NEBRASKA

LIQUOR CONTROL ACT

And

Rules & Regulations

Of the

Liquor Control Commission

10/2022

ABDN

ASSOCIATED BEVERAGE
DISTRIBUTORS OF NEBRASKA

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53-101.

Act, how cited.

Sections 53-101 to 53-1,122 shall be known and may be cited as the Nebraska Liquor Control Act.

Source

- Laws 1935, c. 116, § 1, p. 373;
- C.S.Supp.,1941, § 53-301;
- R.S.1943, § 53-101;
- Laws 1988, LB 490, § 3;
- Laws 1988, LB 901, § 1;
- Laws 1988, LB 1089, § 1;
- Laws 1989, LB 70, § 1;
- Laws 1989, LB 441, § 1;
- Laws 1989, LB 781, § 1;
- Laws 1991, LB 344, § 2;
- Laws 1991, LB 582, § 1;
- Laws 1993, LB 183, § 1;
- Laws 1993, LB 332, § 1;
- Laws 1994, LB 1292, § 1;
- Laws 2000, LB 973, § 1;
- Laws 2001, LB 114, § 1;
- Laws 2004, LB 485, § 2;
- Laws 2006, LB 845, § 1;
- Laws 2007, LB549, § 1;
- Laws 2007, LB578, § 1;
- Laws 2009, LB232, § 1;
- Laws 2009, LB355, § 1;
- Laws 2010, LB258, § 1;
- Laws 2010, LB861, § 7;
- Laws 2011, LB407, § 1;
- Laws 2012, LB824, § 1;
- Laws 2012, LB1130, § 1;
- Laws 2015, LB118, § 2;
- Laws 2015, LB330, § 2;
- Laws 2018, LB1120, § 1;
- Laws 2020, LB734, § 1;
- Laws 2021, LB274, § 1;
- Laws 2022, LB1204, § 1.
- **Effective Date: July 21, 2022**

Annotations

- The Nebraska Liquor Control Act empowers the Nebraska Liquor Control Commission to include conditions on a liquor license if those restrictions are consistent with the purpose of the act and are reasonably necessary to the protection of the health, safety, and welfare of the people of the State of Nebraska and to the promotion and fostering of temperance in the consumption of alcohol. Abay, L.L.C. v. Nebraska Liquor Control Comm., 303 Neb. 214, 927 N.W.2d 780 (2019).
- Liquor Control Act provides comprehensive authority and procedure relating to the granting, renewing, or revoking of liquor licenses without recourse to courts. Leeman v. Vocelka, 149 Neb. 702, 32 N.W.2d 274 (1948).

53-101.01.

Statement of policy.

It is declared to be the policy of the Legislature to (1) regulate the transportation or importation of alcoholic liquor into this state when such alcoholic liquor is intended for delivery or use within the state, (2) promote adequate, economical, and efficient service by licensees selling alcoholic liquor within the State of Nebraska without unjust or undue discrimination, preference, or advantage, (3) generate revenue by imposing an excise tax upon alcoholic liquor, and (4) promote the health, safety, and welfare of the people of the state and encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the manufacture, distribution, and sale of alcoholic liquor.

Source

- Laws 1981, LB 124, § 1;
- Laws 1989, LB 781, § 2;
- Laws 1991, LB 344, § 3;
- Laws 1993, LB 183, § 2;
- Laws 1999, LB 267, § 1.

53-101.02.

Farm wineries; legislative intent.

It is the intent of the Legislature to encourage the production, use in manufacturing, and consumption of agricultural products grown within the state by providing for the existence of farm winery operations. The Legislature recognizes that the creation of farm wineries will stimulate the creation of jobs and investments in small communities, encourage the use of lands upon which grapes and other wine-related crops may be grown, and provide tax revenue which would not otherwise be realized.

Source

- Laws 1985, LB 279, § 1;
- Laws 2003, LB 536, § 1.
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53-101.03.

53-101.04.

Transferred to section 53-148.01.

53-101.05.

Act to be liberally construed.

The Nebraska Liquor Control Act shall be liberally construed to the end that the health, safety, and welfare of the people of the State of Nebraska are protected and temperance in the consumption of alcoholic liquor is fostered and promoted by sound and careful control and regulation of the manufacture, sale, and distribution of alcoholic liquor.

Source

- Laws 1935, c. 116, § 97, p. 427;
- C.S.Supp.,1941, § 53-397;
- R.S.1943, § 53-1,118;
- R.S.1943, (1988), § 53-1,118;
- Laws 1991, LB 344, § 4.

Annotations

- To comply with legislative policy licensee or agent of corporate licensee must be satisfactory to and approved by the commission with respect to his character. C & L Co. v. Nebraska Liquor Control Commission, 190 Neb. 91, 206 N.W.2d 49 (1973).
- It is not the court's duty to read a meaning into a statute not warranted by legislative language. Calvary Baptist Church v. Coonrad, 163 Neb. 25, 77 N.W.2d 821 (1956).
- Liquor Control Act is to be liberally construed. Allen v. Tobin, 155 Neb. 212, 51 N.W.2d 338 (1952).
- Text of Liquor Control Act evidences legislative interest to authorize adoption of regulations by commission. Griffin v. Gass, 133 Neb. 56, 274 N.W. 193 (1937).

53-102.

Transferred to section 53-168.06.

53-103.

Definitions, where found.

For purposes of the Nebraska Liquor Control Act, the definitions found in sections 53-103.01 to 53-103.49 apply.

Source

- Laws 1935, c. 116, § 2, p. 374;
- C.S.Supp.,1941, § 53-302;
- R.S.1943, § 53-103;
- Laws 1961, c. 258, § 1, p. 757;
- Laws 1963, c. 310, § 1, p. 919;
- Laws 1963, Spec. Sess., c. 4, § 1, p. 66;
- Laws 1963, Spec. Sess., c. 5, § 1, p. 71;
- Laws 1965, c. 318, § 2, p. 886;
- Laws 1965, c. 319, § 1, p. 904;
- Laws 1969, c. 298, § 1, p. 1072;
- Laws 1971, LB 234, § 2;
- Laws 1971, LB 752, § 1;
- Laws 1972, LB 1086, § 2;
- Laws 1973, LB 111, § 1;
- Laws 1980, LB 221, § 2;
- Laws 1980, LB 848, § 1;
- Laws 1981, LB 483, § 1;
- Laws 1983, LB 213, § 2;
- Laws 1984, LB 56, § 1;
- Laws 1985, LB 183, § 1;
- Laws 1985, LB 279, § 2;
- Laws 1986, LB 871, § 1;
- Laws 1986, LB 911, § 2;
- Laws 1987, LB 468, § 1;
- Laws 1988, LB 490, § 4;
- Laws 1988, LB 901, § 2;
- Laws 1988, LB 1089, § 2;
- Laws 1989, LB 154, § 1;
- Laws 1989, LB 441, § 2;
- Laws 1991, LB 344, § 5;
- Laws 1993, LB 121, § 317;
- Laws 1994, LB 859, § 2;
- Laws 1994, LB 1313, § 2;
- Laws 1996, LB 750, § 1;
- Laws 1996, LB 1090, § 1;
- Laws 1999, LB 267, § 2;
- Laws 2001, LB 114, § 2;
- Laws 2001, LB 278, § 1;
- Laws 2003, LB 536, § 2;
- Laws 2004, LB 485, § 3;
- Laws 2006, LB 562, § 1;
- Laws 2007, LB549, § 2;
- Laws 2008, LB1103, § 1;
- Laws 2009, LB137, § 1;
- Laws 2009, LB355, § 2;
- Laws 2010, LB788, § 1;

- Laws 2010, LB861, § 8;
- Laws 2012, LB824, § 2;
- Laws 2015, LB330, § 3;
- Laws 2018, LB1120, § 2;
- Laws 2021, LB274, § 2.

Annotations

- The portion of this section amended by 1986 Neb. Laws, L.B. 911, is declared unconstitutional. Bosselman, Inc. v. State, 230 Neb. 471, 432 N.W.2d 226 (1988).
- The change in definition of minor did not relieve from penalty one who was twenty years of age at time of commission of offense but was not sentenced until after the definition was changed. State v. Duitsman, 186 Neb. 39, 180 N.W.2d 685 (1970).
- Amendment to this section, made by Chapter 5, Seventy-fourth Extraordinary Session of the Legislature, 1963, was unconstitutional because not within the Governor's call. Arrow Club, Inc. v. Nebraska Liquor Control Commission, 177 Neb. 686, 131 N.W.2d 134 (1964).
- Although organized as private club, evidence established that it was operated as private business of an individual. State ex rel. Fitzgerald v. Kubik, 167 Neb. 219, 92 N.W.2d 533 (1958).
- Definition of term alcoholic liquors includes beer. Phelps Inc. v. City of Hastings, 152 Neb. 651, 42 N.W.2d 300 (1950).
- Plaintiff did not come within statutory definition of club. Griffin v. Gass, 133 Neb. 56, 274 N.W. 193 (1937).
- The Liquor Control Act provides for the issuance by Liquor Control Commission of a license to sell alcoholic liquors which are defined by the act to include alcohol, spirits, wine and beer. Hanson v. Gass, 130 Neb. 685, 267 N.W. 403 (1936).
- Despite absence of severance clause, ordinance which provided several distinct and separate grounds upon which to base revocation of liquor licenses was not rendered invalid in its entirety by reason of invalidity of some portions. Clark v. City of Fremont, 377 F.Supp. 327 (D. Neb. 1974).

53-103.01.

Alcohol, defined.

Alcohol means the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and includes synthetic ethyl alcohol and alcohol processed or sold in a gaseous form. Alcohol does not include denatured alcohol or wood alcohol.

Source

- Laws 2010, LB861, § 9.

53-103.02.

Alcoholic liquor, defined.

(1) Alcoholic liquor includes alcohol, spirits, wine, beer, and any liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being. Alcoholic liquor also includes confections or candy that contains more than one-half of one percent alcohol.

(2) The Nebraska Liquor Control Act does not apply to (a) alcohol used in the manufacture of denatured alcohol produced in accordance with acts of Congress and regulations adopted and promulgated pursuant to such acts, (b) flavoring extracts, syrups, medicinal, mechanical, scientific, culinary, or toilet preparations, or food products unfit for beverage purposes, but the act applies to alcoholic liquor used in the manufacture, preparation, or compounding of such products or confections or candy that contains more than one-half of one percent alcohol, or (c) wine intended for use and used by any church or religious organization for sacramental purposes.

Source

- Laws 2010, LB861, § 10.

53-103.03.

Beer, defined.

Beer means a beverage obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt, and hops in water and includes, but is not limited to, beer, ale, stout, lager beer, porter, near beer, flavored malt beverage, and hard cider.

Source

- Laws 2010, LB861, § 11;
- Laws 2012, LB824, § 3;
- Laws 2015, LB330, § 4.

53-103.04.

Brand, defined.

Brand means alcoholic liquor identified as the product of a specific manufacturer.

Source

- Laws 2010, LB861, § 12.

53-103.05.

Brewpub, defined.

Brewpub means any restaurant or hotel which produces on its premises a maximum of twenty thousand barrels of beer per year.

Source

- Laws 2010, LB861, § 13;
- Laws 2012, LB780, § 1.

53-103.06.

Campus, defined.

Campus, as it pertains to the southern boundary of the main campus of the University of Nebraska-Lincoln, means the south right-of-way line of R Street and abandoned R Street from 10th to 17th streets and, as it pertains to the western boundary of the main campus of the University of Nebraska-Lincoln, means the east right-of-way line of 10th Street from R Street to Holdrege Street (Salt Creek Roadway).

Source

- Laws 2010, LB861, § 14.

53-103.07.

Cancel, defined.

Cancel means to discontinue all rights and privileges of a license.

Source

- Laws 2010, LB861, § 15.

53-103.08.

Cigar shop, defined.

Cigar shop means an establishment operated by a holder of a Class C liquor license which:

(1) Does not sell food;

(2) In addition to selling alcohol, annually receives ten percent or more of its gross revenue from the sale of cigars, other tobacco products, and tobacco-related products, except from the sale of cigarettes as defined in section 69-2702. A cigar shop shall not discount alcohol if sold in combination with cigars or other tobacco products and tobacco-related products;

(3) Has a walk-in humidor on the premises; and

(4) Does not permit the smoking of cigarettes.

Source

- Laws 2010, LB861, § 16;
- Laws 2015, LB118, § 3.

53-103.09.

Club, defined.

(1) Club means a corporation (a) which is organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquor, (b) which is kept, used, and maintained by its members through the payment of annual dues, and (c) which owns, hires, or leases a building or space in a building suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests.

(2) The affairs and management of such club shall be conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting, and no member, officer, agent, or employee of the club shall be paid or shall directly or indirectly receive, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members other than any salary fixed and voted at any annual meeting by the members or by the governing body of the club out of the general revenue of the club.

Source

- Laws 2010, LB861, § 17;
- Laws 2016, LB1105, § 6.

53-103.10.

Commission, defined.

Commission means the Nebraska Liquor Control Commission.

Source

- Laws 2010, LB861, § 18.

53-103.11.

Consume, defined.

Consume means knowingly and intentionally drinking or otherwise ingesting alcoholic liquor.

Source

- Laws 2010, LB861, § 19.

53-103.12.

Craft brewery, defined.

Craft brewery means a brewpub or a microbrewery.

Source

- Laws 2010, LB861, § 20.

53-103.13.

Farm winery, defined.

Farm winery means any enterprise which produces and sells wines produced from grapes, other fruit, or other suitable agricultural products of which at least sixty percent of the finished product is grown in this state or which meets the requirements of section 53-123.13.

Source

- Laws 2010, LB861, § 21;
- Laws 2019, LB592, § 1.

53-103.14.

Franchise or agreement, defined.

Franchise or agreement, with reference to the relationship between a manufacturer and wholesaler, includes one or more of the following:

(1) A commercial relationship of a definite duration or continuing indefinite duration which is not required to be in writing;

(2) A relationship by which the wholesaler is granted the right to offer and sell the manufacturer's brands by the manufacturer;

(3) A relationship by which the franchise, as an independent business, constitutes a component of the manufacturer's distribution system;

(4) A relationship by which the operation of the wholesaler's business is substantially associated with the manufacturer's brand, advertising, or other commercial symbol designating the manufacturer; and

(5) A relationship by which the operation of the wholesaler's business is substantially reliant on the manufacturer for the continued supply of beer.

Source

- Laws 2010, LB861, § 22.

53-103.15.

Generic label, defined.

Generic label means a label which is not protected by a registered trademark, either in whole or in part, or to which no person has acquired a right pursuant to state or federal statutory or common law.

Source

- Laws 2010, LB861, § 23.

53-103.16.

Hotel, defined.

Hotel means any building or other structure (1) which is kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, (2) in which twenty-five or more rooms are used for the sleeping accommodations of such guests, and (3) which has one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same buildings in connection therewith and such building or buildings or structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.

Source

- Laws 2010, LB861, § 24.

53-103.17.

Local governing body, defined.

Local governing body means (1) the city council or village board of trustees of a city or village within which the licensed premises are located or (2) if the licensed premises are not within the corporate limits of a city or village, the county board of the county within which the licensed premises are located.

Source

- Laws 2010, LB861, § 25.

53-103.18.

Manager, defined.

Manager means a person appointed by a corporation or limited liability company to oversee the daily operation of the business licensed in Nebraska. A manager shall meet all the requirements of the Nebraska Liquor Control Act as though he or she were the applicant, including residency.

Source

- Laws 2010, LB861, § 26;
- Laws 2016, LB1105, § 7.

53-103.19.

Manufacture, defined.

Manufacture means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor and includes blending but does not include the mixing or other preparation of drinks for serving by those persons authorized and permitted in the Nebraska Liquor Control Act to serve drinks for consumption on the premises where sold.

Source

- Laws 2010, LB861, § 27.

53-103.20.

Manufacturer, defined.

Manufacturer means every brewer, fermenter, distiller, rectifier, winemaker, blender, processor, bottler, restaurant, hotel, or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying, or bottling alcoholic liquor, including a wholly owned affiliate or duly authorized agent for a manufacturer.

Source

- Laws 2010, LB861, § 28;
- Laws 2016, LB1105, § 8.

53-103.21.

Microbrewery, defined.

Microbrewery means any small brewery producing a maximum of twenty thousand barrels of beer per year.

Source

- Laws 2010, LB861, § 29;
- Laws 2012, LB780, § 2.

53-103.22.

Microdistillery, defined.

Microdistillery means a distillery located in Nebraska that is licensed to distill liquor on the premises of the distillery licensee and produces one hundred thousand or fewer gallons of liquor annually.

Source

- Laws 2010, LB861, § 30;
- Laws 2021, LB274, § 5.

53-103.23.

Minor, defined.

Minor means any person, male or female, under twenty-one years of age, regardless of marital status.

Source

- Laws 2010, LB861, § 31.

53-103.24.

Near beer, defined.

Near beer means beer containing less than one-half of one percent of alcohol by volume.

Source

- Laws 2010, LB861, § 32.

53-103.25.

Nonbeverage user, defined.

Nonbeverage user means every manufacturer of any of the products set forth and described in subsection (4) of section 53-160, when such product contains alcoholic liquor, and all laboratories, hospitals, and sanatoria using alcoholic liquor for nonbeverage purposes.

Source

- Laws 2010, LB861, § 33.

53-103.26.

Nonprofit corporation, defined.

Nonprofit corporation means any corporation organized under the laws of this state, not for profit, which has been exempted from the payment of federal income taxes.

Source

- Laws 2010, LB861, § 34.

53-103.27.

Original package, defined.

Original package means any bottle, flask, jug, can, cask, barrel, keg, hogshead, or other receptacle or container used, corked or capped, sealed, and labeled by the manufacturer of alcoholic liquor to contain and to convey any alcoholic liquor.

Source

- Laws 2010, LB861, § 35.

53-103.28.

Person, defined.

Person means any natural person, trustee, corporation, partnership, or limited liability company.

Source

- Laws 2010, LB861, § 36.

53-103.29.

Private label, defined.

Private label means a label which the purchasing wholesaler or retailer has protected, in whole or in part, by a trademark registration or which the purchasing wholesaler or retailer has otherwise protected pursuant to state or federal statutory or common law.

Source

- Laws 2010, LB861, § 37.

53-103.30.

Restaurant, defined.

Restaurant means any public place (1) which is kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served, (2) which has no sleeping accommodations, and (3) which has adequate and sanitary kitchen and dining room equipment and capacity and a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests.

Source

- Laws 2010, LB861, § 38.

53-103.31.

Retailer, defined.

Retailer means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form except as provided in section 53-175.

Source

- Laws 2010, LB861, § 39.

53-103.32.

Revoke, defined.

Revoke means to permanently void and recall all rights and privileges of a license.

Source

- Laws 2010, LB861, § 40.

53-103.33.

Sale, defined.

Sale means any transfer, exchange, or barter in any manner or by any means for a consideration and includes any sale made by any person, whether principal, proprietor, agent, servant, or employee.

Source

- Laws 2010, LB861, § 41.

53-103.34.

Sampling, defined.

Sampling means consumption on the premises of a retail licensee of not more than five samples of one fluid ounce or less of alcoholic liquor by the same person in a twenty-four-hour period.

Source

- Laws 2010, LB861, § 42.

53-103.35.

Sell, defined.

Sell means to solicit or receive an order for, to keep or expose for sale, or to keep with intent to sell.

Source

- Laws 2010, LB861, § 43.

53-103.36.

Sell at retail and sale at retail, defined.

Sell at retail and sale at retail means sale for use or consumption and not for resale in any form except as provided in section 53-175.

Source

- Laws 2010, LB861, § 44.

53-103.37.

Shipping license, defined.

Shipping license means a license granted pursuant to section 53-123.15.

Source

- Laws 2010, LB861, § 45.

53-103.38.

Spirits, defined.

Spirits means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution. Spirits includes brandy, rum, whiskey, gin, or other spirituous liquors and such liquors when rectified, blended, or otherwise mixed with alcohol or other substances. Spirits does not include flavored malt beverages.

Source

- Laws 2010, LB861, § 46;
- Laws 2012, LB824, § 5.

53-103.39.

Suspend, defined.

Suspend means to cause a temporary interruption of all rights and privileges of a license.

Source

- Laws 2010, LB861, § 47.

53-103.40.

Territory or sales territory, defined.

Territory or sales territory means the wholesaler's area of sales responsibility for the brand or brands of the manufacturer.

Source

- Laws 2010, LB861, § 48.

53-103.41.

Wholesaler, defined.

Wholesaler means a person importing or causing to be imported into the state or purchasing or causing to be purchased within the state alcoholic liquor for sale or resale to retailers licensed under the Nebraska Liquor Control Act, whether the business of the wholesaler is conducted under the terms of a franchise or any other form of an agreement with a manufacturer or manufacturers, or who has caused alcoholic liquor to be imported into the state or purchased in the state from a manufacturer or manufacturers and was licensed to conduct such a business by the commission on May 1, 1970, or has been so licensed since that date.

Wholesaler includes a distributor, distributorship, and jobber.

Source

- Laws 2010, LB861, § 49;
- Laws 2016, LB1105, § 9.

53-103.42.

Wine, defined.

Wine means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits.

Source

- Laws 2010, LB861, § 50.

53-103.43.

Flavored malt beverage, defined.

Flavored malt beverage means a beer that derives not more than forty-nine percent of its total alcohol content from flavors or flavorings containing alcohol obtained by distillation, except that in the case of a malt beverage with an alcohol content of more than six percent by volume, not more than one and one-half percent of the volume of the malt beverage may consist of alcohol derived from flavors, flavorings, or other nonbeverage ingredients containing alcohol obtained by distillation.

Source

- Laws 2012, LB824, § 4.

53-103.44.

Hard cider, defined.

Hard cider means still wine (1)(a) derived primarily from apples or apple concentrate and water such that apple juice, or the equivalent amount of concentrate reconstituted to the original brix of the juice prior to concentration, represents more than fifty percent of the volume of the finished product or (b) derived primarily from pears or pear concentrate and water such that pear juice, or the equivalent amount of concentrate reconstituted to the original brix of the juice prior to concentration, represents more than fifty percent of the volume of the finished product, (2) containing at least one-half of one percent and less than eight and one-half percent alcohol by volume, (3) having the taste, aroma, and characteristics generally attributed to hard cider, and (4) sold or offered for sale as hard cider.

Source

- Laws 2015, LB330, § 5;
- Laws 2016, LB1105, § 10.

53-103.45.

Pedal-pub vehicle, defined.

Pedal-pub vehicle means a multi-passenger, human-powered vehicle.

