

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R005-26

May 20, 2026

EXPLANATION – Matter in *italics* is LCB 2-2-26 draft language; matter in brackets ~~omitted material~~ is material omitted in LCB 2-2-26 draft; purple underlined is revised LCB language by Agency; ~~green strikethrough~~ is omitted LCB language by Agency.

AUTHORITY: §§ 1-4, NRS 360.090 and section 1 of Assembly Bill No. 375, chapter 422, Statutes of Nevada 2025, at page 2695.

A REGULATION relating to intoxicating liquor; imposing a surcharge on certain sales of alcoholic beverages by a covered food establishment for consumption off the premises of the establishment; providing for the administration and collection of the surcharge; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes certain establishments to sell alcoholic beverages by the drink for consumption on the premises of the establishment. (NRS 369.090, 369.620) Existing law authorizes the board of county commissioners of a county or the governing body of an incorporated city to enact an ordinance authorizing, under such conditions as may be imposed by the ordinance: (1) a covered food establishment to sell at retail alcoholic beverages in a sealed container for consumption off the premises; and (2) a covered food establishment, or delivery support service acting on behalf of a covered food establishment, to deliver an alcoholic beverage in a sealed container to a consumer in connection with a retail sale of such an alcoholic beverage. With respect to such retail sales of alcoholic beverages, existing law requires the Department of Taxation to adopt regulations that provide for the imposition and collection of a surcharge not to exceed 50 cents per retail sale. (Section 1 of Assembly Bill No. 375, Chapter 422, Statutes of Nevada 2025, at page 2695)

Section 2 of this regulation provides that the surcharge applies only to a covered food establishment that holds a valid license to sell alcoholic beverages for consumption on the premises and that is authorized by local ordinance to sell alcoholic beverages in sealed containers for consumption off the premises. (Section 1 of Assembly Bill No. 375, chapter 422, Statutes of Nevada 2025, at page 2695). Section 2 also imposes on each retail sale of an alcoholic beverage, a surcharge of 50 cents per serving of beer, wine, cordials or spirits that constitutes the alcoholic beverage sold ~~upon each retail sale of an alcoholic beverage~~ for consumption off the premises made by such a covered food establishment, ~~including each retail sale that occurs as part of a single transaction.~~

Section 3 of this regulation requires a covered food establishment to: (1) collect the surcharge from the purchaser at the time of the sale; and (2) deliver a ~~monthly~~ return and the remittance of the amount of the surcharges to the Department on or before the 20th day of the month following the ~~month~~ filing period in which the surcharges were collected. **Section 3** also

requires a covered food establishment to display the amount of the surcharge separately from the price of the alcoholic beverage. **Section 4** of this regulation requires a covered food establishment to maintain certain records regarding the surcharge. **Section 4** authorizes the Department, or any person authorized by the Department, to examine the books, papers, records and **equipment premises** of a covered food establishment and investigate the business of the covered food establishment to verify the accuracy of a return or, if no return is made, determine the amount required to be paid to the Department. Section 5 of this regulation adds enforcement provisions pursuant to chapter 369 of NRS and NAC.

Section 1. Chapter 369 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3, ~~and 4~~ and 5 of this regulation.

Sec. 2. 1. The provisions of this section apply only to a covered food establishment that:

(a) Meets the definition of a covered food establishment set forth in section 1 of Assembly Bill No. 375, chapter 422, Statutes of Nevada 2025, at page 2695;

(b) Holds a valid license issued by the appropriate local licensing authority to sell alcoholic beverages for consumption on the premises; and

(c) Is authorized by ordinance of the board of county commissioners of a county or the governing body of an incorporated city, as applicable, to sell alcoholic beverages in sealed containers for consumption off the premises pursuant to section 1 of Assembly Bill No. 375, chapter 422, Statutes of Nevada 2025, at page 2695.

2. The surcharge imposed pursuant to subsection 1 of section 1 of Assembly Bill No. 375, chapter 422, Statutes of Nevada 2025, at page 2695 (NRS 369.4891), on each retail sale of an alcoholic beverage must be 50 cents per serving of beer, wine, cordials or spirits that constitutes the alcoholic beverage sold. For the purposes of calculating the surcharge, a serving of beer, wine, cordials or spirits is the number of ounces of beer, wine, cordials or spirits that would be a single serving according to the menu, recipe or practice of the covered food establishment making the sale.

