

As Prepared Comments Regarding Proposed Amendments to NAC 369.055 accordingly in support of the changes instituted by AB404 of the 83rd session.

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I am Virginia Valentine on behalf of the Nevada Resort Association. We represent 72 resort hotels across the state. We appreciate the opportunity to speak on the draft regulation and express our concerns.

While AB404 was intended to support Nevada's craft brewery industry, a late amendment imposed unprecedented and unnecessary state mandates on transactions between liquor retailers and liquor wholesalers. Specifically, it requires payments to be made exclusively by electronic funds transfer (EFT) or by credit card. It places all fees on retailers... and... grants wholesalers the authority to **directly** withdraw funds from the liquor retailers' bank accounts within 30 days.

These provisions override the ability of private businesses to negotiate their own terms, remove flexibility and impose extraordinary state involvement in what have traditionally been free-market arrangements. Importantly, in conversations with the bill sponsor, it is clear this was not his intent, and he has expressed support for swift corrective action.

The legislation is setting a dangerous precedence by inserting itself into the relationship between the liquor wholesaler and the liquor retailer to dictate payment terms between private buyers and sellers. AB404 prevents retailers from negotiating terms of payment with the wholesaler by mandating EFT withdrawal from a private party's accounts. This takes away the retailer's choice of both the method and the timing of payment while also leaving little recourse for the liquor retailer to address issues.

Further, it is unnecessary as wholesalers already have the ability to stop selling to retailers who do not make timely payments. We are unaware of any other circumstance, other than those that are court ordered, in which such payments can be taken without permission from a private party's accounts by another private party.

Given that the Department of Taxation cannot intervene in payment disputes because it has not been given authority over in this situation, if the EFT language is not addressed, the only path to resolving payment disputes will be expensive civil litigation, which does not benefit either party.

Without an immediate remedy, the legislation will create confusion and costly implementation hurdles for wholesalers, retailers, the Department of Taxation, and third-party processors. New banking systems, applications, and staff training would need to be in place within a short and impractical timeline. All of which will create significant costs for businesses as they change current IT systems, implement new EFT accounting services and deploy training. Note that under the amendment and proposed regulation, all costs of compliance will be borne by the retailers for the convenience of the wholesalers.

Further, allowing access to complex IT systems creates potential security risks for retailers.

We appreciate the language of the proposed regulation, and if the statutes were clear that paying by EFT would only happen by an agreement of mutual consent between the parties, that would be much better. But such agreements were not mentioned in the amendment and the department's enforcement authority is unclear.

We have enjoyed a long and mutually beneficial relationship with the wholesale liquor industry and are saddened to see that they have taken this heavy-handed approach when they have other options to resolve payment disputes.

We truly appreciate the Department's proposed amendments to NAC 369.055 accordingly in support of the changes instituted by AB404 of the 83rd session, but unfortunately, these amendments cannot address the problems with the legislation.

Thank you.