Source

- Laws 2015, LB330, § 6.

53-103.46.

Powdered alcohol, defined.

Powdered alcohol means alcohol prepared in a powdered form for either direct use or consumption after the powder is combined with a liquid.

Source

- Laws 2015, LB330, § 7.

53-103.47.

Bottle club, defined.

Bottle club means an operation, whether formally organized as a club having a regular membership list, dues, officers, and meetings or not, keeping and maintaining premises where persons who have made their own purchases of alcoholic liquor congregate for the express purpose of consuming alcoholic liquor upon the payment of a fee or other consideration.

Source

- Laws 2018, LB1120, § 3.

53-103.48.

Farmers market, defined.

Farmers market means any common facility or area where producers or growers gather on a regular, recurring basis to sell fruits, vegetables, meats, and other farm products directly to consumers.

Source

- Laws 2021, LB274, § 3.

53-103.49.

Ready-to-drink cocktail, defined.

Ready-to-drink cocktail means a beverage or confection containing spirits in an original package which contains twelve and one-half percent or less alcohol by volume.

Source

- Laws 2021, LB274, § 4.

53-104.

Repealed. Laws 1991, LB 344, § 75.

53-105.

Nebraska Liquor Control Commission; creation; members; appointment; qualifications.

There is hereby created the Nebraska Liquor Control Commission, consisting of three members to be appointed by the Governor, subject to confirmation by a majority of the members elected to the Legislature, no more than two of whom shall be members of the same political party, and no two shall be citizens of the same congressional district.

Source

- Laws 1935, c. 116, § 6, p. 379;
- C.S.Supp.,1941, § 53-306;
- R.S.1943, § 53-105;
- Laws 1965, c. 318, § 3, p. 890.

Annotations

- Under former act, it did not provide for, or require, confirmation of appointment of members of the Liquor Control Commission by the Legislature. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

53-106.

Commission; members; term; removal; not to hold other office.

The Governor shall appoint three members of the commission, one of whom he shall designate as chairman. One member shall be appointed every two years and shall hold office for a period of six years. Any appointee may be removed by the Governor, after an opportunity to be heard, for malfeasance, misfeasance or neglect in office. No person shall be appointed to the commission, or continue to hold that office after appointment, while holding any other office or position under the laws of this state, any other state, or of the United States.

Source

- Laws 1935, c. 116, § 7, p. 379;
- C.S.Supp.,1941, § 53-307;
- R.S.1943, § 53-106.

Annotations

- Term of office of member of Liquor Control Commission is six years. State ex rel. Meyer v. Sorrell, 174 Neb. 340, 117 N.W.2d 872 (1962).
- Authority to remove member of Liquor Control Commission is declaratory of power granted by the Constitution. State ex rel. Beck v. Young, 154 Neb. 588, 48 N.W.2d 677 (1951).
- Member of Liquor Control Commission can only be removed by the Governor for cause, after an opportunity to be heard, and for the reasons set forth in this section. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

53-107.

Commission; quorum; executive director; duties.

A majority of the commission shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the commission. Every act of a majority of the members of the commission shall be deemed to be the act of the commission. The commission shall have an executive director, to be appointed by it subject to the approval of the Governor, who shall keep a record of all proceedings, transactions, communications, and official acts of the commission. The executive director shall be the custodian of all records and perform such other duties as the commission may prescribe.

Source

- Laws 1935, c. 116, § 8, p. 380;
- C.S.Supp.,1941, § 53-308;
- R.S.1943, § 53-107;
- Laws 1989, LB 780, § 1.

Annotations

- Appointment of secretary is subject to approval of Governor. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

53-108.

Employees; appointment.

The commission may, with the advice and approval of the Governor, appoint or employ such clerks and other employees as may be necessary to carry out the Nebraska Liquor Control Act or to perform the duties and exercise the powers conferred by law upon the commission.

Source

- Laws 1935, c. 116, § 9, p. 380;
- C.S.Supp.,1941, § 53-309;
- R.S.1943, § 53-108;
- Laws 1945, c. 238, § 22, p. 714;
- Laws 1951, c. 311, § 4, p. 1067;
- Laws 1991, LB 344, § 6.

Annotations

- Employment of subordinate employees is subject to approval of Governor. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

53-109.

Commissioners and employees; bonds or insurance.

Before entering upon the duties of his or her office, each commissioner shall be bonded or insured as required by section 11-201. Employees of the commission who are accountable for public funds shall be bonded or insured as required by section 11-201 to secure the safety of such funds. The premium shall be paid by the State of Nebraska out of the General Fund. Before entering upon the duties of his or her office, the executive director of the commission shall be bonded or insured as required by section 11-201.

Source

- Laws 1935, c. 116, § 10, p. 380;
- C.S.Supp.,1941, § 53-310;
- R.S.1943, § 53-109;
- Laws 1953, c. 180, § 1, p. 569;
- Laws 1978, LB 653, § 14;
- Laws 1989, LB 780, § 2;
- Laws 2004, LB 884, § 25.

Annotations

- Bond required of member of Liquor Control Commission is different than that required of head of executive department. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

53-110.

Commissioners and employees; qualifications; employment by licensee authorized; restrictions.

(1) No person shall be appointed as a commissioner, the executive director of the commission, or an employee of the commission who is not a citizen of the United States and who has not resided within the State of Nebraska successively for two years next preceding the date of his or her appointment.

(2) No person (a) convicted of or who has pleaded guilty to a felony or any violation of any federal or state law concerning the manufacture or sale of alcoholic liquor prior or subsequent to the passage of the Nebraska Liquor Control Act, (b) who has paid a fine or penalty in settlement of any prosecution against him or her for any violation of such laws, or (c) who has forfeited his or her bond to appear in court to answer charges for any such violation shall be appointed commissioner.

(3)(a) Except as otherwise provided in subdivision (b) of this subsection, no commissioner or employee of the commission may, directly or indirectly, individually, as a member of a partnership, as a member of a limited liability company, or as a shareholder of a corporation, have any interest whatsoever in the manufacture, sale, or distribution of alcoholic liquor, receive any compensation or profit from such manufacture, sale, or distribution, or have any interest whatsoever in the purchases or sales made by the persons authorized by the act to purchase or to sell alcoholic liquor.

(b) With the written approval of the executive director, an employee of the commission, other than the executive director or a division manager, may accept part-time or seasonal employment with a person licensed or regulated by the commission. No such employment shall be approved if the licensee receives more than fifty percent of the licensee's gross revenue from the sale or dispensing of alcoholic liquor.

(4) This section shall not prevent any commissioner, the executive director, or any employee from purchasing and keeping in his or her possession for the use of himself, herself, or members of his or her family or guests any alcoholic liquor which may be purchased or kept by any person pursuant to the act.

Source

- Laws 1935, c. 116, § 11, p. 380;
- C.S.Supp.,1941, § 53-311;
- R.S.1943, § 53-110;
- Laws 1989, LB 780, § 3;
- Laws 1991, LB 344, § 7;
- Laws 1993, LB 121, § 318;
- Laws 2011, LB407, § 2.

53-111.

Gifts and gratuities forbidden; violation; penalty.

A commissioner, the executive director of the commission, or any person appointed or employed by the commission shall not solicit or accept any gift, gratuity, emolument, or employment from any person subject

to the Nebraska Liquor Control Act or from any officer, agent, or employee thereof or solicit, request from, or recommend, directly or indirectly, to any such person or to any officer, agent, or employee thereof the appointment of any person to any place or position. Any such person and every officer, agent, or employee thereof may not offer to any commissioner, the executive director, or any person appointed or employed by the commission any gift, gratuity, emolument, or employment. If a commissioner, the executive director, or any person appointed or employed by the commission violates this section, he or she shall be removed from his or her office or employment. Every person violating this section shall be guilty of a Class II misdemeanor.

Source

- Laws 1935, c. 116, § 12, p. 381;
- C.S.Supp.,1941, § 53-312;
- R.S.1943, § 53-111;
- Laws 1977, LB 40, § 310;
- Laws 1989, LB 780, § 4.

Annotations

- A violation of this section affords an adequate basis for an order of removal from office. State ex rel. Meyer v. Sorrell, 174 Neb. 340, 117 N.W.2d 872 (1962).
- Violation of this section constitutes ground for removal of member of Liquor Control Commission. State ex rel. Beck v. Young, 154 Neb. 588, 48 N.W.2d 677 (1951).

53-112.

Commissioners and executive director; compensation; expenses.

Each member of the commission shall receive an annual salary of not to exceed twelve thousand five hundred dollars, to be fixed by the Governor, payable monthly, and in addition expenses authorized in section 53-113 incurred on behalf of the commission. The salary of the executive director of the commission shall be fixed by the commission, payable monthly.

Source

- Laws 1935, c. 116, § 13, p. 382;
- C.S.Supp.,1941, § 53-313;
- R.S.1943, § 53-112;
- Laws 1951, c. 338, § 2, p. 1116;
- Laws 1955, c. 200, § 1, p. 568;
- Laws 1957, c. 227, § 1, p. 777;
- Laws 1959, c. 339, § 1, p. 1222;
- Laws 1967, c. 330, § 1, p. 876;
- Laws 1969, c. 438, § 1, p. 1468;
- Laws 1973, LB 111, § 2;
- Laws 1974, LB 681, § 3;

- Laws 1989, LB 780, § 5;
- Laws 2020, LB381, § 44.

Annotations

- Cited in making comparison of powers and duties of Liquor Control Commission with those of heads of executive departments. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

53-112.01.

Repealed. Laws 1957, c. 227, § 3.

53-112.02.

Repealed. Laws 1959, c. 266, § 1.

53-112.03.

Repealed. Laws 1989, LB 1, § 1.

53-112.04.

Repealed. Laws 1989, LB 1, § 1.

53-113.

Commissioners and employees; expenses and mileage.

The commissioners, the executive director of the commission, and all employees of the commission shall be reimbursed for expenses incurred in the discharge of their official duties as provided in sections 81-1174 to 81-1177. The commission may also incur necessary expenses for office furniture and other incidental expenses. No commissioner, executive director, or employee of the commission shall request or be allowed mileage or other traveling expenses unless such sections are strictly complied with.

Source

- Laws 1935, c. 116, § 14, p. 382;
- Laws 1941, c. 180, § 15, p. 709;
- C.S.Supp.,1941, § 53-314;
- R.S.1943, § 53-113;
- Laws 1981, LB 204, § 94;
- Laws 1988, LB 864, § 8;
- Laws 1989, LB 780, § 6;
- Laws 1991, LB 344, § 8;
- Laws 2020, LB381, § 45.

53-114.

Meetings; office; branch offices; seal; certified copies of records as evidence.

The office of the commission shall be in Lincoln, but the commission may, with the approval of the Governor, establish and maintain branch offices at places other than the seat of government. The commission shall hold regular meetings at least once a month and may hold such special meetings as it deems necessary at any time and at any place within the state. The commission may, for authentication of its records, process, and proceedings, adopt, keep, and use a common seal, of which seal judicial notice shall be taken in all of the courts of the state. Any process, notice, or other paper which the commission is authorized by law to issue shall be deemed sufficient if signed by the chairperson and executive director of the commission and authenticated by such seal. All acts, orders, proceedings, rules, regulations, entries, minutes, and other records of the commission and all reports and documents filed with the commission may be proved in any court of this state by copy thereof certified to by the executive director attached.

Source

- Laws 1935, c. 116, § 15, p. 382;
- C.S.Supp.,1941, § 53-315;
- R.S.1943, § 53-114;
- Laws 1988, LB 1089, § 4;
- Laws 1989, LB 780, § 7.

Annotations

- Member of Liquor Control Commission is not required to reside in Lincoln. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

53-115.

Assistant attorney general assigned to commission; compensation; payment.

The Attorney General of Nebraska shall designate an assistant attorney general or assistant attorneys general, when requested by the commission and directed by the Governor, and the services of such assistant attorney general or assistant attorneys general shall be available to the commission whenever demanded. The compensation of such assistant attorney general or assistant attorneys general as are assigned to the commission shall be paid by the office of the Attorney General.

Source

- Laws 1935, c. 116, § 24, p. 389;
- C.S.Supp.,1941, § 53-324;
- R.S.1943, § 53-115;
- Laws 1988, LB 1089, § 5.

53-116.

Power to regulate and control alcoholic liquor.

The power to regulate all phases of the control of the manufacture, distribution, sale, and traffic of alcoholic liquor, except as specifically delegated in the Nebraska Liquor Control Act, is vested exclusively in the commission.

Source

- Laws 1935, c. 116, § 4, p. 378;
- C.S.Supp.,1941, § 53-304;
- R.S.1943, § 53-116;
- Laws 1989, LB 781, § 3;
- Laws 1993, LB 183, § 3;
- Laws 1999, LB 267, § 3.

Annotations

- **1. Commission, powers and duties**
- **2. Local controls**
- **3. Miscellaneous**
- **1. Commission, powers and duties**
- Nowhere in the statutes relating to the liquor laws is there any requirement that an applicant show need before obtaining a license and the Nebraska Liquor Control Commission cannot do so by rule; therefore, rules 2 and 13, which require such a showing, are invalid. Bond v. Nebraska Liquor Control Comm., 210 Neb. 663, 316 N.W.2d 600 (1982).
- The power to regulate liquor business, except as specifically delegated in Chapter 53, R.R.S.1943, is vested exclusively in the Nebraska Liquor Control Commission. J K & J, Inc. v. Nebraska Liquor Control Commission, 194 Neb. 413, 231 N.W.2d 694 (1975).
- Nebraska Liquor Control Commission has power to regulate distribution and sale of alcoholic liquors. T & N P Co., Inc. v. Nebraska Liquor Control Commission, 189 Neb. 708, 204 N.W.2d 809 (1973).
- Power to regulate all phases of control of manufacture, distribution, sale and traffic in intoxicating liquors is vested exclusively in the Liquor Control Commission. City of Lincoln v. Nebraska Liquor Control Commission, 181 Neb. 277, 147 N.W.2d 803 (1967).
- The Liquor Control Commission has the power to regulate all phases of the control of manufacture, distribution, sale, and traffic in intoxicating liquors. State ex rel. Nebraska Beer Wholesalers Assn. v. Young, 153 Neb. 395, 44 N.W.2d 806 (1950).
- Liquor Control Commission has power to regulate liquor traffic except as such power is specifically delegated elsewhere. Phelps Inc. v. City of Hastings, 152 Neb. 651, 42 N.W.2d 300 (1950).
- Cited in making comparison of powers and duties of Liquor Control Commission with those of heads of executive departments. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

- The Nebraska Liquor Control Commission is empowered to determine, by reasonable regulations, the hours for sale of beer outside the corporate limits of cities and villages, regardless of its alcoholic content. Griffin v. Gass, 133 Neb. 56, 274 N.W. 193 (1937).
- The Nebraska Liquor Control Act empowers the Nebraska Liquor Control Commission to issue a license subject to certain restrictions and conditions, including barring a person with a past history of problems controlling the patrons and the establishment, as long as those conditions or restrictions are reasonably necessary to protect the health, safety, and welfare of the people of the State of Nebraska and to promote and foster temperance in the consumption of alcohol. F & T, Inc. v. Nebraska Liquor Control Comm., 7 Neb. App. 973, 587 N.W.2d 700 (1998).
- **2. Local controls**
- A city is not prohibited from adopting reasonable regulations beyond those of the Liquor Control Commission if not in conflict therewith. Bali Hai', Inc. v. Nebraska Liquor Control Commission, 195 Neb. 1, 236 N.W.2d 614 (1975).
- Ordinance of city in conflict with Liquor Control Act was unenforceable. State v. Kubik, 159 Neb. 509, 67 N.W.2d 755 (1954).
- Despite absence of severance clause, ordinance which provided several distinct and separate grounds upon which to base revocation of liquor licenses was not rendered invalid in its entirety by reason of invalidity of some portions. Clark v. City of Fremont, 377 F.Supp. 327 (D. Neb. 1974).
- **3. Miscellaneous**
- Where applicant for license not afforded opportunity to explore an issue material to the license, court should direct a new hearing. 72nd Street Pizza, Inc. v. Nebraska Liquor Control Commission, 199 Neb. 729, 261 N.W.2d 614 (1978).
- Where licensee stored alcoholic beverages in an unauthorized area without permission of the commission and permitted part of licensed premises to be used for gambling, suspension of license was authorized and reasonable. O'Connor v. Nebraska Liquor Control Commission, 191 Neb. 436, 215 N.W.2d 635 (1974).
- Rule of Liquor Control Commission prescribing price at which liquors should be sold at retail was unconstitutional. Terry Carpenter, Inc. v. Nebraska Liquor Control Commission, 175 Neb. 26, 120 N.W.2d 374 (1963).

53-116.01.

Retail licensees; bottle club licensees; inspection of premises; suspend, cancel, or revoke license; when; charter bus; inspection; when.

(1) The commission and local governing bodies shall cause frequent inspection to be made on the premises of all retail licensees and bottle club licensees, and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and regulations of the commission adopted and promulgated under the act or is failing to observe in good faith the purposes of the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense.

(2) The commission and local governing bodies may inspect a charter bus providing service under a certificate of public convenience and necessity granted by the Public Service Commission when the owner or operator of the charter allows the consumption of alcoholic liquor in the charter bus by an individual who is twenty-one

years of age or older so long as the inspection is performed when the bus has stopped for the purpose of allowing passengers to embark or disembark.

Source

- Laws 1935, c. 116, § 103, p. 429;
- C.S.Supp.,1941, § 53-3,103;
- R.S.1943, § 53-146;
- Laws 1957, c. 231, § 1, p. 790;
- Laws 1959, c. 249, § 15, p. 873;
- Laws 1977, LB 176, § 1;
- Laws 1980, LB 848, § 10;
- R.S.1943, (1988), § 53-146;
- Laws 1991, LB 344, § 9;
- Laws 2004, LB 485, § 4;
- Laws 2018, LB1120, § 5;
- Laws 2020, LB734, § 2.

Annotations

- The authority of the Nebraska Liquor Control Commission to cancel a liquor license is set forth in this section and section 53-117.08. Each of these sections gives the commission authority to revoke, cancel, or suspend a liquor license where, after a proper hearing, the licensee has been found to have violated a provision of the Nebraska Liquor Control Act, a regulation adopted pursuant to the act, or a lawful ordinance of a local governing body. Grand Island Latin Club v. Nebraska Liq. Cont. Comm., 251 Neb. 61, 554 N.W.2d 778 (1996).

53-116.02.

Licensee; violations; forfeiture or revocation of license.

Whenever any retail licensee, bottle club licensee, craft brewery licensee, or microdistillery licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of the license and all money that had been paid for the license. The local governing body may conditionally revoke the license subject to a final order of the commission, or the commission may revoke the license in an original proceeding brought before it for that purpose.

Source

- Laws 1935, c. 116, § 47, p. 403;
- C.S.Supp.,1941, § 53-347;
- R.S.1943, § 53-128;
- Laws 1989, LB 781, § 7;
- R.S.Supp.,1990, § 53-128;
- Laws 1991, LB 344, § 10;

- Laws 1993, LB 183, § 4;
- Laws 1999, LB 267, § 4;
- Laws 2004, LB 485, § 5;
- Laws 2007, LB549, § 3;
- Laws 2018, LB1120, § 6.

53-117.

Powers, functions, and duties.

The commission has the following powers, functions, and duties:

(1) To receive applications for and to issue licenses to and suspend, cancel, and revoke licenses of manufacturers, wholesalers, nonbeverage users, retailers, railroads including owners and lessees of sleeping, dining, and cafe cars, airlines, boats, bottle clubs, special party buses, and pedal-pub vehicles in accordance with the Nebraska Liquor Control Act;

(2) To fix by rules and regulations the standards of manufacture of alcoholic liquor not inconsistent with federal laws in order to insure the use of proper ingredients and methods in the manufacture and distribution thereof and to adopt and promulgate rules and regulations not inconsistent with federal laws for the proper labeling of containers, barrels, casks, or other bulk containers or of bottles of alcoholic liquor manufactured or sold in this state. The Legislature intends, by the grant of power to adopt and promulgate rules and regulations, that the commission have broad discretionary powers to govern the traffic in alcoholic liquor and to enforce strictly all provisions of the act in the interest of sanitation, purity of products, truthful representations, and honest dealings in a manner that generally will promote the public health and welfare. All such rules and regulations shall be absolutely binding upon all licensees and enforceable by the commission through the power of suspension or cancellation of licenses, except that all rules and regulations of the commission affecting a club possessing any form of retail license or bottle club license shall have equal application to all such licenses or shall be void;

(3) To call upon other administrative departments of the state, county and municipal governments, county sheriffs, city police departments, village marshals, peace officers, and prosecuting officers for such information and assistance as the commission deems necessary in the performance of its duties. The commission shall enter into an agreement with the Nebraska State Patrol in which the Nebraska State Patrol shall hire six new patrol officers and, from the entire Nebraska State Patrol, shall designate a minimum of six patrol officers who will spend a majority of their time in administration and enforcement of the Nebraska Liquor Control Act;

(4) To recommend to local governing bodies rules and regulations not inconsistent with law for the distribution and sale of alcoholic liquor throughout the state;

(5) To inspect or cause to be inspected any premises where alcoholic liquor is manufactured, distributed, or sold and, when sold on unlicensed premises or on any premises in violation of law, to bring an action to enjoin the use of the property for such purpose;

(6) To hear and determine appeals from orders of a local governing body in accordance with the act;

(7) To conduct or cause to be conducted an audit to inspect any licensee's records and books;

(8) In the conduct of any hearing or audit authorized to be held by the commission (a) to examine or cause to be examined, under oath, any licensee and to examine or cause to be examined the books and records of such licensee, (b) to hear testimony and take proof material for its information in the discharge of its duties under the act, and (c) to administer or cause to be administered oaths;

(9) To investigate the administration of laws in relation to alcoholic liquor in this and other states and to recommend to the Governor and through him or her to the Legislature amendments to the act; and

(10) To receive, account for, and remit to the State Treasurer state license fees and taxes provided for in the act.

Source

- Laws 1935, c. 116, § 16, p. 382;
- C.S.Supp.,1941, § 53-316;
- R.S.1943, § 53-117;
- Laws 1959, c. 245, § 1, p. 842;
- Laws 1965, c. 318, § 4, p. 891;
- Laws 1967, c. 332, § 1, p. 879;
- Laws 1974, LB 681, § 4;
- Laws 1980, LB 848, § 2;
- Laws 1981, LB 545, § 15;
- Laws 1988, LB 1089, § 6;
- Laws 1989, LB 781, § 4;
- Laws 1991, LB 344, § 11;
- Laws 1993, LB 183, § 5;
- Laws 1999, LB 267, § 5;
- Laws 2004, LB 485, § 6;
- Laws 2013, LB579, § 1;
- Laws 2015, LB330, § 9;
- Laws 2018, LB1120, § 7;
- Laws 2020, LB734, § 3.