~~There is hereby imposed upon each retail sale of an alcoholic beverage pursuant to subsection 1 of section 1 of Assembly Bill No. 375, chapter 422, Statutes of Nevada 2025, at page 2695, a surcharge of 50 cents.~~

~~3. If multiple retail sales of an alcoholic beverage pursuant to subsection 1 of section 1 of Assembly Bill No. 375, chapter 422, Statutes of Nevada 2025, at page 2695, occur as part of a single transaction, the surcharge imposed by this section must be collected for each such retail sale.~~

~~4. If a covered food establishment seals two or more individually packaged alcoholic beverages sold at retail pursuant to subsection 1 of section 1 of Assembly Bill No. 375, chapter 422, Statutes of Nevada 2025, at page 2695, in a bag, box or other delivery container, the sale of each such alcoholic beverage is nonetheless considered a separate retail sale for the purposes of calculating the amount of the surcharge owed pursuant to this section.~~

Sec. 3. 1. A covered food establishment shall, at the time of the sale, collect the surcharge imposed by section 2 of this regulation from the purchaser.

2. The amount collected by the covered food establishment from the purchaser for the surcharge must be displayed separately from the list price of the alcoholic beverage, the price of the alcoholic beverage advertised on the premises, the marked price of the alcoholic beverage or any other price of the alcoholic beverage on the sales receipt or other proof of sale. The surcharge must be identified on the receipt or other proof of sale and must be added after the calculation of any tax.

3. The covered food establishment shall hold in an account any surcharge collected pursuant to this section until remitted to the Department.

4. ~~5.~~ Each covered food establishment that collects a surcharge pursuant to this section shall, on or before the 20th day of the month following the filing period ~~month~~ in

which the surcharge is collected, electronically submit through ~~deliver to the Department's~~ online portal the form prescribed by the Department, together with the sales and use tax return for the same filing period, and ~~monthly return and the remittance of the amount of the surcharge that is payable to the Department.~~

5. ~~4. The covered food establishment shall submit a monthly return on a form prescribed by the Department~~ submit the form with the sales and use tax return for the same filing period. The ~~return~~ form required by subsection 4 must include, without limitation:

(a) *The total number of retail sales of alcoholic beverages pursuant to subsection 1 of section 1 of Assembly Bill No. 375, chapter 422, Statutes of Nevada 2025, at page 2695, made during the ~~immediately preceding~~ filing period ~~month.~~;*

(b) *The total amount of surcharges collected pursuant to section 2 of this regulation.* ~~;~~ and

(c) *The signature of the person required to file the return or the signature of the person's authorized agent.*

Sec. 4. 1. *A covered food establishment shall keep records, receipts, invoices and other ~~pertinent papers~~ relevant documents regarding any surcharge collected pursuant to section 2 of this regulation.*

2. *Every covered food establishment or person who files the ~~monthly~~ return required pursuant to section 3 of this regulation shall keep such record for a period of not less than 4 years ~~from~~ following the later of the due date of the return or the date the electronic return was filed with the Department. ~~their making unless the Department, in writing, sooner authorizes their destruction.~~*

3. *Every covered food establishment or person who fails to file the ~~monthly~~ return required by section 3 of this regulation shall keep such records for a period of not less than 8 years ~~from~~ the due date of the return. ~~their making unless the Department, in writing,~~*

~~sooner authorizes their destruction.~~

4. The Department, or any person authorized in writing by the Department, may examine the books, papers, records and ~~equipment~~ premises of any covered food establishment and may investigate the nature ~~character~~ of the business of the covered food establishment to verify the accuracy of any ~~monthly~~ return made pursuant to section 3 of this regulation, or, if no ~~monthly~~ return is made by the covered food establishment, to ascertain and determine the amount required to be paid to the Department.

Sec 5. 1. Any covered food establishment that violates any provision of sections 2 to 4, inclusive, of this regulation is subject to the enforcement provisions of chapter 369 of NRS and chapter 369 of NAC, including, without limitation, administrative fines, suspension or revocation of any applicable license or permit, and any other penalty authorized by law.