot machines <u>and</u> fewer than 6 table games.</p>
<p>NRS 368A.200, specific exemption for live entertainment incidental to a motion simulator ride or similar.</p>	<p>AB554 Section 10</p>	<p>Live entertainment offered in conjunction with motion simulator rides will no longer be subject to the tax if the live entertainment is deemed incidental to the attraction.</p>

<u>Section/Description</u>	<u>Source (Bill #)</u>	<u>Effect on Taxation or Procedure</u>
NRS 368A.200, specific exemption for entertainment that is provided to the public in an outdoor area when no admission charge is collected, and the purchase of food, refreshment or merchandise is not required.	AB554 Section 10	Some outdoor entertainment will no longer be subject to the tax, as indicated in the description column.
NRS 368A.200, specific exemption for outdoor concerts not on the premises of a licensed gaming establishment.	AB554 Section 10	No change for gaming licensees.
NRS 368A.200, specific exemption for NASCAR Nextel Cup Series race events held on or after July 1, 2007.	AB554 Section 10	No known effect on gaming licensees.
NRS 368A.200, specific exemption for "incidental" entertainment occurring within a restaurant, provided no admission charge applies. Commission may adopt regulations to provide a mechanism for licensees to obtain a ruling on the applicability of this exemption and to appeal unfavorable rulings to the Commission.	AB554 Section 10	May exempt some forms of <u>restaurant</u> entertainment presently taxed provided the licensee obtains the necessary ruling.
NRS 368A.200, specific exemption for food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.	SB3(22 <sup>nd</sup> Special) Section 38	No known effect on any gaming licensees.

Revised LET Statutes  
Industry Letter Attachment  
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<u>Section/Description</u>	<u>Source (Bill #)</u>	<u>Effect on Taxation or Procedure</u>
NRS 368A.220, specific authorization for use of accrual reporting of ticket sales.	AB554 Section 11	This mirrors the practice permitted by the Minimum Internal Control Standards.
NRS 368A.210 is repealed. This section currently requires LET taxpayers to maintain a separate bank account for the taxes.	AB554 Section 36	Licensees are no longer required to maintain separate bank accounts for LET.