Annotations

- In the absence of a violation of a statute or valid regulation of the Nebraska Liquor Control Commission, the commission has no authority to cancel a liquor license. Jetter v. Nebraska Liquor Control Commission, 204 Neb. 431, 283 N.W.2d 5 (1979).
- Cited in making comparison of powers and duties of Liquor Control Commission with those of heads of executive departments. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

- Funds collected as state license fees are properly distributed for use of all school districts within state and should not be paid over to counties in which liquor licenses are granted. School District of Omaha v. Gass, 131 Neb. 312, 267 N.W. 528 (1936).

53-117.01.

Subpoenas; issuance; witnesses; documents.

In the discharge of any duty herein imposed the commission shall have authority to issue subpoenas and to compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony.

Source

- Laws 1959, c. 245, § 2, p. 844.

53-117.02.

Disobedience to subpoena; refusal to testify; proceedings for contempt.

In case of disobedience on the part of any person to any subpoena issued by the commission or the refusal of any witness to testify on any matters regarding which he may be lawfully interrogated, it shall be the duty of the district court for the county in which such hearing was convened, on the application of a member of the commission, to compel obedience by proceedings for contempt as in the case of disobedience to the requirements of a subpoena issued from such court or a refusal to testify therein.

Source

- Laws 1959, c. 245, § 3, p. 844.

53-117.03.

Employee and management training; commission; powers and duties; fees; certification.

(1) On or before January 1, 2007, the commission shall adopt and promulgate rules and regulations governing programs which provide training for persons employed in the sale and service of alcoholic liquor and management of licensed premises. Such rules and regulations may include, but need not be limited to:

(a) Minimum standards governing training of beverage servers, including standards and requirements governing curriculum, program trainers, and certification requirements;

(b) Minimum standards governing training in management of licensed premises, including standards and requirements governing curriculum, program trainers, and certification requirements;

(c) Minimum standards governing the methods allowed for training programs which may include the Internet, interactive video, live training in various locations across the state, and other means deemed appropriate by the commission;

(d) Methods for approving beverage-server training organizations and programs. All beverage-server training programs approved by the commission shall issue a certificate of completion to all persons who successfully complete the program and shall provide the names of all persons completing the program to the commission;

(e) Enrollment fees in an amount determined by the commission to be necessary to cover the administrative costs, including salary and benefits, of enrolling in a training program offered by the commission pursuant to subsection (2) of this section, but not to exceed thirty dollars; and

(f) Procedures and fees for certification, which fees shall be in an amount determined by the commission to be sufficient to defray the administrative costs, including salary and benefits, associated with maintaining a list of persons certified under this section and issuing proof of certification to eligible individuals but shall not exceed twenty dollars.

(2) The commission may create a program to provide training for persons employed in the sale and service of alcoholic liquor and management of licensed premises. The program shall include training on the issues of sales and service of alcoholic liquor to minors and to visibly inebriated purchasers. The commission may charge each person enrolling in the program an enrollment fee as provided in the rules and regulations, but such fee shall not exceed thirty dollars. All such fees shall be collected by the commission and remitted to the State Treasurer for credit to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund.

(3) A person who has completed a training program which complies with the rules and regulations, whether such program is offered by the commission or by another organization, may become certified by the commission upon the commission receiving evidence that he or she has completed such program and the person seeking certification paying the certification fee established under this section.

Source

- Laws 2006, LB 845, § 3;
- Laws 2013, LB199, § 22.

53-117.04.

Repealed. Laws 1989, LB 70, § 5; Laws 1989, LB 781, § 20; Laws 1993, LB 183, § 20.

53-117.05.

Rules and regulations; statutes; commission; provide copies; fee authorized.

The commission shall provide without charge to any person licensed under the Nebraska Liquor Control Act a set of rules and regulations adopted and promulgated by the commission, a copy of the Nebraska Liquor Control Act, and any other information which the commission deems important in the area of liquor control in the State of Nebraska. The information may be printed in a booklet, a pamphlet, or any other form the

commission may determine to be appropriate. The commission may update such material as often as it deems necessary. The commission may provide such material to any other person upon request and may charge a fee for the material. The fee shall be reasonable and shall not exceed any reasonable or necessary costs of producing the material for distribution.

Source

- Laws 1989, LB 70, § 3;
- Laws 1989, LB 781, § 17;
- Laws 1991, LB 202, § 1;
- Laws 1993, LB 183, § 6.

53-117.06.

Nebraska Liquor Control Commission Rule and Regulation Cash Fund; created; use; investment.

Any money collected by the commission pursuant to section 53-117.05 or 53-167.02 shall be credited to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund, which fund is hereby created. The purpose of the fund shall be to cover any administrative costs, including salary and benefits, incurred by the commission in producing or distributing the material referred to in such sections and to defray the costs associated with electronic regulatory transactions, industry education events, enforcement training, and equipment for regulatory work. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Liquor Control Commission Rule and Regulation Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source

- Laws 1989, LB 70, § 4;
- Laws 1989, LB 781, § 18;
- Laws 1993, LB 183, § 7;
- Laws 1993, LB 332, § 6;
- Laws 1994, LB 1066, § 42;
- Laws 2008, LB993, § 1;
- Laws 2009, First Spec. Sess., LB3, § 28;
- Laws 2013, LB199, § 23.

Cross References

- **Nebraska Capital Expansion Act,** see section 72-1269.
- **Nebraska State Funds Investment Act,** see section 72-1260.

53-117.07.

Proceedings to suspend, cancel, or revoke licenses before commission.

All proceedings for the suspension, cancellation, or revocation of licenses of manufacturers, wholesalers, nonbeverage users, craft breweries, microdistilleries, railroads, airlines, shippers, boats, special party buses, and pedal-pub vehicles shall be before the commission, and the proceedings shall be in accordance with rules and regulations adopted and promulgated by it not inconsistent with law. No such license shall be so suspended, canceled, or revoked except after a hearing by the commission with reasonable notice to the licensee and opportunity to appear and defend.

Source

- Laws 1935, c. 116, § 94, p. 425;
- C.S.Supp.,1941, § 53-394;
- R.S.1943, § 53-140;
- Laws 1967, c. 332, § 11, p. 891;
- Laws 1980, LB 848, § 8;
- Laws 1988, LB 1089, § 19;
- R.S.1943, (1988), § 53-140;
- Laws 1991, LB 344, § 12;
- Laws 1996, LB 750, § 2;
- Laws 2007, LB549, § 4;
- Laws 2015, LB330, § 10;
- Laws 2020, LB734, § 4.

53-117.08.

License; suspend, cancel, or revoke; hearing; conviction; court; duty.

The license of any licensee who violates any of the provisions of the Nebraska Liquor Control Act shall be suspended, canceled, or revoked. If any licensee violates the regulations adopted and promulgated by the commission or any lawful ordinance of the local governing body, the commission may, after proper hearing, suspend, cancel, or revoke the license. If any licensee is convicted of a violation of the terms of the act, the court shall immediately notify the local governing body and the commission.

Source

- Laws 1991, LB 344, § 13.

Annotations

- The authority of the Nebraska Liquor Control Commission to cancel a liquor license is set forth in section 53-116.01 and this section. Each of these sections gives the commission authority to revoke, cancel, or suspend a liquor license where, after a proper hearing, the licensee has been found to have violated a provision of the Nebraska Liquor Control Act, a regulation adopted pursuant to the act, or a lawful ordinance of a local governing body. Grand Island Latin Club v. Nebraska Liq. Cont. Comm., 251 Neb. 61, 554 N.W.2d 778 (1996).

53-118.

Rules and regulations.

The commission shall adopt and promulgate rules and regulations to carry out the Nebraska Liquor Control Act. The rules and regulations shall include, among such other things as the commission may determine, provisions: (1) Prescribing conditions as to the issuance of duplicate licenses in lieu of those lost or destroyed; (2) determining for which violations of the rules and regulations licenses shall be suspended, canceled, or revoked; (3) establishing standards of purity, sanitation, honest advertising, and representation; and (4) covering any and all the other details which are necessary or convenient to the enforcement of the intent, purpose, and requirements of the act.

Source

- Laws 1935, c. 116, § 16, p. 383;
- C.S.Supp.,1941, § 53-316;
- R.S.1943, § 53-118;
- Laws 1945, c. 127, § 1, p. 409;
- Laws 1955, c. 201, § 1, p. 569;
- Laws 1961, c. 259, § 1, p. 767;
- Laws 1963, c. 311, § 1, p. 936;
- Laws 1967, c. 331, § 1, p. 877;
- Laws 1967, c. 332, § 2, p. 880;
- Laws 1971, LB 754, § 1;
- Laws 1972, LB 66, § 1;
- Laws 1977, LB 362, § 1;
- Laws 1979, LB 323, § 1;
- Laws 1991, LB 344, § 14.

Annotations

- In the absence of a violation of a statute or valid regulation of the Nebraska Liquor Control Commission, the commission has no authority to cancel a liquor license. Jetter v. Nebraska Liquor Control Commission, 204 Neb. 431, 283 N.W.2d 5 (1979).
- A city is not prohibited from adopting reasonable regulations beyond those of the Liquor Control Commission if not in conflict therewith. Bali Hai', Inc. v. Nebraska Liquor Control Commission, 195 Neb. 1, 236 N.W.2d 614 (1975).
- Rule of Liquor Control Commission prescribing price at which liquors should be sold at retail was unconstitutional. Terry Carpenter, Inc. v. Nebraska Liquor Control Commission, 175 Neb. 26, 120 N.W.2d 374 (1963).
- Liquor Control Commission may promulgate such reasonable rules and regulations as it may deem necessary to carry out Liquor Control Act, but such rules and regulations must not be in conflict with the act itself. State ex rel. Nebraska Beer Wholesalers Assn. v. Young, 153 Neb. 395, 44 N.W.2d 806 (1950).

- Legislative grant of power to Nebraska Liquor Control Commission to make rules and regulations with respect to all containers of alcoholic liquors is constitutional. Marsh & Marsh, Inc. v. Carmichael, 136 Neb. 797, 287 N.W. 616 (1939).

53-119.

Repealed. Laws 1991, LB 344, § 75.

53-119.01.

Fire safety inspection; fee.

The commission may request the State Fire Marshal to inspect for fire safety pursuant to section 81-502 any premises for which an annually renewable retail license or bottle club license, or renewal of such a license, is sought. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 which shall be payable by the licensee or applicant for a license. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502.

Source

- Laws 1983, LB 498, § 1;
- Laws 2004, LB 485, § 7;
- Laws 2018, LB1120, § 8.

53-120.

Ready-to-drink cocktails; production and sale; rules and regulations.

The commission may adopt and promulgate rules and regulations pertaining to the production and sale of ready-to-drink cocktails.

Source

- Laws 2021, LB274, § 7.

53-121.

License; delivery; method.

When delivering any type of license under the Nebraska Liquor Control Act to a licensee, the commission may use mail or electronic delivery.

Source

- Laws 2022, LB1204, § 2.
- **Effective Date: July 21, 2022**

53-122.

Sale of liquor by drink; license issuance authorized; exception.

The commission may issue licenses for the sale of alcoholic liquor, except beer, by the drink subject to all the terms and conditions of the Nebraska Liquor Control Act in all cities and villages in this state, except in those cases when it affirmatively appears that the issuance will render null and void prior conveyances of land to such city or village for public uses and purposes by purchase, gift, or devise, under the conditions and in the manner provided in this section.

Source

- Laws 1935, c. 116, § 48, p. 403;
- C.S.Supp.,1941, § 53-348;
- R.S.1943, § 53-122;
- Laws 1963, c. 309, § 1, p. 911;
- Laws 1963, c. 310, § 2, p. 923;
- Laws 1969, c. 439, § 1, p. 1469;
- Laws 1973, LB 556, § 1;
- Laws 1977, LB 40, § 311;
- Laws 1984, LB 920, § 43;
- Laws 1988, LB 1089, § 7;
- Laws 1989, LB 781, § 5;
- Laws 1991, LB 344, § 15;
- Laws 1993, LB 183, § 8;
- Laws 1994, LB 76, § 570;
- Laws 1999, LB 267, § 6;
- Laws 2001, LB 278, § 2;
- Laws 2004, LB 485, § 8;
- Laws 2005, LB 98, § 34;
- Laws 2010, LB861, § 51;
- Laws 2014, LB863, § 23.

Annotations

- Percentage of votes required is based on last general municipal election. Allen v. Tobin, 155 Neb. 212, 51 N.W.2d 338 (1952).
- Funds collected as state license fees are properly distributed for use of all school districts within state and should not be paid over to counties in which liquor licenses are granted. School District of Omaha v. Gass, 131 Neb. 312, 267 N.W. 528 (1936).

53-123.

Licenses; types.

Licenses issued by the commission shall be of the following types: (1) Manufacturer's license; (2) alcoholic liquor wholesale license, except beer; (3) beer wholesale license; (4) retail license; (5) railroad license; (6) airline license; (7) boat license; (8) nonbeverage user's license; (9) farm winery license; (10) craft brewery license; (11) shipping license; (12) special designated license; (13) catering license; (14) microdistillery license; (15) entertainment district license; (16) pedal-pub vehicle license; (17) bottle club license; (18) special party bus license; and (19) promotional farmers market special designated license.

Source

- Laws 1935, c. 116, § 25, p. 390;
- C.S.Supp.,1941, § 53-325;
- R.S.1943, § 53-123;
- Laws 1947, c. 187, § 1, p. 616;
- Laws 1947, c. 188, § 1, p. 621;
- Laws 1963, c. 310, § 3, p. 926;
- Laws 1967, c. 332, § 3, p. 881;
- Laws 1985, LB 279, § 3;
- Laws 1988, LB 1089, § 8;
- Laws 1991, LB 344, § 16;
- Laws 1996, LB 750, § 3;
- Laws 2004, LB 485, § 9;
- Laws 2007, LB549, § 5;
- Laws 2012, LB1130, § 2;
- Laws 2015, LB330, § 11;
- Laws 2018, LB1120, § 9;
- Laws 2020, LB734, § 5;
- Laws 2021, LB274, § 8.

Annotations

- A nonprofit corporation license is a retail license for the sale of alcoholic liquors including beer. Arrow Club, Inc. v. Nebraska Liquor Control Commission, 177 Neb. 686, 131 N.W.2d 134 (1964).
- Where statute authorizes granting licensees right to sell all forms of alcoholic liquors including beer, licensees are entitled to sell beer and other liquor in same room, notwithstanding another section declaring public policy in favor of separate sale. Hanson v. Gass, 130 Neb. 685, 267 N.W. 403 (1936).

53-123.01.

Manufacturer's license; rights of licensee; craft brewery license holder; when required to obtain manufacturer’s license; rights of holder.

(1) A manufacturer's license shall allow the manufacture, storage, and sale of alcoholic liquor to wholesale licensees in this state and to such persons outside the state as may be permitted by law, except that nothing in the Nebraska Liquor Control Act shall prohibit a manufacturer of beer from distributing tax-paid samples of beer at the premises of a licensed manufacturer for consumption on the premises. A manufacturer's license

issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of beer manufactured on the licensed premises for consumption on the licensed premises.

(2)(a) A licensee who or which first obtains a craft brewery license pursuant to section 53-123.14, holds such license for not less than three years, and operates a brewpub or microbrewery on the licensed premises of such craft brewery license shall obtain a manufacturer's license when the manufacture of beer on the licensed premises exceeds twenty thousand barrels per year. The manufacturer's license shall authorize the continued retail sale of beer for consumption on or off the premises but only to the extent the premises were previously licensed as a craft brewery. The sale of any beer other than beer manufactured by the licensee, wine, or alcoholic liquor for consumption on the licensed premises shall require the appropriate retail license. The holder of such manufacturer's license may continue to operate up to five retail locations which are in operation at the time such manufacturer's license is issued and shall divest itself from retail locations in excess of five locations. The licensee shall not begin operation at any new retail location even if the licensee's production is reduced below twenty thousand barrels per year.

(b) The holder of such manufacturer's license may obtain an annual catering license pursuant to section 53-124.12, a special designated license pursuant to section 53-124.11, or an entertainment district license pursuant to section 53-123.17.

Source

- Laws 1935, c. 116, § 25, p. 390;
- C.S.Supp.,1941, § 53-325;
- R.S.1943, § 53-123;
- Laws 1947, c. 187, § 1(1), p. 617;
- Laws 1947, c. 188, § 1(1), p. 621;
- Laws 1982, LB 431, § 1;
- Laws 1991, LB 344, § 17;
- Laws 1996, LB 750, § 4;
- Laws 2016, LB1105, § 11.

53-123.02.

Alcoholic liquor wholesale license, except beer; rights of licensee; sampling.

An alcoholic liquor wholesale license, except beer, shall (1) allow the wholesale purchase, importation, and storage of alcoholic liquor and sale of alcoholic liquor, except beer, to licensees in this state and to persons outside the state as may be permitted by law and (2) allow the sampling of tax-paid alcoholic liquor, except beer, upon the premises of the licensed wholesaler by a licensed retailer or allow sampling on the premises of any licensed retailer, whether the license permits consumption on or off the licensed premises, or both, in the manner prescribed by the commission. The sampling authorized under this section shall be limited to persons licensed as wholesalers or retailers and their employees.

Source

- Laws 1935, c. 116, § 25, p. 390;
- C.S.Supp.,1941, § 53-325;
- R.S.1943, § 53-123;
- Laws 1947, c. 187, § 1(2), p. 617;
- Laws 1947, c. 188, § 1(2), p. 621;
- Laws 1963, c. 310, § 4, p. 926;
- Laws 1980, LB 848, § 3;
- Laws 1982, LB 431, § 2;
- Laws 1991, LB 344, § 18;
- Laws 1993, LB 53, § 1;
- Laws 2003, LB 205, § 1;
- Laws 2004, LB 485, § 10.

53-123.03.

Beer wholesale license; rights of licensee; designated territory.

A beer wholesale license shall (1) allow the wholesale purchase, importation, and storage of beer and sale, including delivery, of the brand or brands described in such license to licensees in this state in the sales territory prescribed in the license for each brand and to such persons outside the state as may be permitted by law, (2) allow the licensed wholesaler to do all things incident to the carrying on of the wholesale beer business, including the sampling of tax-paid beer upon the premises of the licensed wholesaler by a licensed retailer in the manner prescribed by the commission, and (3) allow the sampling of tax-paid beer upon the premises of any retailer, whether the license permits consumption on or off the licensed premises, or both, in a manner prescribed by the commission.

The sampling authorized under subdivision (3) of this section shall be limited to persons licensed as wholesalers or retailers and their employees.

The license shall designate the territory within which the licensed wholesaler may sell the designated product of any brewer as agreed upon by the licensee and the brewer.

Source

- Laws 1935, c. 116, § 25, p. 390;
- C.S.Supp.,1941, § 53-325;
- R.S.1943, § 53-123;
- Laws 1947, c. 187, § 1(3), p. 617;
- Laws 1947, c. 188, § 1(3), p. 622;
- Laws 1963, c. 310, § 5, p. 926;
- Laws 1971, LB 234, § 18;
- Laws 1976, LB 204, § 1;
- Laws 1980, LB 848, § 4;
- Laws 1983, LB 133, § 1;
- Laws 1991, LB 344, § 19;
- Laws 2003, LB 205, § 2;

- Laws 2004, LB 485, § 11.

53-123.04.

Retail license; rights of licensee; sampling; removal of unsealed bottle of wine; conditions; sales for consumption off the premises; conditions; notice to commission, required.

(1) A retail license shall allow the licensee to sell and offer for sale at retail either in the original package or otherwise, as prescribed in the retail license, on the premises specified in the retail license or the entertainment district license or on the premises where catering is occurring, alcoholic liquor or beer for use or consumption but not for resale in any form except as provided in section 53-175.

(2) Nothing in the Nebraska Liquor Control Act shall prohibit a holder of a Class D license from allowing the sampling of tax-paid wine for consumption on the premises by such licensee or his or her employees in cooperation with a licensed wholesaler in the manner prescribed by the commission.

(3)(a) A restaurant holding a license to sell alcoholic liquor at retail for consumption on the licensed premises may permit a customer to remove one unsealed bottle of wine for consumption off the premises if the customer has purchased a full-course meal and consumed a portion of the bottle of wine with such full-course meal on the licensed premises. The licensee or his or her agent shall (i) securely reseal such bottle and place the bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been opened or tampered with and (ii) provide a dated receipt to the customer and attach to such bag a copy of the dated receipt for the resealed bottle of wine and the full-course meal.

(b) If the resealed bottle of wine is transported in a motor vehicle, it must be placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(c) For purposes of this subsection, full-course meal means a diversified selection of food which is ordinarily consumed with the use of tableware and cannot conveniently be consumed while standing or walking.

(4) The holder of a Class C liquor license as described in subdivision (6)(a)(iii) of section 53-124 may sell alcoholic liquor not in the original package, such as a mixed drink or cocktail, to a person twenty-one years of age or older for consumption off the premises if (a) the alcoholic liquor is (i) not partially consumed and (ii) in a labeled and sealed container with a tamper-evident lid, cap, or seal, as approved by the commission, and (b) for alcoholic liquor transported in a motor vehicle, the alcoholic liquor is placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(5) The holder of a Class I liquor license as described in subdivision (6)(a)(v) of section 53-124 may sell alcoholic liquor not in the original package, such as a mixed drink or cocktail, to a person twenty-one years of age or older for consumption off the premises if (a) the alcoholic liquor is (i) not partially consumed, (ii) in a labeled and sealed container with a tamper-evident lid, cap, or seal, as approved by the commission, and (iii) purchased along with food, and (b) for alcoholic liquor transported in a motor vehicle, the alcoholic liquor is placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(6) A licensee intending to sell alcoholic liquor in the manner authorized under subsections (4) and (5) of this section shall provide notice of such intention to the commission during initial licensure or upon the licensee's annual renewal.

Source

- Laws 1935, c. 116, § 25, p. 390;
- C.S.Supp.,1941, § 53-325;
- R.S.1943, § 53-123;
- Laws 1947, c. 187, § 1(4), p. 617;
- Laws 1947, c. 188, § 1(4), p. 622;
- Laws 1965, c. 318, § 5, p. 892;
- Laws 1973, LB 111, § 3;
- Laws 1978, LB 386, § 3;
- Laws 1988, LB 1089, § 9;
- Laws 1989, LB 154, § 2;
- Laws 1989, LB 441, § 3;
- Laws 1991, LB 344, § 20;
- Laws 1993, LB 53, § 2;
- Laws 1994, LB 859, § 4;
- Laws 2001, LB 278, § 3;
- Laws 2004, LB 485, § 12;
- Laws 2006, LB 562, § 2;
- Laws 2012, LB1130, § 3;
- Laws 2021, LB274, § 9.

53-123.05.

Railroad or airline license; rights of licensee.

(1) The commission may issue a license to any airline company, dining car company, sleeping car company, or railroad company operating in this state which authorizes the holder thereof to keep for sale and to sell or dispense alcoholic liquor for consumption in its airplanes, dining cars, sleeping cars, buffet cars, observation cars, and any other cars used for transportation or accommodation of passengers. Each such company shall keep a duplicate of such license posted in each car or airplane where such alcoholic liquor is served.

(2) Every such license shall expire on April 30 of each year. Each such license shall be good throughout this state as a state license. Only one such license shall be required for all cars or airplanes operated in this state by the same owner. No further license shall be required or tax levied by any county, city, or village for the privilege of selling or dispensing alcoholic liquor for consumption in such cars or airplanes. Nothing in the Nebraska Liquor Control Act shall apply to or affect the right of holders of such licenses to transport within this state or to import into this state alcoholic liquor to be kept for dispensing or sale or to be sold while actually en route in the cars or airplanes of such licensees.

Source

- Laws 1935, c. 116, § 25, p. 390;
- C.S.Supp.,1941, § 53-325;
- R.S.1943, § 53-123;
- Laws 1947, c. 187, § 1(5), p. 618;
- Laws 1947, c. 188, § 1(5), p. 622;
- Laws 1957, c. 229, § 1, p. 786;
- Laws 1967, c. 332, § 5, p. 882;
- Laws 1989, LB 780, § 8.

53-123.06.

Boat license; rights of licensee.

A boat license shall allow the sale of alcoholic liquor in individual drinks, on any passenger boat which maintains a public dining room or restaurant thereon.

Source

- Laws 1935, c. 116, § 25, p. 390;
- C.S.Supp.,1941, § 53-325;
- R.S.1943, § 53-123;
- Laws 1947, c. 187, § 1(6), p. 618;
- Laws 1947, c. 188, § 1(6), p. 623.

53-123.07.

Nonbeverage user's license; rights of licensee; importation of alcohol; classes of license.

A nonbeverage user's license shall allow the licensee to purchase alcoholic liquor from a licensed manufacturer or wholesaler without the imposition of any tax upon the business of such licensed manufacturer or wholesaler as to such alcoholic liquor to be used by such licensed nonbeverage user solely for the nonbeverage purposes set forth in subsection (4) of section 53-160. If any licensed nonbeverage user is engaged in the business of manufacturing, compounding, or preparing pharmaceutical products or similar preparations or products containing alcohol to be sold in both intrastate and interstate commerce, such nonbeverage user's license shall allow the licensee to purchase at wholesale or otherwise from manufacturers or wholesalers not licensed in the state and to import alcohol either in barrels, drums, casks, or other containers. If any licensed nonbeverage user is engaged in the business of manufacturing or preparing food products containing alcoholic liquor to be sold in both intrastate and interstate commerce, such nonbeverage user's license shall allow the licensee to purchase at wholesale from alcoholic liquor wholesalers licensed within the state alcoholic liquor either in barrels, drums, casks, or other containers, and such alcoholic liquor wholesalers may cause such alcoholic liquor to be shipped or delivered directly to such nonbeverage user from the source of supply, in which event all such shipments or deliveries shall be considered as received by such alcoholic liquor wholesalers within this state and at their licensed premises and purchased by such alcoholic liquor wholesalers and for their account, and all such shipments or deliveries shall be recorded and reported by such alcoholic liquor wholesalers as required by section 53-165. All such licenses shall be divided

and classified and shall permit the purchase during the term for which such licenses are issued of limited and stated quantities of alcoholic liquor as follows:

Class 1, not to exceed.....100 gallons

Class 2, not to exceed.....1,000 gallons

Class 3, not to exceed.....5,000 gallons

Class 4, not to exceed.....10,000 gallons

Class 5, in excess of.....10,000 gallons.

Source

- Laws 1935, c. 116, § 25, p. 390;
- C.S.Supp.,1941, § 53-325;
- R.S.1943, § 53-123;
- Laws 1947, c. 187, § 1(7), p. 618;
- Laws 1947, c. 188, § 1(7), p. 623;
- Laws 1965, c. 319, § 2, p. 908;
- Laws 1971, LB 466, § 1;
- Laws 1991, LB 344, § 21.

53-123.08.

Bottle club license; rights of licensee.

(1) A bottle club may be operated by a club, an individual, a partnership, a limited liability company, or a corporation. An accurate and current membership list shall be maintained upon the licensed premises which contains the names and residences of the members but shall not be subject to disclosure except as required by warrant, subpoena, or court order.

(2) A bottle club shall not operate on any day between the hours of 5 a.m. and 6 a.m.

(3) The holder of a bottle club license shall not simultaneously hold another license under the Nebraska Liquor Control Act.

(4) The holder of a bottle club license shall be subject to all provisions of the Nebraska Liquor Control Act and the rules and regulations adopted and promulgated under the act that govern the operation of retail licensees except as otherwise provided in subsection (2) of this section.

Source

- Laws 2018, LB1120, § 4.

53-123.09.

Beer wholesaler; delivery outside territory; unlawful; penalty.

(1) It shall be unlawful for any beer wholesaler to deliver beer to any retail licensee located outside the geographic territory designated on the beer wholesaler's license.

(2) If any person violates subsection (1) of this section, such person's license shall be suspended or revoked by the commission in the manner provided by the Nebraska Liquor Control Act.

Source

- Laws 1976, LB 204, § 2;
- Laws 1991, LB 344, § 22.

53-123.10.

Farm winery license; when issued.

A license to operate a farm winery may be issued by the commission upon an applicant's compliance with section 53-123.12 and such other requirements as the commission adopts and promulgates by rule and regulation to administer sections 53-101.02 and 53-123.10 to 53-123.13.

Source

- Laws 1985, LB 279, § 4.

53-123.11.

Farm winery license; rights of licensee; removal of unsealed bottle of wine; conditions; sales for consumption off the premises; conditions; notice to commission, required.

(1) A farm winery license shall entitle the holder to:

(a) Sell wines produced at the farm winery onsite at wholesale and retail and to sell wines produced at the farm winery at off-premises sites holding the appropriate retail license;

(b) Sell wines produced at the farm winery at retail for consumption on the premises as designated pursuant to section 53-123.12;

(c) Permit a customer to remove one unsealed bottle of wine for consumption off the premises. The licensee or his or her agent shall (i) securely reseal such bottle and place the bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been opened or tampered with and (ii) provide a dated receipt to the customer and attach to such bag a copy of the dated receipt for the resealed bottle of wine. If the resealed bottle of wine is transported in a motor vehicle, it must be placed in the trunk of the

motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk;

(d) Ship wines produced at the farm winery by common carrier and sold at retail to recipients in and outside the State of Nebraska, if the output of such farm winery for each calendar year as reported to the commission by December 31 of each year does not exceed thirty thousand gallons. In the event such amount exceeds thirty thousand gallons, the farm winery shall be required to use a licensed wholesaler to distribute its wines for the following calendar year, except that this requirement shall not apply to wines produced and sold onsite at the farm winery pursuant to subdivision (1)(a) of this section;

(e) Allow sampling and sale of the wine at the farm winery and at four branch outlets in the state in reasonable amounts;

(f) Sell wines produced at the farm winery to other Nebraska farm winery licensees, in bulk, bottled, labeled, or unlabeled, in accordance with 27 C.F.R. 24.308, 27 C.F.R. 24.309, and 27 C.F.R. 24.314, as such regulations existed on January 1, 2008;

(g) Purchase distilled spirits from licensed microdistilleries in Nebraska, in bulk or bottled, made entirely from Nebraska-licensed farm winery wine to be used in the production of fortified wine at the purchasing licensed farm winery;

(h) Store and warehouse products produced at the farm winery in a designated, secure, offsite storage facility if the holder of the farm winery license notifies the commission of the location of the facility and maintains, at the farm winery and at the facility, a separate perpetual inventory of the product stored at the facility. Consumption of alcoholic liquor at the facility is strictly prohibited; and

(i) Sell alcoholic liquor authorized under a farm winery license not in its original package, such as sangria or wine slushies, to a person twenty-one years of age or older for consumption off the premises if (i) the alcoholic liquor is (A) not partially consumed and (B) in a labeled and sealed container with a tamper-evident lid, cap, or seal, as approved by the commission, and (ii) for alcoholic liquor transported in a motor vehicle, the alcoholic liquor is placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk. A farm winery which sells alcoholic liquor authorized under a farm winery license not in its original package for consumption off the premises shall provide notice to the commission during a farm winery licensee's initial licensure or at the time of the annual renewal of such license regarding such sales.

(2) No farm winery shall manufacture wine in excess of fifty thousand gallons per year.

(3) A farm winery may manufacture and sell hard cider on its licensed premises. A farm winery shall not otherwise distribute the hard cider it manufactures except by sale to a wholesaler licensed under the Nebraska Liquor Control Act.

(4) A holder of a farm winery license may obtain a special designated license pursuant to section 53-124.11.

(5) A holder of a farm winery license may obtain an annual catering license pursuant to section 53-124.12.

(6) A holder of a farm winery license may obtain a promotional farmers market special designated license pursuant to section 53-124.16.

Source

- Laws 1985, LB 279, § 5;
- Laws 1991, LB 344, § 23;
- Laws 1997, LB 479, § 1;
- Laws 2003, LB 536, § 3;
- Laws 2006, LB 562, § 3;
- Laws 2008, LB1103, § 2;
- Laws 2010, LB861, § 52;
- Laws 2015, LB330, § 12;
- Laws 2019, LB592, § 2;
- Laws 2020, LB1056, § 4;
- Laws 2021, LB274, § 10.

53-123.12.

Farm winery license; application requirements; renewal; fees; licensed premises; temporary expansion; procedure.

(1) Any person desiring to obtain a new license to operate a farm winery shall:

(a) File an application with the commission upon such forms as the commission from time to time prescribes;

(b) Pay the license fee to the commission under sections 53-124 and 53-124.01, which fee shall be returned to the applicant if the application is denied; and

(c) Pay the nonrefundable application fee to the commission in the sum of four hundred dollars.

(2) To renew a farm winery license, a farm winery licensee shall file an application with the commission, pay the license fee under sections 53-124 and 53-124.01, and pay the renewal fee of forty-five dollars.

(3) License fees, application fees, and renewal fees may be paid to the commission by certified or cashier's check of a bank within this state, personal or business check, United States post office money order, or cash in the full amount of such fees.

(4) For a new license, the commission shall then notify the municipal clerk of the city or incorporated village where such license is sought or, if the license is not sought within a city or incorporated village, the county clerk of the county where such license is sought of the receipt of the application and shall include with such notice one copy of the application. No such license shall then be issued by the commission until the expiration of at least forty-five days from the date of receipt by mail or electronic delivery of such application from the commission. Within thirty-five days from the date of receipt of such application from the commission, the local governing bodies of nearby cities or villages or the county may make and submit to the commission recommendations relative to the granting of or refusal to grant such license to the applicant.

(5)(a) A farm winery licensee may apply to the local governing body for a temporary expansion of the licensed premises to an immediately adjacent area owned or leased by the licensee or to an immediately adjacent street, parking lot, or alley, not to exceed fifty days for calendar year 2020 and, for each calendar year thereafter, not to exceed fifteen days per calendar year. The temporary area shall comply with the Nebraska Liquor Control Act for consumption on the premises and shall be subject to the following conditions: (i) The temporary area shall be enclosed during the temporary expansion by a temporary fence or other means approved by the county, city, or village; (ii) the temporary area shall have easily identifiable entrances and exits; and (iii) the licensee shall ensure that the area meets all sanitation requirements for a licensed premises. The local governing body shall electronically notify the commission within five days after the authorization of any temporary expansion pursuant to this subsection.

(b) The licensee shall file an application with the local governing body which shall contain (i) the name of the applicant, (ii) the premises for which a temporary expansion is requested, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (iii) the name of the owner or lessee of the premises for which the temporary expansion is requested, (iv) sufficient evidence that the licensee will carry on the activities and business authorized by the license for himself, herself, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (v) a statement of the type of activity to be carried on during the time period for which a temporary expansion is requested, and (vi) sufficient evidence that the temporary expansion will be supervised by persons or managers who are agents of and directly responsible to the licensee.

(c) No temporary expansion provided for by this subsection shall be granted without the approval of the local governing body. The local governing body may establish criteria for approving or denying a temporary expansion. The local governing body may designate an agent to determine whether a temporary expansion is to be approved or denied. Such agent shall follow criteria established by the local governing body in making the determination. The determination of the agent shall be considered the determination of the local governing body unless otherwise provided by the local governing body.

(d) For purposes of this section, the local governing body shall be that of the city or village within which the premises for which the temporary expansion is requested are located or, if such premises are not within the corporate limits of a city or village, then the local governing body shall be that of the county within which the premises for which the temporary expansion is requested are located.

(e) The decision of the local governing body shall be final. If the applicant does not qualify for a temporary expansion, the temporary expansion shall be denied by the local governing body.

(f) The city, village, or county clerk shall deliver confirmation of the temporary expansion to the licensee upon receipt of any fee or tax imposed by such city, village, or county.

Source

- Laws 1985, LB 279, § 7;
- Laws 1988, LB 1089, § 10;
- Laws 1991, LB 202, § 2;
- Laws 2000, LB 973, § 3;

- Laws 2010, LB861, § 53;
- Laws 2011, LB407, § 3;
- Laws 2020, LB1056, § 5;
- Laws 2022, LB1204, § 3.
- **Effective Date: July 21, 2022**

53-123.13.

Farm winery; waiver of requirement; when; conditions.

(1) If the operator of a farm winery is unable to produce or purchase sixty percent of the grapes, fruit, or other suitable agricultural products used in the farm winery from within the state due to natural disaster which causes substantial loss to the Nebraska-grown crop, such operator may petition the commission to waive the sixty-percent requirement prescribed in section 53-103.13 for one year.

(2) It shall be within the discretion of the commission to waive the sixty-percent requirement taking into consideration the availability of products used in farm wineries in this area and the ability of such operator to produce wine from products that are abundant within the state.

(3) If the operator of a farm winery is granted a waiver, any product purchased as concentrated juice from grapes or other fruits from outside of Nebraska, when reconstituted from concentrate, may not exceed in total volume along with other products purchased the total percentage allowed by the waiver.

(4) Any product purchased under the waiver or as part of the forty percent of allowable product purchased that is not Nebraska-grown for the production of wine shall not exceed the forty percent volume allowed under state law if made from concentrated grapes or other fruit, when reconstituted. The concentrate shall not be reduced to less than twenty-two degrees Brix in accordance with 27 C.F.R. 24.180.

Source

- Laws 1985, LB 279, § 6;
- Laws 1986, LB 871, § 2;
- Laws 1989, LB 441, § 5;
- Laws 1991, LB 344, § 24;
- Laws 1994, LB 859, § 5;
- Laws 2004, LB 485, § 13;
- Laws 2008, LB1103, § 3;
- Laws 2010, LB861, § 54;
- Laws 2019, LB592, § 3.

53-123.14.

Craft brewery license; rights of licensee; self-distribution; conditions.

(1) Any person who operates a craft brewery shall obtain a license pursuant to the Nebraska Liquor Control Act. A license to operate a craft brewery shall permit the production of a maximum of twenty thousand barrels

of beer per year in the aggregate from all physical locations comprising the licensed premises. A craft brewery may also sell to beer wholesalers for sale and distribution to licensed retailers. A craft brewery license issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of beer for consumption on or off the licensed premises, except that the sale of any beer other than beer manufactured by the craft brewery licensee, wine, or alcoholic liquor by the drink for consumption on the licensed premises shall require the appropriate retail license. Any license held by the operator of a craft brewery shall be subject to the act. A holder of a craft brewery license may obtain an annual catering license pursuant to section 53-124.12, a special designated license pursuant to section 53-124.11, an entertainment district license pursuant to section 53-123.17, or a promotional farmers market special designated license pursuant to section 53-124.16. For purposes of this section, licensed premises may include up to five separate physical locations.

(2)(a) A holder of a craft brewery license may directly sell for resale up to two hundred fifty barrels per calendar year of beer produced at its licensed premises directly to retail licensees located in the State of Nebraska which hold the appropriate retail license if the holder of the craft brewery license:

(i) Only self-distributes its beer in a territory in which the craft brewery licensee has not entered into a distribution agreement with a licensed Nebraska wholesaler for the territory where such retail licensee is located;

(ii) Self-distributes its beer utilizing only persons exclusively and solely employed by the craft brewery licensee in vehicles exclusively and solely owned or leased by the craft brewery licensee; and

(iii) Complies with all relevant statutes, rules, and regulations that apply to Nebraska beer wholesalers regarding distribution of such beer.

(b) A holder of a craft brewery license self-distributing beer in accordance with subdivision (2)(a) of this section may only self-distribute beer brewed at its licensed brewery premises and shall not distribute beer produced by any other licensee.

(3) A holder of a craft brewery license may store and warehouse tax-paid products produced on such licensee's licensed premises in a designated, secure, offsite storage facility if the holder of the craft brewery license receives authorization from the commission and notifies the commission of the location of the storage facility and maintains, at the craft brewery and at the storage facility, a separate perpetual inventory of the product stored at the storage facility. Consumption of alcoholic liquor at the storage facility is strictly prohibited.

(4) The commission may adopt and promulgate rules and regulations pertaining to distribution rights of craft brewery licensees.

Source

- Laws 1988, LB 1089, § 3;
- Laws 1991, LB 344, § 25;
- Laws 1994, LB 1292, § 3;

- Laws 1996, LB 750, § 5;
- Laws 2012, LB780, § 3;
- Laws 2012, LB1130, § 4;
- Laws 2016, LB1105, § 12;
- Laws 2021, LB274, § 11;
- Laws 2022, LB1236, § 1.
- **Effective Date: July 21, 2022**

53-123.15.

Shipping license; when required; rights of licensee; application; contents; violation; disciplinary action; holder of license; duties; report; contents.

(1) No person shall order or receive alcoholic liquor in this state which has been shipped directly to him or her from outside this state by any person other than a holder of a shipping license issued by the commission, except that a licensed wholesaler may receive not more than three gallons of wine in any calendar year from any person who is not a holder of a shipping license.

(2) The commission may issue a shipping license to a manufacturer. Such license shall allow the licensee to ship alcoholic liquor only to a licensed wholesaler. A person who receives a license pursuant to this subsection shall pay the fee required in sections 53-124 and 53-124.01 for a manufacturer's shipping license. Such fee shall be collected by the commission and be remitted to the State Treasurer for credit to the General Fund, except that the fee received for a shipping license issued to a beer manufacturer pursuant to this subsection shall be credited to the Nebraska Beer Industry Promotional Fund.

(3) The commission may issue a shipping license to any person who deals with vintage wines, which shipping license shall allow the licensee to distribute such wines to a licensed wholesaler in the state. For purposes of distributing vintage wines, a licensed shipper must utilize a designated wholesaler if the manufacturer has a designated wholesaler. For purposes of this section, vintage wine shall mean a wine verified to be ten years of age or older and not available from a primary American source of supply. A person who receives a license pursuant to this subsection shall pay the fee required in sections 53-124 and 53-124.01 for a vintage wine dealer's shipping license. Such fee shall be collected by the commission and be remitted to the State Treasurer for credit to the General Fund.

(4) The commission may issue a shipping license to any manufacturer who sells and ships alcoholic liquor from another state directly to a consumer in this state if the manufacturer satisfies the requirements of subsections (7) through (9) of this section. A manufacturer who receives a license pursuant to this subsection shall pay the fee required in sections 53-124 and 53-124.01 for a manufacture direct sales shipping license. Such fee shall be collected by the commission and remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund.

(5) The commission may issue a shipping license to any retailer who is licensed within or outside Nebraska, who is authorized to sell alcoholic liquor at retail in the state of domicile of the retailer, and who is not a manufacturer if such retailer satisfies the requirements of subsections (7) through (9) of this section to ship alcoholic liquor from another state directly to a consumer in this state. A retailer who receives a license pursuant to this subsection shall pay the fee required in sections 53-124 and 53-124.01 for a retail direct sales

shipping license. Such fee shall be collected by the commission and remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund.

(6) The application for a shipping license under subsection (2) or (3) of this section shall be in such form as the commission prescribes. The application shall contain all provisions the commission deems proper and necessary to effectuate the purpose of any section of the act and the rules and regulations of the commission that apply to manufacturers and shall include, but not be limited to, provisions that the applicant, in consideration of the issuance of such shipping license, agrees:

(a) To comply with and be bound by sections 53-162 and 53-164.01 in making and filing reports, paying taxes, penalties, and interest, and keeping records;

(b) To permit and be subject to all of the powers granted by section 53-164.01 to the commission or its duly authorized employees or agents for inspection and examination of the applicant's premises and records and to pay the actual expenses, excluding salary, reasonably attributable to such inspections and examinations made by duly authorized employees of the commission if within the United States; and

(c) That if the applicant violates any of the provisions of the application or the license, any section of the act, or any of the rules and regulations of the commission that apply to manufacturers, the commission may suspend, cancel, or revoke such shipping license for such period of time as it may determine.

(7) The application for a shipping license under subsection (4) or (5) of this section shall be in such form as the commission prescribes. The application shall require an applicant which is a manufacturer, a craft brewery, a craft distillery, or a farm winery to identify the brands of alcoholic liquor that the applicant is requesting the authority to ship either into or within Nebraska. For all applicants, unless otherwise provided in this section, the application shall contain all provisions the commission deems proper and necessary to effectuate the purpose of any section of the act and the rules and regulations of the commission that apply to manufacturers or retailers and shall include, but not be limited to, provisions that the applicant, in consideration of the issuance of such shipping license, agrees:

(a) To comply with and be bound by sections 53-162 and 53-164.01 in making and filing reports, paying taxes, penalties, and interest, and keeping records;

(b) To permit and be subject to all of the powers granted by section 53-164.01 to the commission or its duly authorized employees or agents for inspection and examination of the applicant's premises and records and to pay the actual expenses, excluding salary, reasonably attributable to such inspections and examinations made by duly authorized employees of the commission if within the United States;

(c) That if the applicant violates any of the provisions of the application or the license, any section of the act, or any of the rules and regulations of the commission that apply to manufacturers or retailers, the commission may suspend, cancel, or revoke such shipping license for such period of time as it may determine;

(d) That the applicant agrees to notify the commission of any violations in the state in which he or she is domiciled and any violations of the direct shipping laws of any other states. Failure to notify the commission within thirty days after such a violation may result in a hearing before the commission pursuant to which the license may be suspended, canceled, or revoked; and

(e) That the applicant, if a manufacturer, craft brewery, craft distillery, or farm winery, agrees to notify any wholesaler licensed in Nebraska that has been authorized to distribute such brands that the application has been filed for a shipping license. The notice shall be in writing and in a form prescribed by the commission. The commission may adopt and promulgate rules and regulations as it reasonably deems necessary to implement this subdivision, including rules and regulations that permit the holder of a shipping license under this subdivision to amend the shipping license by, among other things, adding or deleting any brands of alcoholic liquor identified in the shipping license.

(8) Any manufacturer or retailer who is granted a shipping license under subsection (4) or (5) of this section shall:

(a) Only ship the brands of alcoholic liquor identified on the application;

(b) Only ship alcoholic liquor that is owned by the holder of the shipping license;

(c) Only ship alcoholic liquor that is properly registered with the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury;

(d) Not ship any alcoholic liquor products that the manufacturers or wholesalers licensed in Nebraska have voluntarily agreed not to bring into Nebraska at the request of the commission;

(e) Not ship more than nine liters of alcoholic liquor per month to any person in Nebraska to whom alcoholic beverages may be lawfully sold. All such sales and shipments shall be for personal consumption only and not for resale; and

(f) Cause the direct shipment of alcoholic liquor to be by approved common carrier only. The commission shall adopt and promulgate rules and regulations pursuant to which common carriers may apply for approval to provide common carriage of alcoholic liquor shipped by a holder of a shipping license issued pursuant to subsection (4) or (5) of this section. The rules and regulations shall include provisions that require (i) the recipient to demonstrate, upon delivery, that he or she is at least twenty-one years of age, (ii) the recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the commission, and (iii) the commission-approved common carrier to submit to the commission such information as the commission may prescribe. The commission-approved common carrier shall refuse delivery when the proposed recipient appears to be under the age of twenty-one years and refuses to present valid identification. All holders of shipping licenses shipping alcoholic liquor pursuant to this subdivision shall affix a conspicuous notice in sixteen-point type or larger to the outside of each package of alcoholic liquor shipped within or into the State of Nebraska, in a conspicuous location, stating: CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY. Any delivery of alcoholic beverages to a minor by a common carrier shall constitute a violation by the common carrier. The common carrier and the holder of the shipping license shall be liable only for their independent acts.

(9) For purposes of sections 53-160, 77-2703, and 77-27,142, each shipment of alcoholic liquor by the holder of a shipping license under subsection (3), (4), or (5) of this section shall constitute a sale in Nebraska by establishing a nexus in the state. The holder of the shipping license shall collect all the taxes due to the State of Nebraska and any political subdivision and remit any excise taxes monthly to the commission and any sales taxes to the Department of Revenue.

(10) By July 1, 2014, the commission shall report to the General Affairs Committee of the Legislature the number of shipping licenses issued for license years 2013-14 and 2014-15. The report shall be made electronically.

Source

- Laws 1991, LB 344, § 49;
- Laws 1994, LB 416, § 1;
- Laws 1995, LB 874, § 1;
- Laws 2001, LB 671, § 1;
- Laws 2004, LB 485, § 14;
- Laws 2007, LB441, § 1;
- Laws 2010, LB861, § 55;
- Laws 2010, LB867, § 1;
- Laws 2011, LB286, § 1;
- Laws 2013, LB230, § 1;
- Laws 2015, LB330, § 13;
- Laws 2016, LB1105, § 13;
- Laws 2018, LB1120, § 10.

53-123.16.

Microdistillery license; rights of licensee.

Any person who operates a microdistillery shall obtain a license pursuant to the Nebraska Liquor Control Act. A license to operate a microdistillery shall permit the licensee to produce a maximum of one hundred thousand gallons of liquor per year in the aggregate from all physical locations comprising the licensed premises. For purposes of this section, licensed premises may include up to five separate physical locations. A microdistillery may also sell to licensed wholesalers for sale and distribution to licensed retailers. A microdistillery license issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of microdistilled product for consumption on or off the licensed premises, except that the sale of any beer, wine, or alcoholic liquor, other than microdistilled product manufactured by the microdistillery licensee, by the drink for consumption on the microdistillery premises shall require the appropriate retail license. Any license held by the operator of a microdistillery shall be subject to the act. A holder of a microdistillery license may obtain an annual catering license pursuant to section 53-124.12, a special designated license pursuant to section 53-124.11, an entertainment district license pursuant to section 53-123.17, or a promotional farmers market special designated license pursuant to section 53-124.16. The commission may, upon the conditions it determines, grant to any microdistillery licensed under this section a special license authorizing the microdistillery to purchase and to import, from such persons as are entitled to sell the same, wines or spirits to be used solely as ingredients and for the sole purpose of blending with and flavoring microdistillery products as a part of the microdistillation process.

Source

- Laws 2007, LB549, § 6;

- Laws 2012, LB1130, § 5;
- Laws 2021, LB274, § 12;
- Laws 2022, LB1236, § 2.
- **Effective Date: July 21, 2022**

53-123.17.

Entertainment district license; rights of licensee; application; fee; commission; duties; occupation tax; local governing body; powers.

(1) A local governing body may designate an entertainment district in which a commons area may be used by retail, craft brewery, and microdistillery licensees and holders of a manufacturer's license which obtain an entertainment district license. The local governing body may, at any time, revoke such designation if it finds that the commons area threatens the health, safety, or welfare of the public or has become a common nuisance. The local governing body shall file the designation or the revocation of the designation with the commission.

(2) An entertainment district license allows the sale of alcoholic liquor for consumption on the premises within the confines of a commons area. The consumption of alcoholic liquor in the commons area shall only occur during the hours authorized for sale of alcoholic liquor for consumption on the premises under section 53-179 and while food service is available in the commons area. Only the holder of an entertainment district license or employees of such licensee may sell or dispense alcoholic liquor in the commons area.

(3) An entertainment district licensee shall serve alcoholic liquor to be consumed in the commons area in containers that prominently displays the licensee's trade name or logo or some other mark that is unique to the licensee under the licensee's retail license, craft brewery license, microdistillery license, or manufacturer's license. An entertainment district licensee may allow alcohol sold by another entertainment district licensee to enter the licensed premises of either licensee. No entertainment district licensee shall allow alcoholic liquor to leave the commons area or the premises licensed under its retail license, craft brewery license, microdistillery license, or manufacturer's license.

(4) If the licensed premises of the holder of a license to sell alcoholic liquor at retail issued under subsection (6) of section 53-124, a craft brewery license, a microdistillery license, or a manufacturer's license is adjacent to a commons area in an entertainment district designated by a local governing body pursuant to this section, the holder of the license may obtain an annual entertainment district license as prescribed in this section. The entertainment district license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license, microdistillery license, or manufacturer's license.

(5) In order to obtain an entertainment district license, a person eligible under subsection (4) of this section shall:

(a) File an application with the commission upon such forms as the commission prescribes; and

(b) Pay an additional license fee of three hundred dollars for the privilege of serving alcohol in the entertainment district payable to the clerk of the local governing body in the same manner as license fees under subdivision (4) of section 53-134.

(6) When an application for an entertainment district license is filed, the commission shall notify the clerk of the local governing body. The commission shall include with such notice one copy of the application by mail or electronic delivery. The local governing body and the commission shall process the application in the same manner as provided in section 53-132.

(7) The local governing body may impose an occupation tax on the business of an entertainment district licensee doing business within the liquor license jurisdiction of the local governing body as provided in subdivision (11)(b) of this section in accordance with section 53-132.

(8) The local governing body with respect to entertainment district licensees within its liquor license jurisdiction as provided in subdivision (11)(b) of this section may cancel an entertainment district license for cause for the remainder of the period for which such entertainment district license is issued. Any person whose entertainment district license is canceled may appeal to the commission in accordance with section 53-134.

(9) A local governing body may regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, any area it designates as an entertainment district.

(10) Violation of any provision of this section or any rules or regulations adopted and promulgated pursuant to this section by an entertainment district licensee may be cause to revoke, cancel, or suspend the retail license issued under subsection (6) of section 53-124, craft brewery license, microdistillery license, or manufacturer's license held by such licensee.

(11) For purposes of this section:

(a) Commons area means an area:

(i) Within an entertainment district designated by a local governing body;

(ii) Shared by authorized licensees with entertainment district licenses;

(iii) Abutting the licensed premises of such licensees;

(iv) Having limited pedestrian accessibility by use of a physical barrier, either on a permanent or temporary basis; and

(v) Closed to vehicular traffic when used as a commons area.

Commons area may include any area of a public or private right-of-way if the area otherwise meets the requirements of this section; and

(b) Local governing body means the governing body of the city or village in which the entertainment district licensee is located.

Source

- Laws 2012, LB1130, § 6;
- Laws 2016, LB1105, § 14.

53-123.18.

Special party bus license.

(1) The commission may issue a license to any person providing special party bus service under a certificate of public convenience and necessity granted by the Public Service Commission when the person allows the consumption of alcoholic liquor in its special party bus by an individual who is twenty-one years of age or older. Each licensee shall keep a duplicate of such license in each special party bus where such alcoholic liquor is consumed.

(2) Each license shall expire on April 30 of each year. Each license shall be good throughout this state as a state license. Only one license shall be required for all special party buses operated in this state by the same owner. No further license shall be required or tax levied by any county, city, or village for the privilege of allowing consumption of alcoholic liquor in such buses.

Source

- Laws 2020, LB734, § 6.

53-124.

Licenses; types; classification; fees; where paid; license year.

(1) At the time application is made to the commission for a license of any type, the applicant shall pay the fee provided in section 53-124.01 and, if the applicant is an individual, provide the applicant's social security number. The commission shall issue the types of licenses described in this section.

(2) There shall be an airline license, a boat license, a special party bus license, a pedal-pub vehicle license, and a railroad license. The commission shall charge one dollar for each duplicate of an airline license, a special party bus license, a pedal-pub vehicle license, or a railroad license.

(3)(a) There shall be a manufacturer's license for alcohol and spirits, for beer, and for wine. The annual fee for a manufacturer's license for beer shall be based on the barrel daily capacity as follows:

(i) 1 to 100 barrel daily capacity, or any part thereof, tier one;

(ii) 100 to 150 barrel daily capacity, tier two;

(iii) 150 to 200 barrel daily capacity, tier three;

(iv) 200 to 300 barrel daily capacity, tier four;

(v) 300 to 400 barrel daily capacity, tier five;

(vi) 400 to 500 barrel daily capacity, tier six;

(vii) 500 barrel daily capacity, or more, tier seven.

(b) For purposes of this subsection, daily capacity means the average daily barrel production for the previous twelve months of manufacturing operation. If no such basis for comparison exists, the manufacturing licensee shall pay in advance for the first year's operation a fee of five hundred dollars.

(4) There shall be five classes of nonbeverage users' licenses: Class 1, Class 2, Class 3, Class 4, and Class 5.

(5) In lieu of a manufacturer's, a retailer's, or a wholesaler's license, there shall be a license to operate issued for a craft brewery, a farm winery, or a microdistillery.

(6)(a) There shall be six classes of retail licenses:

(i) Class A: Beer only, for consumption on the premises;

(ii) Class B: Beer only, for consumption off the premises, sales in the original packages only;

(iii) Class C: Alcoholic liquor, for consumption on the premises and off the premises, sales in original packages only except as provided in subsection (4) of section 53-123.04. If a Class C license is held by a nonprofit corporation, it shall be restricted to consumption on the premises only. A Class C license may have a sampling designation restricting consumption on the premises to sampling, but such designation shall not affect sales for consumption off the premises under such license;

(iv) Class D: Alcoholic liquor, including beer, for consumption off the premises, sales in the original packages only, except as provided in subdivision (6)(a)(vi) of this section and subsection (2) of section 53-123.04;

(v) Class I: Alcoholic liquor, for consumption on the premises except as provided in subsection (5) of section 53-123.04; and

(vi) Class J: Alcoholic liquor, including beer, for consumption off the premises, sales in the original packages only, for a retail licensee whose annual gross revenue from the sale of alcohol does not exceed twenty percent of the licensee's total annual gross revenue from all retail sales.

(b) All applicable license fees shall be paid by the applicant or licensee directly to the city or village treasurer in the case of premises located inside the corporate limits of a city or village and directly to the county treasurer in the case of premises located outside the corporate limits of a city or village.

(7) There shall be four types of shipping licenses as described in section 53-123.15: Manufacturers, vintage wines, manufacture direct sales, and retail direct sales.

(8) There shall be two types of wholesale licenses: Alcoholic liquor and beer only. The annual fee shall be paid for the first and each additional wholesale place of business operated in this state by the same licensee and wholesaling the same product.

(9) There shall be a bottle club license. All applicable license fees shall be paid by the applicant or licensee directly to the city or village treasurer in the case of premises located inside the corporate limits of a city or village and directly to the county treasurer in the case of premises located outside the corporate limits of a city or village.

(10) The license year, unless otherwise provided in the Nebraska Liquor Control Act, shall commence on May 1 of each year and shall end on the following April 30, except that the license year for a Class C license shall commence on November 1 of each year and shall end on the following October 31. During the license year, no license shall be issued for a sum less than the amount of the annual license fee as fixed in section 53-124.01, regardless of the time when the application for such license has been made, except that (a) when there is a purchase of an existing licensed business and a new license of the same class is issued or (b) upon the issuance of a new license for a location which has not been previously licensed, the license fee and occupation taxes shall be prorated on a quarterly basis as of the date of issuance.

Source

- Laws 1935, c. 116, § 26, p. 391;
- C.S.Supp.,1941, § 53-326;
- R.S.1943, § 53-124;
- Laws 1955, c. 202, § 1, p. 576;
- Laws 1959, c. 249, § 2, p. 861;
- Laws 1961, c. 258, § 2, p. 761;
- Laws 1963, c. 309, § 2, p. 913;
- Laws 1963, c. 310, § 7, p. 927;
- Laws 1963, Spec. Sess., c. 5, § 3, p. 76;
- Laws 1965, c. 318, § 6, p. 893;
- Laws 1967, c. 332, § 6, p. 882;
- Laws 1967, c. 336, § 1, p. 897;
- Laws 1973, LB 111, § 4;
- Laws 1974, LB 681, § 5;
- Laws 1975, LB 414, § 1;
- Laws 1977, LB 237, § 1;
- Laws 1978, LB 386, § 4;
- Laws 1983, LB 133, § 2;
- Laws 1983, LB 213, § 3;
- Laws 1984, LB 947, § 1;
- Laws 1985, LB 279, § 8;
- Laws 1988, LB 1089, § 11;
- Laws 1989, LB 154, § 3;
- Laws 1989, LB 781, § 6;
- Laws 1991, LB 344, § 26;
- Laws 1993, LB 53, § 3;
- Laws 1993, LB 183, § 9;
- Laws 1994, LB 1313, § 3;
- Laws 1996, LB 750, § 6;

- Laws 1997, LB 752, § 131;
- Laws 2001, LB 278, § 4;
- Laws 2001, LB 671, § 2;
- Laws 2004, LB 485, § 15;
- Laws 2007, LB549, § 7;
- Laws 2009, LB355, § 3;
- Laws 2010, LB861, § 56;
- Laws 2010, LB867, § 2;
- Laws 2013, LB230, § 2;
- Laws 2015, LB330, § 16;
- Laws 2016, LB1105, § 15;
- Laws 2018, LB1120, § 11;
- Laws 2020, LB734, § 7;
- Laws 2021, LB274, § 15.

Annotations

- It was error for the Nebraska Liquor Control Commission to refuse a license on grounds of "unfair competition" when the applicant was not advised ahead of time that that issue would be considered by the commission. A license may not be denied solely on the grounds that it might give one business a "competitive edge" over others in the area. Halbert v. Nebraska Liquor Control Commission, 206 Neb. 687, 294 N.W.2d 864 (1980).
- There is a difference between nonprofit corporation license and bottle club license. Arrow Club, Inc. v. Nebraska Liquor Control Commission, 177 Neb. 686, 131 N.W.2d 134 (1964).
- Rights of individual licensees to operate are subject to power of Liquor Control Commission. Griffin v. Gass, 133 Neb. 56, 274 N.W. 193 (1937).
- Where statute authorizes granting licensees right to sell all forms of alcoholic liquors including beer, licensees are entitled to sell beer and other liquor in same room, notwithstanding another section declaring public policy in favor of separate sale. Hanson v. Gass, 130 Neb. 685, 267 N.W. 403 (1936).
- Despite absence of severance clause, ordinance which provided several distinct and separate grounds upon which to base revocation of liquor licenses was not rendered invalid in its entirety by reason of invalidity of some portions. Clark v. City of Fremont, 377 F.Supp. 327 (D. Neb. 1974).

53-124.01.

Fees for annual licenses.

(1) The fees for annual licenses finally issued by the commission shall be as provided in this section and section 53-124.

(2) Airline license ... $100

(3) Boat license ... $50

(4) Bottle club license ... $300

(5) Special party bus license ... $75

(6) Manufacturer's license:

Class	Fee - In Dollars
Alcohol and spirits	1,000
Beer - tier one	100
Beer - tier two	200
Beer - tier three	350
Beer - tier four	500
Beer - tier five	650
Beer - tier six	700
Beer - tier seven	800
Wine	250

(7) Nonbeverage user's license:

Class	Fee - In Dollars
Class 1	5
Class 2	25
Class 3	50
Class 4	100
Class 5	250

(8) Operator's license:

Class	Fee - In Dollars
Craft brewery	250
Farm winery	250
Microdistillery	250

(9) Pedal-pub vehicle license ... $50

(10) Railroad license ... $100

(11) Retail license:

Class	Fee - In Dollars
Class A	100
Class B	100
Class C	300
Class D	200
Class I	250
Class J	50

(12) Shipping license:

Class	Fee - In Dollars
Manufacturer	1,000
Vintage wines	1,000
Manufacture direct sales	500
Retail direct sales	500

(13) Wholesale license:

Class	Fee - In Dollars
Alcoholic liquor	750
Beer	500

Source

- Laws 2010, LB861, § 57;
- Laws 2013, LB230, § 3;
- Laws 2015, LB330, § 17;
- Laws 2016, LB1105, § 16;
- Laws 2018, LB1120, § 12;
- Laws 2020, LB734, § 8.

53-124.02.

Holder of license under prior law; how treated.

On May 1, 2005, the holder of a Class D-1 license, Class E license, or Class K license shall be issued a Class D license, the holder of a Class F license shall be issued a Class A license, and the holder of a Class H license, Class J license, or bottle club license shall be issued a Class I license. Any conditions placed on a Class D-1, Class E, Class F, Class H, Class J, Class K, or bottle club license by the local governing body or the commission prior to May 1, 2005, shall continue to apply to the license issued to such holder on such date.

Source

- Laws 2004, LB 485, § 16.

53-124.03.

Repealed. Laws 1986, LB 871, § 4.

53-124.04.

Repealed. Laws 1986, LB 871, § 4.

53-124.05.

Repealed. Laws 1986, LB 871, § 4.

53-124.06.

Repealed. Laws 1967, c. 333, § 1.

53-124.07.

Repealed. Laws 1986, LB 871, § 4.

53-124.08.

Repealed. Laws 1983, LB 213, § 21.

53-124.09.

Repealed. Laws 1986, LB 871, § 4.

53-124.10.

Repealed. Laws 1983, LB 213, § 21.

53-124.11.

Special designated license; issuance; procedure; fee.

(1) The commission may issue a special designated license for sale or consumption of alcoholic liquor at a designated location to a retail licensee, a craft brewery licensee, a microdistillery licensee, a farm winery licensee, the holder of a manufacturer's license issued pursuant to subsection (2) of section 53-123.01, a municipal corporation, a fine arts museum incorporated as a nonprofit corporation, a religious nonprofit corporation which has been exempted from the payment of federal income taxes, a political organization which has been exempted from the payment of federal income taxes, or any other nonprofit corporation the purpose of which is fraternal, charitable, or public service and which has been exempted from the payment of federal income taxes, under conditions specified in this section. The applicant shall demonstrate meeting the requirements of this subsection.

(2)(a) No retail licensee, craft brewery licensee, microdistillery licensee, farm winery licensee, holder of a manufacturer's license issued pursuant to subsection (2) of section 53-123.01, organization, or corporation enumerated in subsection (1) of this section may be issued a special designated license under this section for more than six calendar days in any one calendar year. Only one special designated license shall be required for any application for two or more consecutive days.

(b) A municipal corporation, a fine arts museum incorporated as a nonprofit corporation, a religious nonprofit corporation which has been exempted from the payment of federal income taxes, a political organization which has been exempted from the payment of federal income taxes, or any other nonprofit corporation the purpose of which is fraternal, charitable, or public service and which has been exempted from the payment of federal income taxes, may apply for special designated licenses for the same location in a single application. The application shall include all dates and times for which a special designated license is being requested at such location.

(c) This subsection shall not apply to any holder of a catering license.

(3) Except for any special designated license issued to a holder of a catering license or to an organization or corporation as provided in subdivision (2)(b) of this section, there shall be a fee of forty dollars for each day identified in the special designated license. For a special designated license issued to an organization or corporation as provided in subdivision (2)(b) of this section, there shall be a fee of forty dollars for the initial special designated license and ten dollars for each additional day beyond the first at the same location in such

application. Such fee shall be submitted with the application for the special designated license, collected by the commission, and remitted to the State Treasurer for credit to the General Fund. The applicant shall be exempt from the provisions of the Nebraska Liquor Control Act requiring an application or renewal fee and the provisions of the act requiring the expiration of forty-five days from the time the application is received by the commission prior to the issuance of a license, if granted by the commission. The retail licensees, craft brewery licensees, microdistillery licensees, farm winery licensees, holders of manufacturer's licenses issued pursuant to subsection (2) of section 53-123.01, municipal corporations, organizations, and nonprofit corporations enumerated in subsection (1) of this section seeking a special designated license shall file an application on such forms as the commission may prescribe. Such forms shall contain, along with other information as required by the commission, (a) the name of the applicant, (b) the premises for which a special designated license is requested, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (c) the name of the owner or lessee of the premises for which the special designated license is requested, (d) sufficient evidence that the holder of the special designated license, if issued, will carry on the activities and business authorized by the license for himself, herself, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (e) a statement of the type of activity to be carried on during the time period for which a special designated license is requested, and (f) sufficient evidence that the activity will be supervised by persons or managers who are agents of and directly responsible to the holder of the special designated license.

(4) No special designated license provided for by this section shall be issued by the commission without the approval of the local governing body. The local governing body may establish criteria for approving or denying a special designated license. The local governing body may designate an agent to determine whether a special designated license is to be approved or denied. Such agent shall follow criteria established by the local governing body in making his or her determination. The determination of the agent shall be considered the determination of the local governing body unless otherwise provided by the local governing body. For purposes of this section, the local governing body shall be the city or village within which the premises for which the special designated license is requested are located or, if such premises are not within the corporate limits of a city or village, then the local governing body shall be the county within which the premises for which the special designated license is requested are located.

(5) If the applicant meets the requirements of this section, a special designated license shall be granted and issued by the commission for use by the holder of the special designated license. All statutory provisions and rules and regulations of the commission that apply to a retail licensee shall apply to the holder of a special designated license with the exception of such statutory provisions and rules and regulations of the commission so designated by the commission and stated upon the issued special designated license, except that the commission may not designate exemption of sections 53-180 to 53-180.07. The decision of the commission shall be final. If the applicant does not qualify for a special designated license, the application shall be denied by the commission.

(6) A special designated license issued by the commission shall be mailed or delivered electronically to the city, village, or county clerk who shall deliver such license to the licensee upon receipt of any fee or tax imposed by such city, village, or county.

Source

- Laws 1983, LB 213, § 9;
- Laws 1988, LB 490, § 5;
- Laws 1991, LB 344, § 27;
- Laws 1994, LB 1292, § 4;
- Laws 1996, LB 750, § 7;
- Laws 2000, LB 973, § 4;
- Laws 2006, LB 562, § 4;
- Laws 2007, LB549, § 8;
- Laws 2010, LB861, § 58;
- Laws 2016, LB1105, § 17;
- Laws 2019, LB56, § 1;
- Laws 2022, LB1236, § 3.
- **Effective Date: July 21, 2022**

53-124.12.

Annual catering license; issuance; procedure; fee; occupation tax.

(1) The holder of a license to sell alcoholic liquor at retail issued under subsection (6) of section 53-124, a craft brewery license, a microdistillery license, a farm winery license, or a manufacturer's license issued under subsection (2) of section 53-123.01 may obtain an annual catering license as prescribed in this section. The catering license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license, microdistillery license, farm winery license, or manufacturer's license.

(2) Any person desiring to obtain a catering license shall file with the commission:

(a) An application upon such forms as the commission prescribes; and

(b) A license fee of one hundred dollars payable to the commission, which fee shall be returned to the applicant if the application is denied.

(3) When an application for a catering license is filed, the commission shall notify the clerk of the city or incorporated village in which such applicant is located or, if the applicant is not located within a city or incorporated village, the county clerk of the county in which such applicant is located, of the receipt of the application. The commission shall include with such notice one copy of the application by mail or electronic delivery. The local governing body and the commission shall process the application in the same manner as provided in section 53-132.

(4) The local governing body with respect to catering licensees within its liquor license jurisdiction as provided in subsection (5) of this section may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the district court of the county in which the local governing body is located.

(5) For purposes of this section, local governing body means (a) the governing body of the city or village in which the catering licensee is located or (b) if such licensee is not located within a city or village, the governing body of the county in which such licensee is located.

(6) The local governing body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the local governing body as provided in subsection (5) of this section. Such tax may not exceed double the license fee to be paid under this section.

Source

- Laws 1988, LB 490, § 1;
- Laws 1991, LB 344, § 28;
- Laws 1994, LB 1292, § 5;
- Laws 1996, LB 750, § 8;
- Laws 2001, LB 278, § 5;
- Laws 2004, LB 485, § 17;
- Laws 2006, LB 562, § 5;
- Laws 2007, LB549, § 9;
- Laws 2010, LB861, § 59;
- Laws 2011, LB407, § 4;
- Laws 2016, LB1105, § 18;
- Laws 2022, LB1204, § 4.
- **Effective Date: July 21, 2022**

53-124.13.

Catering licensee; special designated license; application; procedure; proceeds; violation; penalty.

(1) The holder of a catering license may deliver, sell, or dispense alcoholic liquor, including beer, for consumption at premises designated in a special designated license issued pursuant to section 53-124.11.

(2) The holder of the catering license shall file an application seeking a special designated license for the event. The application shall be filed at least twenty-one days prior to the event for which the special designated license is requested unless the local governing body has established an expedited process for such applications, in which case the application shall be filed at least twelve days prior to the event. In addition to the information required by subsection (3) of section 53-124.11, the applicant shall inform the commission of (a) the time of the event, (b) the name of the person or organization requesting the applicant's services, (c) the opening and closing dates of the event, and (d) any other information the commission or local governing body deems necessary. A holder of a catering license shall not cater an event unless such licensee receives a special designated license for the event, except that the holder of a catering license who also holds a promotional farmers market special designated license under section 53-124.16 may cater a farmers market as prescribed in section 53-124.17.

(3) If the organization for which the holder of a catering license is catering is a nonprofit organization exempted from the payment of federal income taxes, such organization may share with such licensee a part or all of the proceeds from the sale of any alcoholic liquor sold and dispensed pursuant to this section.

(4) For purposes of this section, local governing body means the governing body of the city or village in which the event will be held or, if the event will not be held within the corporate limits of a city or village, the governing body of the county in which such event will be held.

(5) Only the holder of a special designated license or employees of such licensee may dispense alcoholic liquor at the event which is being catered. Violation of any provision of this section or section 53-124.12 or any rules or regulations adopted and promulgated pursuant to such sections occurring during an event being catered by such licensee may be cause to revoke, cancel, or suspend the class of retail license issued under section 53-124 held by such licensee.

Source

- Laws 1988, LB 490, § 2;
- Laws 1991, LB 344, § 29;
- Laws 2010, LB861, § 60;
- Laws 2019, LB56, § 2;
- Laws 2021, LB274, § 16.

53-124.14.

Applicants outside cities and villages; airport authorities; Nebraska State Fair Board; issuance of licenses; when permitted.

(1) The commission may license the sale of alcoholic liquor at retail in the original package to applicants who reside in any county in which there is no incorporated city or village or in which the county seat is not located in an incorporated city or village if the licensed premises are situated in an unincorporated village having a population of twenty-five inhabitants or more as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

(2) The commission may license the sale of beer at retail in any county outside the corporate limits of any city or village therein and license the sale of alcoholic liquor at retail for consumption on the premises and off the premises, sales in the original package only.

(3) The commission may license the sale of alcoholic liquor for consumption on the premises as provided in subdivision (6)(a)(iii) of section 53-124 on lands controlled by airport authorities when such land is located on and under county jurisdiction or by the Nebraska State Fair Board.

Source

- Laws 1991, LB 582, § 2;
- Laws 2001, LB 278, § 6;
- Laws 2002, LB 1236, § 17;
- Laws 2004, LB 485, § 18;
- Laws 2010, LB861, § 61;
- Laws 2017, LB113, § 47.

53-124.15.

Community college culinary education program; catering license.

A community college which offers a culinary education program may obtain a catering license under this section upon applying for and receiving a Class I license under the Nebraska Liquor Control Act. The catering license shall be issued for the same period and may be renewed in the same manner as the Class I license.

A community college holding a catering license and a Class I license under the act may sell alcoholic beverages only (1) at events held by such culinary education program on the campus of the community college or (2) at events catered by such culinary education program as part of the requirements of such program.

Source

- Laws 2009, LB232, § 2.

53-124.16.

Promotional farmers market special designated license; issuance; conditions; application; fee; rights of licensee.

(1) The commission may issue a promotional farmers market special designated license to a craft brewery, microdistillery, or farm winery licensee to sell or dispense alcoholic liquor, which the holder is licensed to produce, at a farmers market outside of the manufacturer's designated premises under conditions specified in this section.

(2) A promotional farmers market special designated license issued under this section shall not be used without approval of the local governing body pursuant to section 53-124.17.

(3) The craft brewery, microdistillery, or farm winery licensee seeking a promotional farmers market special designated license under this section shall file an application on such forms as the commission may prescribe. Such forms shall contain, along with other information as required by the commission, (a) the name of the applicant, (b) the premises for which the applicant is licensed, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (c) sufficient evidence that the licensee will carry on the activities and business authorized by the license on behalf of the licensee, and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (d) a statement of the type of activity to be carried on during the time period for which a promotional farmers market special designated license is requested, (e) sufficient evidence that the activity will be supervised by persons or managers who are agents of and directly responsible to the holder of the promotional farmers market special designated license, and (f) information on a safety and security plan for use of the promotional farmers market special designated license as required by the commission.

(4) There shall be a fee of fifteen dollars for a promotional farmers market special designated license payable to the commission and submitted with the application. The applicant shall be exempt from the provisions of the Nebraska Liquor Control Act requiring an application or renewal fee and the provisions of the act requiring the expiration of forty-five days from the time the application is received by the commission prior to the issuance of a license, if granted by the commission. The promotional farmers market special designated license shall be issued for the same period and may be renewed in the same manner as the craft brewery, microdistillery, or farm winery license.

(5) If the applicant meets the requirements of this section, a promotional farmers market special designated license shall be granted and issued by the commission for use by the holder of the promotional farmers market special designated license. All statutory provisions and rules and regulations of the commission that apply to a retail license shall apply to the holder of a promotional farmers market special designated license with the exception of such statutory provisions and rules and regulations of the commission so designated by the commission and stated upon the issued promotional farmers market special designated license, except that the commission may not designate exemption from sections 53-180 to 53-180.07. The decision of the commission shall be final. If the applicant does not qualify for a promotional farmers market special designated license, the application shall be denied by the commission.

(6) A promotional farmers market special designated license issued by the commission shall be mailed or delivered to the licensee. The licensee shall comply with any rules and regulations adopted and promulgated by the commission. Violation of any provision of this section or section 53-124.17 may be cause to revoke, cancel, or suspend the promotional farmers market special designated license or the class of retail license issued under section 53-124 held by such licensee.

Source

- Laws 2021, LB274, § 13.

53-124.17.

Promotional farmers market special designated license holder; permit to sell or dispense; application; issuance; conditions; local governing body; duties.

(1) The holder of a promotional farmers market special designated license issued under section 53-124.16 may apply to the local governing body of a city, village, or county for a permit to use the promotional farmers market special designated license to sell or dispense alcoholic liquor, which the holder is licensed to produce, for consumption at a farmers market located within the jurisdiction of the local governing body.

(2) A permit may be issued to the licensee for the duration of an annual farmers market without reapplying to the local governing body. The local governing body may issue multiple permits to a licensee for each separate farmers market location within the jurisdiction of the local governing body.

(3) For purposes of this section, local governing body means the governing body of the city or village within which the farmers market for which the permit is requested is located or, if such farmers market is not within the corporate limits of a city or village, local governing body means the governing body of the county within which the farmers market for which the permit is requested is located.

(4) No permit shall be granted under this section without the approval of the local governing body and the submission of a safety and security plan containing such information as the local governing body may require for use of the promotional farmers market special designated license. The local governing body may establish criteria for approving or denying a permit. The local governing body may designate an agent to determine whether a permit is to be approved or denied. Such agent shall follow criteria established by the local governing body in making the determination. The determination of the agent shall be considered the determination of the local governing body unless otherwise provided by the local governing body.

(5) The decision of the local governing body shall be final. If the applicant does not qualify for a permit to use the promotional farmers market special designated license to sell or dispense alcoholic liquor, including beer, for consumption at a farmers market, the permit shall be denied.

(6) The city, village, or county clerk shall deliver confirmation of the permit to use the promotional farmers market special designated license to sell or dispense alcoholic liquor, including beer, for consumption at a farmers market to the licensee upon receipt of any fee or tax imposed by such city, village, or county.

(7) The local governing body shall electronically notify the commission within five days after the authorization of any permit under this section for the holder of a promotional farmers market special designated license.

Source

- Laws 2021, LB274, § 14.

53-125.

Classes of persons to whom no license issued.

No license of any kind shall be issued to (1) a person who is not a resident of Nebraska, except in case of railroad, airline, boat, or special party bus licenses, (2) a person who is not of good character and reputation in the community in which he or she resides, (3) a person who is not a Nebraska resident and legally able to work in Nebraska, (4) a person who has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States, (5) a person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this subdivision on May 18, 1983, shall not prevent any person holding a license on such date from retaining or renewing such license if the conviction or plea occurred prior to May 18, 1983, (6) a person whose license issued under the Nebraska Liquor Control Act has been revoked for cause, (7) a person who at the time of application for renewal of any license issued under the act would not be eligible for such license upon initial application, (8) a partnership, unless one of the partners is a resident of Nebraska and unless all the members of such partnership are otherwise qualified to obtain a license, (9) a limited liability company, if any officer or director of the limited liability company or any member having an ownership interest in the aggregate of more than twenty-five percent of such company would be ineligible to receive a license under this section for any reason other than the reasons stated in subdivisions (1) and (3) of this section, or if a manager of a limited liability company licensee would be ineligible to receive a license under this section for any reason, (10) a corporation, if any officer or director of the corporation or any stockholder owning in the aggregate more than twenty-five percent of the stock of such corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in subdivisions (1) and (3) of this section, or if a manager of a corporate licensee would be ineligible to receive a license under this section for any reason. This subdivision shall not apply to railroad licenses, (11) a person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee, (12) a person who does not own the premises for which a license is sought or does not have a lease or combination of leases on such premises for the full period for which the license is to be issued, (13) except as provided in this subdivision, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such applicant shall become eligible for a liquor license only if the commission finds from the

evidence that the public interest will not be infringed upon if such license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license the applicant is also ineligible to receive a liquor license. Such prima facie evidence shall be overcome if it is shown to the satisfaction of the commission (a) that the licensed business will be the sole property of the applicant and (b) that such licensed premises will be properly operated, (14) a person seeking a license for premises which do not meet standards for fire safety as established by the State Fire Marshal, (15) a law enforcement officer, except that this subdivision shall not prohibit a law enforcement officer from holding membership in any nonprofit organization holding a liquor license or from participating in any manner in the management or administration of a nonprofit organization, or (16) a person less than twenty-one years of age.

When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or a person who is mentally incompetent.

Source

- Laws 1935, c. 116, § 28, p. 395;
- C.S.Supp.,1941, § 53-328;
- R.S.1943, § 53-125;
- Laws 1957, c. 230, § 1, p. 788;
- Laws 1959, c. 249, § 3, p. 864;
- Laws 1965, c. 318, § 7, p. 897;
- Laws 1967, c. 332, § 7, p. 887;
- Laws 1971, LB 752, § 2;
- Laws 1973, LB 111, § 6;
- Laws 1975, LB 414, § 2;
- Laws 1976, LB 204, § 3;
- Laws 1979, LB 224, § 1;
- Laws 1980, LB 848, § 5;
- Laws 1983, LB 213, § 10;
- Laws 1986, LB 871, § 3;
- Laws 1991, LB 344, § 30;
- Laws 1993, LB 121, § 319;
- Laws 1994, LB 1292, § 6;
- Laws 2010, LB788, § 2;
- Laws 2010, LB861, § 62;
- Laws 2016, LB1105, § 19;
- Laws 2020, LB734, § 9.

Annotations

- One is unable to renew liquor license for premises when not in possession of either lease or deed to such premises. III Lounge, Inc. v. Gaines, 227 Neb. 585, 419 N.W.2d 143 (1988).

- The phrase not of good character concerning eligibility for a license imports lack of good faith or honesty of purpose. C & L Co. v. Nebraska Liquor Control Commission, 190 Neb. 91, 206 N.W.2d 49 (1973).
- In exercising discretion to refuse license, Nebraska Liquor Control Commission may consider factors in addition to those set out in this section. T & N P Co., Inc. v. Nebraska Liquor Control Commission, 189 Neb. 708, 204 N.W.2d 809 (1973).
- A liquor license may be issued to a partnership. Stevens v. Fall, 133 Neb. 610, 276 N.W. 401 (1937).
- A party who has tendered a guilty plea under a deferred judgment statute of another state has not necessarily been convicted of or pleaded guilty to an offense within the meaning of this statute. McHenry v. Nebraska Liquor Control Comm., 5 Neb. App. 95, 555 N.W.2d 350 (1996).

53-126.

License to corporation; conditions.

No corporation organized under the laws of this state, any other state, or any foreign country shall be issued any license provided for in the Nebraska Liquor Control Act unless such corporation is duly registered with the Secretary of State to transact business in this state. If such corporation is owned by a corporation, the owning corporation shall also be duly registered with the Secretary of State to transact business in this state.

Source

- Laws 1935, c. 116, § 33, p. 398;
- C.S.Supp.,1941, § 53-333;
- R.S.1943, § 53-126;
- Laws 1983, LB 447, § 75;
- Laws 1991, LB 344, § 31.

Annotations

- Agent of corporation licensee must be satisfactory to and approved by the commission with respect to his character. C & L Co. v. Nebraska Liquor Control Commission, 190 Neb. 91, 206 N.W.2d 49 (1973).
- In exercising discretion to refuse license, Nebraska Liquor Control Commission may consider factors in addition to those set out in this section. T & N P Co., Inc. v. Nebraska Liquor Control Commission, 189 Neb. 708, 204 N.W.2d 809 (1973).

53-127.

Repealed. Laws 1989, LB 781, § 20; Laws 1993, LB 183, § 20.

53-128.

Transferred to section 53-116.02.

53-129.

Retail, bottle club, craft brewery, and microdistillery licenses; premises to which applicable; temporary expansion; procedure.

(1) Except as otherwise provided in subsection (3) of this section, retail, bottle club, craft brewery, and microdistillery licenses issued under the Nebraska Liquor Control Act apply only to that part of the premises described in the application approved by the commission and in the license issued on the application. For retail and bottle club licenses, only one location shall be described in each license. For craft brewery and microdistillery licenses, up to five separate physical locations may be described in each license.

(2) After such license has been granted for the particular premises, the commission, with the approval of the local governing body and upon proper showing, may endorse upon the license permission to add to, delete from, or abandon the premises described in such license and, if applicable, to move from the premises to other premises approved by the local governing body. In order to obtain such approval, the retail, bottle club, craft brewery, or microdistillery licensee shall file with the local governing body a request in writing and a statement under oath which shows that the premises, as added to or deleted from or to which such move is to be made, comply in all respects with the requirements of the act. No such addition, deletion, or move shall be made by any such licensee until the license has been endorsed to that effect in writing by the local governing body and by the commission and the licensee furnishes proof of payment of the renewal fee prescribed in subsection (4) of section 53-131.

(3)(a) A retail, bottle club, craft brewery, or microdistillery licensee may apply to the local governing body for a temporary expansion of its licensed premises to an immediately adjacent area owned or leased by the licensee or to an immediately adjacent street, parking lot, or alley, not to exceed fifty days for calendar year 2020 and, for each calendar year thereafter, not to exceed fifteen days per calendar year. The temporary area shall otherwise comply with all requirements of the Nebraska Liquor Control Act.

(b) The licensee shall file an application with the local governing body which shall contain (i) the name of the applicant, (ii) the premises for which a temporary expansion is requested, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (iii) the name of the owner or lessee of the premises for which the temporary expansion is requested, (iv) sufficient evidence that the licensee will carry on the activities and business authorized by the license for himself, herself, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (v) a statement of the type of activity to be carried on during the time period for which a temporary expansion is requested, and (vi) sufficient evidence that the temporary expansion will be supervised by persons or managers who are agents of and directly responsible to the licensee.

(c) No temporary expansion provided for by this subsection shall be granted without the approval of the local governing body. The local governing body may establish criteria for approving or denying a temporary expansion. The local governing body may designate an agent to determine whether a temporary expansion is to be approved or denied. Such agent shall follow criteria established by the local governing body in making the determination. The determination of the agent shall be considered the determination of the local governing body unless otherwise provided by the local governing body.

(d) For purposes of this section, the local governing body shall be that of the city or village within which the premises for which the temporary expansion is requested are located or, if such premises are not within the corporate limits of a city or village, then the local governing body shall be that of the county within which the premises for which the temporary expansion is requested are located.

(e) The decision of the local governing body shall be final. If the applicant does not qualify for a temporary expansion, the temporary expansion shall be denied by the local governing body.

(f) The city, village, or county clerk shall deliver confirmation of the temporary expansion to the licensee upon receipt of any fee or tax imposed by such city, village, or county.

Source

- Laws 1935, c. 116, § 49, p. 405;
- C.S.Supp.,1941, § 53-349;
- R.S.1943, § 53-129;
- Laws 1978, LB 386, § 5;
- Laws 1980, LB 848, § 6;
- Laws 1983, LB 213, § 11;
- Laws 1988, LB 1089, § 12;
- Laws 1989, LB 781, § 8;
- Laws 1993, LB 183, § 10;
- Laws 1994, LB 1292, § 7;
- Laws 1999, LB 267, § 7;
- Laws 2004, LB 485, § 19;
- Laws 2007, LB549, § 10;
- Laws 2010, LB861, § 63;
- Laws 2016, LB1105, § 20;
- Laws 2018, LB1120, § 13;
- Laws 2020, LB1056, § 6;
- Laws 2022, LB1236, § 4.
- **Effective Date: July 21, 2022**

Annotations

- If a named licensee desires to relocate the license, the licensee may do so under the provisions of this section by making application to either the Nebraska Liquor Control Commission or the local governing body. The relocation of a license from its issued premises to new premises is dependent upon approval by the local governing body. City of Lincoln v. Nebraska Liquor Control Comm., 208 Neb. 630, 304 N.W.2d 922 (1981).
- An agreement between lessor and lessee that lessee will apply for a license for the premises, and will not seek permission to transfer it to another location, and upon expiration of the lease will assist lessor in obtaining a license for the premises is not void. Greco v. Bonacci, 194 Neb. 685, 234 N.W.2d 904 (1975).

- Where licensee stored alcoholic beverages in an unauthorized area without permission of the commission and permitted part of licensed premises to be used for gambling, suspension of license was authorized and reasonable. O'Connor v. Nebraska Liquor Control Commission, 191 Neb. 436, 215 N.W.2d 635 (1974).
- Purpose of this section is to provide a short procedure for change of location of business of licensee. City of Lincoln v. Nebraska Liquor Control Commission, 181 Neb. 277, 147 N.W.2d 803 (1967).

53-130.

Licenses; manufacturers, wholesalers, railroads, airlines, boats, special party buses, pedal-pub vehicles, and nonbeverage users; conditions on issuance; fees; renewal.

(1) New licenses to manufacturers, wholesalers, railroads, airlines, boats, special party buses, pedal-pub vehicles, and nonbeverage users of alcoholic liquor may be issued by the commission upon (a) written application in duplicate filed in the manner and on such forms as the commission prescribes and in which the applicant for a beer wholesale license sets forth the sales territory in Nebraska in which it is authorized by a manufacturer or manufacturers to sell their brand or brands and the name of such brand or brands, (b) receipt of bond, (c) payment in advance of the nonrefundable application fee of forty-five dollars and the license fee, and (d) such notice and hearing as the commission fixes by its own order.

(2) A notice of such application shall be served upon the manufacturer or manufacturers listed in any application for a beer wholesale license and upon any existing wholesaler licensed to sell the brand or brands in the described sales territory.

(3) A license so issued may be renewed without formal application upon payment of license fees and a renewal fee of forty-five dollars prior to or within thirty days after the expiration of the license. The payment of such fees shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application.

Source

- Laws 1935, c. 116, § 81, p. 417;
- C.S.Supp.,1941, § 53-381;
- R.S.1943, § 53-130;
- Laws 1959, c. 247, § 1, p. 848;
- Laws 1959, c. 249, § 5, p. 865;
- Laws 1967, c. 332, § 8, p. 888;
- Laws 1971, LB 234, § 19;
- Laws 1972, LB 66, § 2;
- Laws 1991, LB 202, § 3;
- Laws 1991, LB 344, § 32;
- Laws 2000, LB 973, § 5;
- Laws 2010, LB861, § 64;
- Laws 2015, LB330, § 18;

- Laws 2020, LB734, § 10.

53-130.01.

Beer; manufacturers and shippers; file notice; contents.

Every manufacturer or shipper of beer shall, before commencing or continuing business, file with the commission a notice in writing stating the name of the person, company, corporation, or firm, the names of the members of any such company or firm, the place of residence of such persons, a legal description of the premises on which the office of the manufacturer or shipper is situated and the title to such premises, and the name of the owner thereof.

Source

- Laws 1935, c. 116, § 23, p. 388;
- C.S.Supp.,1941, § 53-323;
- R.S.1943, § 53-159;
- Laws 1988, LB 1089, § 21;
- Laws 1989, LB 780, § 11;
- R.S.Supp.,1990, § 53-159;
- Laws 1991, LB 344, § 33.

53-131.

Retail, bottle club, craft brewery, and microdistillery licenses; application; fees; notice of application to city, village, or county; cigar shop; information required; renewal; fee.

(1) Any person desiring to obtain a new license to sell alcoholic liquor at retail, a bottle club license, a craft brewery license, or a microdistillery license shall file with the commission:

(a) An application upon forms prescribed by the commission, including the information required by subsection (3) of this section for an application to operate a cigar shop;

(b) The license fee if under sections 53-124 and 53-124.01 such fee is payable to the commission, which fee shall be returned to the applicant if the application is denied; and

(c) The nonrefundable application fee in the sum of four hundred dollars, except that the nonrefundable application fee for an application for a cigar shop shall be one thousand dollars.

(2) The commission shall notify the clerk of the city or village in which such license is sought or, if the license sought is not sought within a city or village, the county clerk of the county in which such license is sought, of the receipt of the application and shall include one copy of the application with the notice. No such license shall be issued or denied by the commission until the expiration of the time allowed for the receipt of a recommendation of denial or an objection requiring a hearing under subdivision (1)(a) or (b) of section 53-133. During the period of forty-five days after the date of receipt by mail or electronic delivery of such application from the commission, the local governing body of such city, village, or county may make and

submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

(3) For an application to operate a cigar shop, the application shall include proof of the cigar shop's annual gross revenue as requested by the commission and such other information as requested by the commission to establish the intent to operate as a cigar shop. The commission may adopt and promulgate rules and regulations to regulate cigar shops. The rules and regulations existing on August 1, 2014, applicable to cigar bars shall apply to cigar shops until amended or repealed by the commission.

(4) For renewal of a license under this section, a licensee shall file with the commission an application, the license fee as provided in subdivision (1)(b) of this section, and a renewal fee of forty-five dollars.

Source

- Laws 1935, c. 116, § 82, p. 417;
- C.S.Supp.,1941, § 53-382;
- R.S.1943, § 53-131;
- Laws 1955, c. 203, § 1, p. 580;
- Laws 1959, c. 249, § 6, p. 866;
- Laws 1976, LB 413, § 1;
- Laws 1980, LB 848, § 7;
- Laws 1982, LB 928, § 42;
- Laws 1983, LB 213, § 12;
- Laws 1984, LB 947, § 2;
- Laws 1986, LB 911, § 3;
- Laws 1988, LB 550, § 1;
- Laws 1988, LB 1089, § 13;
- Laws 1989, LB 781, § 9;
- Laws 1991, LB 202, § 4;
- Laws 1991, LB 344, § 34;
- Laws 1993, LB 183, § 11;
- Laws 1996, LB 750, § 9;
- Laws 1999, LB 267, § 8;
- Laws 2000, LB 973, § 6;
- Laws 2001, LB 278, § 7;
- Laws 2004, LB 485, § 20;
- Laws 2007, LB549, § 11;
- Laws 2009, LB355, § 4;
- Laws 2010, LB861, § 65;
- Laws 2011, LB407, § 5;
- Laws 2015, LB118, § 4;
- Laws 2015, LB330, § 19;
- Laws 2018, LB1120, § 14.

Annotations

- The portion of this section amended by 1986 Neb. Laws, L.B. 911, is declared unconstitutional. Bosselman, Inc. v. State, 230 Neb. 471, 432 N.W.2d 226 (1988).
- Failure to obtain approval to relocate a license pursuant to section 53-129, R.R.S.1943 does not mean that another license may not be sought under this section. City of Lincoln v. Nebraska Liquor Control Comm., 208 Neb. 630, 304 N.W.2d 922 (1981).
- City council's resolution approving applicant's request for Class C license includes, by implication, a recommendation for a Class D license. Winkelmann v. Nebraska Liquor Control Commission, 198 Neb. 481, 253 N.W.2d 307 (1977).
- Applications to provide license were properly filed under this section. City of Lincoln v. Nebraska Liquor Control Commission, 181 Neb. 277, 147 N.W.2d 803 (1967).
- Application for package liquor license was properly made to Liquor Control Commission. Allen v. Nebraska Liquor Control Commission, 179 Neb. 767, 140 N.W.2d 413 (1966).
- This section provides for the issuance of a license to sell alcoholic liquor including beer at retail, and is controlling over another section declaring public policy in favor of separate sale. Hanson v. Gass, 130 Neb. 685, 267 N.W. 403 (1936).

53-131.01.

License; application; form; contents; criminal history record check; false statement; penalty.

(1) The application for a new license shall be submitted upon such forms as the commission may prescribe. Such forms shall contain (a) the name and residence of the applicant and how long he or she has resided within the State of Nebraska, (b) the particular premises for which a license is desired designating the same by street and number if practicable or, if not, by such other description as definitely locates the premises, (c) the name of the owner of the premises upon which the business licensed is to be carried on, (d) a statement that the applicant is a resident of Nebraska and legally able to work in Nebraska, that the applicant and the spouse of the applicant are not less than twenty-one years of age, and that such applicant has never been convicted of or pleaded guilty to a felony or been adjudged guilty of violating the laws governing the sale of alcoholic liquor or the law for the prevention of gambling in the State of Nebraska, except that a manager for a corporation applying for a license shall qualify with all provisions of this subdivision as though the manager were the applicant, except that the provisions of this subdivision shall not apply to the spouse of a manager-applicant, (e) a statement that the applicant intends to carry on the business authorized by the license for himself or herself and not as the agent of any other persons and that if licensed he or she will carry on such business for himself or herself and not as the agent for any other person, (f) a statement that the applicant intends to superintend in person the management of the business licensed and that if so licensed he or she will superintend in person the management of the business, and (g) such other information as the commission may from time to time direct. The applicant shall also submit two legible sets of fingerprints to be furnished to the Federal Bureau of Investigation through the Nebraska State Patrol for a national criminal history record check and the fee for such record check payable to the patrol.

(2) If any false statement is made in any part of such application, the applicant or applicants shall be deemed guilty of perjury, and upon conviction thereof the license shall be revoked and the applicant subjected to the penalties provided by law for that crime.

Source

- Laws 1935, c. 116, § 99, p. 427;
- C.S.Supp.,1941, § 53-399;
- R.S.1943, § 53-142;
- Laws 1959, c. 249, § 13, p. 872;
- Laws 1979, LB 224, § 4;
- Laws 1980, LB 848, § 9;
- Laws 1991, LB 344, § 35;
- Laws 2003, LB 267, § 1;
- Laws 2016, LB1105, § 21;
- Laws 2022, LB1204, § 5.
- **Effective Date: July 21, 2022**

53-132.

Retail, bottle club, craft brewery, or microdistillery license; commission; duties.

(1) If no hearing is required pursuant to subdivision (1)(a) or (b) of section 53-133 and the commission has no objections pursuant to subdivision (1)(c) of such section, the commission may waive the forty-five-day objection period and, if not otherwise prohibited by law, cause a retail license, bottle club license, craft brewery license, or microdistillery license to be signed by its chairperson, attested by its executive director over the seal of the commission, and issued in the manner provided in subsection (4) of this section as a matter of course.

(2) A retail license, bottle club license, craft brewery license, or microdistillery license may be issued to any qualified applicant if the commission finds that (a) the applicant is fit, willing, and able to properly provide the service proposed within the city, village, or county where the premises described in the application are located, (b) the applicant can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, (c) the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act, and (d) the issuance of the license is or will be required by the present or future public convenience and necessity.

(3) In making its determination pursuant to subsection (2) of this section the commission shall consider:

(a) The recommendation of the local governing body;

(b) The existence of a citizens' protest made in accordance with section 53-133;

(c) The existing population of the city, village, or county and its projected growth;

(d) The nature of the neighborhood or community of the location of the proposed licensed premises;

(e) The existence or absence of other retail licenses, bottle club licenses, craft brewery licenses, or microdistillery licenses with similar privileges within the neighborhood or community of the location of the proposed licensed premises and whether, as evidenced by substantive, corroborative documentation, the

issuance of such license would result in or add to an undue concentration of licenses with similar privileges and, as a result, require the use of additional law enforcement resources;

(f) The existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises;

(g) The adequacy of existing law enforcement;

(h) Zoning restrictions;

(i) The sanitation or sanitary conditions on or about the proposed licensed premises; and

(j) Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

(4) Retail licenses, bottle club licenses, craft brewery licenses, or microdistillery licenses issued or renewed by the commission shall be mailed or delivered electronically to:

(a) The clerk of the city, village, or county who shall deliver the same to the licensee upon receipt from the licensee of proof of payment of (i) the license fee if by the terms of subsection (6) of section 53-124 the fee is payable to the treasurer of such city, village, or county, (ii) any fee for publication of notice of hearing before the local governing body upon the application for the license, (iii) the fee for publication of notice of renewal as provided in section 53-135.01, and (iv) occupation taxes, if any, imposed by such city, village, or county except as otherwise provided in subsection (7) of this section; or

(b) The licensee, upon confirmation from the clerk of the city, village, or county that the necessary fees and taxes described in subdivision (4)(a) of this section have been received by the clerk of such city, village, or county.

(5) Notwithstanding any ordinance or charter power to the contrary, no city, village, or county shall impose an occupation tax on the business of any person, firm, or corporation licensed under the act and doing business within the corporate limits of such city or village or within the boundaries of such county in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.

(6) Each license shall designate the name of the licensee, the place of business licensed, and the type of license issued.

(7) Class J retail licensees shall not be subject to occupation taxes under subsection (4) of this section.

Source

- Laws 1935, c. 116, § 83, p. 419;
- C.S.Supp.,1941, § 53-383;
- R.S.1943, § 53-132;
- Laws 1957, c. 228, § 3, p. 780;
- Laws 1957, c. 242, § 45, p. 856;

- Laws 1959, c. 246, § 1, p. 845;
- Laws 1959, c. 247, § 2, p. 848;
- Laws 1959, c. 248, § 1, p. 857;
- Laws 1959, c. 249, § 7, p. 867;
- Laws 1976, LB 413, § 2;
- Laws 1981, LB 124, § 2;
- Laws 1984, LB 947, § 3;
- Laws 1986, LB 911, § 4;
- Laws 1988, LB 1089, § 14;
- Laws 1989, LB 780, § 9;
- Laws 1989, LB 781, § 10;
- Laws 1991, LB 344, § 36;
- Laws 1993, LB 183, § 12;
- Laws 1999, LB 267, § 9;
- Laws 2004, LB 485, § 21;
- Laws 2006, LB 845, § 2;
- Laws 2007, LB549, § 12;
- Laws 2010, LB861, § 66;
- Laws 2016, LB1105, § 22;
- Laws 2018, LB1120, § 15;
- Laws 2022, LB1204, § 6.
- **Effective Date: July 21, 2022**

Annotations

- **1. License issuance allowed**
- **2. License issuance denied**
- **3. Miscellaneous**
- **1. License issuance allowed**
- Decision of district court reversing city council's disapproval of class D liquor licenses for grocery stores affirmed because grocery stores met license issuance criteria set forth in statute. B & R Stores v. City of Lincoln, 245 Neb. 76, 511 N.W.2d 101 (1994).
- Recommendation of denial made by city council based only on belief sufficient licenses exist does not justify denial of otherwise valid application. McChesney v. City of No. Platte, 216 Neb. 416, 343 N.W.2d 925 (1984).
- In administrative hearing for license not required by section 53-133(1), where evidence fails to establish valid ground for denial, this section requires that license be issued. Hadlock v. Nebraska Liquor Control Commission, 193 Neb. 721, 228 N.W.2d 887 (1975).
- In the absence of protest within three days, license must be issued. State ex rel. Smith v. Nebraska Liquor Control Commission, 152 Neb. 676, 42 N.W.2d 297 (1950).
- License issues as a matter of course under certain conditions. Leeman v. Vocelka, 149 Neb. 702, 32 N.W.2d 274 (1948).
- **2. License issuance denied**
- A district court's decision reversing the Nebraska Liquor Control Commission's approval of a class D liquor license was affirmed where the district court properly considered all the factors listed in subsection (3) and where the court's decision was not arbitrary, capricious, or

unreasonable. Orchard Hill Neighborhood v. Orchard Hill Mercantile, 274 Neb. 154, 738 N.W.2d 820 (2007).

- Recommendation of denial of license by local governing body to commission may be enough to justify denial. Kerrey's, Inc. v. Neb. Liquor Control Comm., 213 Neb. 442, 329 N.W.2d 364 (1983).
- **3. Miscellaneous**
- The limit to two times the license fee pertains only to taxes on the occupation of selling alcohol and has no bearing on occupation taxes designed to target activities other than selling alcoholic beverages. Anthony, Inc. v. City of Omaha, 283 Neb. 868, 813 N.W.2d 467 (2012).
- In order to issue a retail liquor license, the Nebraska Liquor Control Commission must find that each of the conditions specified in subsections (2)(a) through (d) of this section are satisfied, and in making its determination whether such conditions are satisfied, the commission must consider each of the factors listed in subsections (3)(a) through (j) of this section. City of Lincoln v. Nebraska Liquor Control Comm., 261 Neb. 783, 626 N.W.2d 518 (2001).
- Subsection (2) of this section (Reissue 1984) describes the general standards by which initial applicants are judged to be fit to obtain a liquor license and to follow the rules and regulations that bear on license holders. This statute, however, is not itself a rule or regulation which can be violated by a current licensee and subject the licensee to cancellation under the power given the Nebraska Liquor Control Commission by sections 53-116.01 and 53-117.08. Grand Island Latin Club v. Nebraska Liq. Cont. Comm., 251 Neb. 61, 554 N.W.2d 778 (1996).
- This section, as amended by 1993 Neb. Laws, L.B. 183, is unenforceable. Marting v. Nebraska Liquor Control Comm., 250 Neb. 134, 548 N.W.2d 326 (1996).
- For purposes of this section, there is no close approximation between purchasing off-sale liquor at a grocery store and purchasing and consuming liquor in an "on premises" establishment. Hy-Vee Food Stores v. Nebraska Liquor Control Comm., 242 Neb. 752, 497 N.W.2d 647 (1993).
- The portion of this section amended by 1986 Neb. Laws, L.B. 911, is declared unconstitutional. Bosselman, Inc. v. State, 230 Neb. 471, 432 N.W.2d 226 (1988).
- The applicant for a liquor license has the burden of proof, at the hearing before the Nebraska Liquor Control Commission, to show that the issuance of the license is or will be required by the present or future public convenience and necessity. Richards v. Neb. Liquor Control Comm., 221 Neb. 542, 378 N.W.2d 667 (1985).
- Failure by liquor commission to make fact findings and conclusions of law makes its order irregular, which requires remand to make appropriate findings. McChesney v. City of No. Platte, 216 Neb. 416, 343 N.W.2d 925 (1984).
- This section provides for the issuance of a license to sell alcoholic liquor, including beer, at retail, and is controlling over another section declaring public policy in favor of separate sale. Hanson v. Gass, 130 Neb. 685, 267 N.W. 403 (1936).

53-133.

Retail, bottle club, craft brewery, and microdistillery licenses; hearing; when held; procedure.

(1) The commission shall set for hearing before it any application for a retail license, bottle club license, craft brewery license, or microdistillery license relative to which it has received:

(a) Within forty-five days after the date of receipt of such application by the city, village, or county clerk, a recommendation of denial from the city, village, or county;

(b) Within ten days after the receipt of a recommendation from the city, village, or county, or, if no recommendation is received, within forty-five days after the date of receipt of such application by the city, village, or county clerk, objections in writing by not less than three persons residing within such city, village, or county, protesting the issuance of the license. Withdrawal of the protest does not prohibit the commission from conducting a hearing based upon the protest as originally filed and making an independent finding as to whether the license should or should not be issued;

(c) Within forty-five days after the date of receipt of such application by the city, village, or county clerk, objections by the commission or any duly appointed employee of the commission, protesting the issuance of the license; or

(d) An indication on the application that the location of a proposed retail or bottle club establishment is within one hundred fifty feet of a church as described in subsection (2) of section 53-177 and a written request by the church for a hearing.

(2) Hearings upon such applications shall be in the following manner: Notice indicating the time and place of such hearing shall be mailed or electronically delivered to the applicant, the local governing body, each individual protesting a license pursuant to subdivision (1)(b) of this section, and any church affected as described in subdivision (1)(d) of this section, at least fifteen days prior to such hearing. The notice shall state that the commission will receive evidence for the purpose of determining whether to approve or deny the application. Mailing or electronic delivery to the attorney of record of a party shall be deemed to fulfill the purposes of this section. The commission may receive evidence, including testimony and documentary evidence, and may hear and question witnesses concerning the application. The commission shall not use electronic delivery with respect to an applicant, a protestor, or a church under this section without the consent of the recipient to electronic delivery.

Source

- Laws 1935, c. 116, § 84, p. 420;
- C.S.Supp.,1941, § 53-384;
- R.S.1943, § 53-133;
- Laws 1959, c. 249, § 8, p. 868;
- Laws 1961, c. 260, § 1, p. 774;
- Laws 1976, LB 413, § 3;
- Laws 1979, LB 224, § 2;
- Laws 1983, LB 213, § 13;
- Laws 1986, LB 911, § 5;
- Laws 1988, LB 550, § 2;
- Laws 1989, LB 781, § 11;
- Laws 1993, LB 183, § 13;
- Laws 1999, LB 267, § 10;
- Laws 2004, LB 485, § 22;

- Laws 2007, LB549, § 13;
- Laws 2010, LB861, § 67;
- Laws 2011, LB407, § 6;
- Laws 2015, LB330, § 20;
- Laws 2018, LB1120, § 16.

Annotations

- The portion of this section amended by 1986 Neb. Laws, L.B. 911, is declared unconstitutional. Bosselman, Inc. v. State, 230 Neb. 471, 432 N.W.2d 226 (1988).
- Absence of need alone is not a sufficient reason to deny an otherwise proper application for a liquor license. Joe & Al's IGA, Inc. v. Nebraska Liquor Control Commission, 203 Neb. 176, 277 N.W.2d 693 (1979).
- On objection to application for liquor license, where hearing is required, the matter becomes a contested case under section 84-901(3), and notice to applicant of the issues is necessary. J K & J, Inc. v. Nebraska Liquor Control Commission, 194 Neb. 413, 231 N.W.2d 694 (1975).
- In administrative hearing on application for license not required by this section where evidence fails to establish valid ground for denial, Nebraska Liquor Control Commission is required to cause license to be issued. Hadlock v. Nebraska Liquor Control Commission, 193 Neb. 721, 228 N.W.2d 887 (1975).

53-134.

Retail, bottle club, craft brewery, microdistillery, and entertainment district licenses; city and village governing bodies; county boards; powers, functions, and duties.

The local governing body of any city or village with respect to licenses within its corporate limits and the local governing body of any county with respect to licenses not within the corporate limits of any city or village but within the county shall have the following powers, functions, and duties with respect to retail, bottle club, craft brewery, microdistillery, and entertainment district licenses:

(1) To cancel or revoke for cause retail, craft brewery, microdistillery, or entertainment district licenses to sell or dispense alcoholic liquor or bottle club licenses, issued to persons for premises within its jurisdiction, subject to the right of appeal to the commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the local governing body has been or is being violated and at such time examine the premises of such licensee in connection with such determination. Any law enforcement officer who determines that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the local governing body has been or is being violated shall report such violation in writing to the executive director of the commission (a) within thirty days after determining that such violation has occurred, (b) within thirty days after the conclusion of an ongoing police investigation, or (c) within thirty days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting

attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later;

(3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the act;

(4) To receive retail license fees, bottle club license fees, craft brewery license fees, and microdistillery license fees as provided in sections 53-124 and 53-124.01 and entertainment district license fees as provided in section 53-123.17 and pay the same, after the license has been delivered to the applicant, to the city, village, or county treasurer;

(5) To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, craft brewery licensee, microdistillery licensee, or entertainment district licensee upon whom notice of cancellation or revocation has been served as provided in the act, to examine or cause to be examined the books and records of any applicant or licensee except as otherwise provided for bottle club licensees in section 53-123.08, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the local governing body may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the commission within thirty days after the date of the order by filing a notice of appeal with the commission. The commission shall handle the appeal in the manner provided for hearing on an application in section 53-133;

(7) Upon receipt from the commission of the notice and copy of application as provided in section 53-131, to fix a time and place for a hearing at which the local governing body shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in such city, village, or county one time not less than seven and not more than fourteen days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the local governing body in support of or in protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than forty-five days after the date of receipt of the notice from the commission, and after such hearing the local governing body shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The clerk of such city, village, or county shall mail to the commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commission refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs;

(8) To review and authorize an application by a retail, bottle club, craft brewery, farm winery, or microdistillery licensee for a temporary expansion of its licensed premises within the jurisdiction of the local governing body

to an immediately adjacent area owned or leased by the licensee or to an immediately adjacent street, parking lot, or alley, not to exceed fifty days for calendar year 2020 and, for each calendar year thereafter, not to exceed fifteen days per calendar year, as provided in sections 53-123.12 and 53-129; and

(9) To review and authorize an application by a craft brewery, farm winery, or microdistillery licensee that holds a promotional farmers market special designated license for a permit to use such promotional farmers market special designated license to sell or dispense alcoholic liquor, which the holder is licensed to produce, at a farmers market within the jurisdiction of the local governing body as provided in section 53-124.17. The local governing body shall electronically notify the commission within five days after authorization of any permit pursuant to this subdivision.

Source

- Laws 1935, c. 116, § 85, p. 421;
- C.S.Supp.,1941, § 53-385;
- R.S.1943, § 53-134;
- Laws 1949, c. 169, § 1(1), p. 447;
- Laws 1959, c. 249, § 9, p. 868;
- Laws 1967, c. 332, § 9, p. 888;
- Laws 1983, LB 213, § 14;
- Laws 1984, LB 947, § 4;
- Laws 1986, LB 911, § 6;
- Laws 1988, LB 352, § 92;
- Laws 1988, LB 550, § 3;
- Laws 1988, LB 1089, § 15;
- Laws 1989, LB 780, § 10;
- Laws 1989, LB 781, § 12;
- Laws 1991, LB 344, § 37;
- Laws 1993, LB 183, § 14;
- Laws 1999, LB 267, § 11;
- Laws 2001, LB 278, § 8;
- Laws 2004, LB 485, § 23;
- Laws 2007, LB549, § 14;
- Laws 2010, LB861, § 68;
- Laws 2011, LB641, § 1;
- Laws 2012, LB1130, § 7;
- Laws 2018, LB1120, § 17;
- Laws 2020, LB1056, § 7;
- Laws 2021, LB274, § 17.

Annotations

- The plain language of this section does not allow a county to revoke a liquor license based upon a resolution. DLH, Inc. v. Lancaster Cty. Bd. of Comrs., 264 Neb. 358, 648 N.W.2d 277 (2002).

- The provisions of this section give a local governing board the authority to cancel or to revoke a liquor license, providing that a multistep process is followed. Any cancellation or revocation is subject to appeal to the Nebraska Liquor Control Commission. Luet, Inc. v. City of Omaha, 247 Neb. 831, 530 N.W.2d 633 (1995).
- This section, as amended by L.B. 781, is unconstitutionally vague and unconstitutionally delegates legislative power. Kwik Shop v. City of Lincoln, 243 Neb. 178, 498 N.W.2d 102 (1993).
- The portion of this section amended by 1986 Neb. Laws, L.B. 911, is declared unconstitutional. Bosselman, Inc. v. State, 230 Neb. 471, 432 N.W.2d 226 (1988).
- The action of five members of the city council, in recommending denial of a liquor license, must be considered a nullity and, therefore, not a denial when a city ordinance requires a quorum of six before business may be transacted. Bond v. Nebraska Liquor Control Comm., 210 Neb. 663, 316 N.W.2d 600 (1982).
- This section authorized ordinance which provides that any liquor licensee who voluntarily closed his licensed premises for ten days without permission shall have elected to discontinue business under such license. Bali Hai', Inc. v. Nebraska Liquor Control Commission, 195 Neb. 1, 236 N.W.2d 614 (1975).
- To be valid, a resolution recommending issuance or refusal of liquor license must be adopted by a majority of all elected members of city council. Hadlock v. Nebraska Liquor Control Commission, 193 Neb. 721, 228 N.W.2d 887 (1975).

53-134.01.

Class C license holder; limited bottling endorsement; application; fee; conditions of sale.

(1) The holder of a Class C license may obtain a limited bottling endorsement for such license as prescribed in this section. The endorsement shall be issued for the same period and may be renewed in the same manner as the Class C license. A limited bottling endorsement may not be used in conjunction with a special designated license.

(2) A licensee desiring to obtain a limited bottling endorsement for a license shall file with the commission an application upon such forms as the commission prescribes and a fee of three hundred dollars payable to the commission.

(3) The holder of a limited bottling endorsement may sell beer for consumption off the licensed premises in sealed containers filled as provided in this subsection if:

(a) The sale occurs on the licensed premises of the licensee during the hours the licensee is authorized to sell beer;

(b) The licensee uses sanitary containers purchased by the customer from the licensee or exchanged for containers previously purchased by the customer from the licensee. The containers shall prominently display the endorsement holder's trade name or logo or some other mark that is unique to the endorsement holder and shall hold no more than sixty-four ounces;

(c) The licensee seals the container in a manner designed so that it is visibly apparent whether the sealed container has been tampered with or opened or seals the container and places the container in a bag designed so that it is visibly apparent whether the sealed container has been tampered with or opened; and

(d) The licensee provides a dated receipt to the customer and attaches a copy of the dated receipt to the sealed container or, if the sealed container is placed in a bag, to the bag.

Source

- Laws 2015, LB330, § 14;
- Laws 2018, LB1120, § 18.

53-134.02.

Local governing bodies; authority under act.

Local governing bodies shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act.

Source

- Laws 1989, LB 781, § 13;
- Laws 1993, LB 183, § 15.

53-134.03.

Retail, bottle club, craft brewery, and microdistillery licenses; regulation by cities and villages.

The governing bodies of cities and villages are authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, bottle club, craft brewery, or microdistillery licensees carried on within the corporate limits of the city or village.

Source

- Laws 1935, c. 116, § 104, p. 429;
- C.S.Supp.,1941, § 53-3,104;
- R.S.1943, § 53-147;
- Laws 1980, LB 848, § 11;
- Laws 1989, LB 781, § 14;
- R.S.Supp.,1990, § 53-147;
- Laws 1991, LB 344, § 38;
- Laws 1993, LB 183, § 16;
- Laws 1999, LB 267, § 12;
- Laws 2004, LB 485, § 24;
- Laws 2007, LB549, § 15;

- Laws 2018, LB1120, § 19.

Annotations

- Where city had not by ordinance attempted to regulate the location of the place of business of licensee, commission could grant license over objection of city. City of Lincoln v. Nebraska Liquor Control Commission, 181 Neb. 277, 147 N.W.2d 803 (1967).
- Power to regulate sale of beer lies in local municipality. Phelps Inc. v. City of Hastings, 152 Neb. 651, 42 N.W.2d 300 (1950).
- Despite absence of severance clause, ordinance which provided several distinct and separate grounds upon which to base revocation of liquor licenses was not rendered invalid in its entirety by reason of invalidity of some portions. Clark v. City of Fremont, 377 F.Supp. 327 (D. Neb. 1977).

53-134.04.

Violations by retail licensee or bottle club licensee; complaints of residents; hearings.

Any five residents of the city or village shall have the right to file a complaint with the local governing body of such city or village stating that any retail licensee or bottle club licensee subject to the jurisdiction of such local governing body has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the local governing body and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the local governing body is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the local governing body within thirty days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the commission as provided in section 53-1,115.

Source

- Laws 1935, c. 116, § 88, p. 422;
- C.S.Supp.,1941, § 53-388;
- R.S.1943, § 53-1,114;
- Laws 1980, LB 848, § 21;
- R.S.1943, (1988), § 53-1,114;
- Laws 1991, LB 344, § 39;
- Laws 2004, LB 485, § 25;
- Laws 2018, LB1120, § 20.

53-134.04.

Violations by retail licensee or bottle club licensee; complaints of residents; hearings.

Any five residents of the city or village shall have the right to file a complaint with the local governing body of such city or village stating that any retail licensee or bottle club licensee subject to the jurisdiction of such local governing body has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the local governing body and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the local governing body is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the local governing body within thirty days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the commission as provided in section 53-1,115.

Source

- Laws 1935, c. 116, § 88, p. 422;
- C.S.Supp.,1941, § 53-388;
- R.S.1943, § 53-1,114;
- Laws 1980, LB 848, § 21;
- R.S.1943, (1988), § 53-1,114;
- Laws 1991, LB 344, § 39;
- Laws 2004, LB 485, § 25;
- Laws 2018, LB1120, § 20.

53-135.01.

Retail licenses; bottle club licenses; renewal; notice.

The city, village, or county clerk shall cause to be published in a legal newspaper in or of general circulation in such city, village, or county, one time between January 10 and January 30 of each year, individual notice of the right of automatic renewal of each retail liquor and beer license and each bottle club license, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year within such city, village, or county, in substantially the following form:

NOTICE OF RENEWAL OF RETAIL LIQUOR OR BOTTLE CLUB LICENSE

Notice is hereby given pursuant to section 53-135.01 that a liquor license [or bottle club license] may be automatically renewed for one year from May 1, 20...., or November 1, 20...., for the following retail liquor [or bottle club] licensee:

(Name of Licensee) (Address of licensed premises)

Notice is hereby given that written protests to the issuance of automatic renewal of license may be filed by any resident of the city (village or county) on or before February 10, 20...., or August 10, 20...., in the office of

the city (village or county) clerk and that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of the license should be allowed.

(Name)

City (village or county) Clerk

Upon the conclusion of any hearing required by this section, the local governing body may request a licensee to submit an application as provided in section 53-135.

Source

- Laws 1959, c. 249, § 11, p. 870;
- Laws 1961, c. 260, § 2, p. 779;
- Laws 1974, LB 681, § 6;
- Laws 1979, LB 224, § 3;
- Laws 1983, LB 213, § 16;
- Laws 1991, LB 344, § 41;
- Laws 2004, LB 813, § 23;
- Laws 2018, LB1120, § 22.

53-135.02.

Licenses; renewal; no vested right.

Any licensee may renew his, her, or its license at the expiration thereof in the manner set forth in section 53-135 if the licensee is then qualified to receive a license and the premises for which such renewal license is sought are the same premises licensed under the license to be renewed and are suitable for such purpose. The renewal privilege provided for in this section shall not be construed as a vested right which shall in any case prevent the commission from decreasing the number of licenses to be issued within its jurisdiction.

Source

- Laws 1935, c. 116, § 27, p. 394;
- C.S.Supp.,1941, § 53-327;
- R.S.1943, § 53-150;
- Laws 1959, c. 249, § 17, p. 874;
- R.S.1943, (1988), § 53-150;
- Laws 1991, LB 344, § 42.

Annotations

- An appeal from the district court's decision reversing the Nebraska Liquor Control Commission's approval of a class D liquor license under this section was not moot despite the expiration of the original license during the pendency of an appeal, because a licensee has a constitutionally

protected interest in obtaining the renewal of an existing license, and that interest would be jeopardized if the license were wrongfully taken away. Orchard Hill Neighborhood v. Orchard Hill Mercantile, 274 Neb. 154, 738 N.W.2d 820 (2007).

- An administrative agency is limited in authority to those powers granted to it by statute. Thus, without a showing by the Nebraska Liquor Control Commission or the objecting city that a renewal applicant did not meet one of the renewal requirements of this section and section 53-135, the commission could not demand that the applicant submit a long-form liquor license application. Grand Island Latin Club v. Nebraska Liq. Cont. Comm., 251 Neb. 61, 554 N.W.2d 778 (1996).
- As the result of the renewal privilege established by this section, a licensee is entitled to renewal of a liquor license, that is, continuation of an existing license, if at the time for renewal the licensee meets the requirements which existed when the license to be renewed was initially issued. Pump & Pantry, Inc. v. City of Grand Island, 233 Neb. 191, 444 N.W.2d 312 (1989).
- The language of section 53-135 and this section discloses a legislative intent to codify a practice of approving an application for continuation of an existing liquor license in the absence of a change of circumstances indicated on the licensee's renewal application. Pump & Pantry, Inc. v. City of Grand Island, 233 Neb. 191, 444 N.W.2d 312 (1989).
- District court cannot enjoin hearing by municipality with respect to issuance or revocation of liquor license. Leeman v. Vocelka, 149 Neb. 702, 32 N.W.2d 274 (1948).

53-136.

Cigar shops; legislative findings; legislative intent.

(1) The Legislature finds that allowing smoking in cigar shops as a limited exception to the Nebraska Clean Indoor Air Act does not interfere with the original intent that the general public and employees not be unwillingly subjected to second-hand smoke. This exception poses a de minimis restriction on the public and employees given the limited number of cigar shops compared to other businesses that sell alcohol, cigars, and pipe tobacco, and any member of the public should reasonably expect that there would be second-hand smoke in a cigar shop given the nature of the business and could choose to avoid such exposure.

(2) The Legislature finds that (a) cigars and pipe tobacco have different characteristics than other forms of tobacco such as cigarettes, (b) cigars are customarily paired with various spirits such as cognac, single malt whiskey, bourbon, rum, rye, port, and others, and (c) unlike cigarette smokers, cigar and pipe smokers may take an hour or longer to enjoy a cigar or pipe while cigarettes simply serve as a mechanism for delivering nicotine. Cigars paired with selected liquor creates a synergy unique to the particular pairing similar to wine paired with particular foods. Cigars are a pure, natural product wrapped in a tobacco leaf that is typically not inhaled in order to enjoy the taste of the smoke, unlike cigarettes that tend to be processed with additives and wrapped in paper and are inhaled. Cigars have a different taste and smell than cigarettes due to the fermentation process cigars go through during production. Cigars tend to cost considerably more than cigarettes, and their quality and characteristics vary depending on the type of tobacco plant, the geography and climate where the tobacco was grown, and the overall quality of the manufacturing process. Not only does the customized blending of the tobacco influence the smoking experience, so does the freshness of the cigars, which is dependent on how the cigars were stored and displayed. These variables are similar to fine wines, which can also be very expensive to purchase. It is all of these variables that warrant a customer wanting to sample the product before making such a substantial purchase.

(3) The Legislature finds that exposure to second-hand smoke is inherent in the selling and sampling of cigars and pipe tobacco and that this exposure is inextricably connected to the nature of selling this legal product, similar to other inherent hazards in other professions and employment.

(4) It is the intent of the Legislature to allow cigar and pipe smoking in cigar shops that meet specific statutory criteria not inconsistent with the fundamental nature of the business. This exception to the Nebraska Clean Indoor Air Act is narrowly tailored in accordance with the intent of the act to protect public places and places of employment.

Source

- Laws 2015, LB118, § 5.

Cross References

- **Nebraska Clean Indoor Air Act,** see section 71-5716.

53-137.

Cigar shop license; prohibited acts; sign required; waiver signed by employee; form.

(1) The holder of a cigar shop license shall not allow a person under twenty-one years of age to smoke or purchase any product in the cigar shop.

(2) The licensee shall post a sign on all entrances to the cigar shop, on the outside of each door, in a conspicuous location slightly above or next to the door, with the following statement: SMOKING OF CIGARS AND PIPES IS ALLOWED INSIDE THIS BUSINESS. SMOKING OF CIGARETTES IS NOT ALLOWED.

(3) Beginning November 1, 2015, the licensee shall provide to the commission a copy of a waiver signed prior to employment by each employee on a form prescribed by the commission. The waiver shall expressly notify the employee that he or she will be exposed to second-hand smoke, and the employee shall acknowledge that he or she understands the risks of exposure to second-hand smoke.

Source

- Laws 2015, LB118, § 6.

53-138.

Pedal-pub vehicle license; activities authorized; licensee; duties.

(1) The commission may issue a license to a person to operate a pedal-pub vehicle in this state. Each pedal-pub vehicle license shall expire on April 30 of each year. Each license shall be good throughout this state as a state license. Only one license shall be required for all pedal-pub vehicles operated in this state by the same owner. Each owner shall keep a duplicate of such license posted in each pedal-pub vehicle where alcoholic

liquor is sold or consumed. No further license shall be required or tax levied by any county, city, or village for the privilege of operating a pedal-pub vehicle for the purpose of selling and allowing the consumption of alcoholic liquor while on or in a pedal-pub vehicle.

(2) The holder of a pedal-pub vehicle license may sell alcoholic liquor in individual drinks to customers who are twenty-one years of age or older to consume while they are on or in the pedal-pub vehicle and may allow such customers to consume alcoholic liquor not purchased from the licensee while the customers are on or in the pedal-pub vehicle. The licensee shall serve alcoholic liquor in opaque plastic containers that prominently display the licensee's trade name or logo or some other mark that is unique to the licensee under the licensee's pedal-pub vehicle license and shall require the use of such containers for the consumption of alcoholic liquor not purchased from the licensee.

(3) No customer shall take any open container of alcoholic liquor from the pedal-pub vehicle or consume the alcoholic liquor after leaving the pedal-pub vehicle. A customer may take unopened containers of alcoholic liquor not purchased from the licensee from the pedal-pub vehicle.

(4) The licensee shall not allow open containers of alcoholic liquor to leave the pedal-pub vehicle. The licensee shall be responsible for picking up and disposing of any litter or other waste or any personal property that originates from the pedal-pub vehicle and lands on public or private property.

Source

- Laws 2015, LB330, § 15.

53-138.01.

Licenses; disposition of fees.

The State Treasurer shall credit three hundred ninety-five dollars of each four-hundred-dollar application fee and forty dollars of each forty-five-dollar application fee and each renewal fee to the General Fund and the remaining five dollars to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund to be used for providing licensees with materials pursuant to section 53-117.05. All retail and bottle club license fees received by the city or village treasurer, as the case may be, shall inure to the school fund of the district lying wholly or partially within the corporate limits of such city or village. Except as otherwise provided in section 53-123.15, the State Treasurer shall distribute license fees received by the commission for licenses issued pertaining to alcoholic liquor, including beer, in accordance with Article VII, section 5, of the Constitution of Nebraska. All retail and bottle club license fees received by the county treasurer, as provided in section 53-124, shall be credited to the school fund of the county.

Source

- Laws 1935, c. 116, § 92, p. 424;
- C.S.Supp.,1941, § 53-392;
- R.S.1943, § 53-138;
- Laws 1949, c. 169, § 2(2), p. 448;

- Laws 1953, c. 180, § 2, p. 570;
- Laws 1959, c. 249, § 12, p. 872;
- Laws 1988, LB 1089, § 17;
- Laws 1991, LB 202, § 5;
- Laws 1997, LB 345, § 1;
- Laws 2000, LB 973, § 7;
- Laws 2010, LB861, § 70;
- Laws 2010, LB867, § 3;
- Laws 2018, LB1120, § 23.

53-138.02.

Repealed. Laws 1991, LB 344, § 75.

53-138.03.

Nonprofit corporations; license; required.

A nonprofit corporation shall not engage in the sale of alcoholic liquor without first having obtained a license required by the Nebraska Liquor Control Act.

Source

- Laws 1963, c. 310, § 11, p. 934;
- Laws 1965, c. 318, § 8, p. 898;
- Laws 1983, LB 213, § 17;
- Laws 2004, LB 485, § 27.

Cross References

- **For general penalties,** see section 53-1,100 et seq.

53-139.

Retail licenses to restaurants and clubs; conditions.

No person shall receive a retail license to sell alcoholic liquor upon any premises used as a restaurant or as a club unless such premises or plan of operation strictly complies with sections 53-103.09 and 53-103.30.

Source

- Laws 1935, c. 116, § 93, p. 425;
- C.S.Supp.,1941, § 53-393;
- R.S.1943, § 53-139;
- Laws 1989, LB 441, § 6;
- Laws 1994, LB 859, § 6;

- Laws 2010, LB861, § 71.

53-140.

Transferred to section 53-117.07.

53-140.01.

Repealed. Laws 1991, LB 344, § 75; Laws 1991, LB 586, § 4.

53-141.

Repealed. Laws 1980, LB 848, § 25.

53-142.

Transferred to section 53-131.01.

53-143.

Repealed. Laws 1980, LB 848, § 25.

53-144.

Repealed. Laws 1991, LB 344, § 75.

53-145.

Transferred to section 53-160.02.

53-146.

Transferred to section 53-116.01.

53-147.

Transferred to section 53-134.03.

53-148.

Licenses; display.

Every licensee shall cause his license or licenses to be framed and hung in plain view in a conspicuous place on the licensed premises.

Source

- Laws 1935, c. 116, § 43, p. 402;
- C.S.Supp.,1941, § 53-343;

- R.S.1943, § 53-148.

53-148.01.

Retail or bottle club licensee; warning sign; commission; duties.

Any retail or bottle club licensee shall post in a conspicuous place a sign which clearly reads as follows: Warning: Drinking alcoholic beverages during pregnancy can cause birth defects. The commission shall prescribe the form of such warning sign and shall make such warning signs available to all retail and bottle club licensees. Warning signs may be provided electronically by the commission to the licensee.

Source

- Laws 1989, LB 70, § 2;
- R.S.Supp.,1990, § 53-101.04;
- Laws 1991, LB 344, § 43;
- Laws 2018, LB1120, § 24;
- Laws 2022, LB1204, § 8.
- **Effective Date: July 21, 2022**

53-149.

Licenses; term; sale of premises; temporary operating permit; false information; penalty; license not assignable or inheritable; exception; effect of death or bankruptcy of licensee.

(1) A license shall be purely a personal privilege, good for not to exceed one year after issuance unless sooner revoked as provided in the Nebraska Liquor Control Act, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated.

(2) A license issued under the act terminates immediately upon the sale of the licensed premises named in such license. The purchaser or transferee may submit an application for a license under the act prior to closing such sale or transfer. While such application is pending, the purchaser may request and obtain a temporary operating permit from the commission which shall authorize the purchaser to continue the business which was conducted on the purchased premises under the terms and conditions of the terminated license for ninety days or until the purchaser has obtained a license in its own name, whichever occurs sooner. Prior to the issuance of a temporary operating permit, the purchaser shall supply the commission with documentation from the seller that the seller is current on all accounts with any wholesaler under section 53-123.02. A seller who provides false information regarding such accounts is guilty of a Class IV misdemeanor for each offense. In the absence of such temporary operating permit, the purchaser shall not manufacture, store, or sell alcoholic liquor on the purchased premises until the purchaser has obtained a license in the purchaser's own name. If the application is withdrawn by the applicant or is denied by the commission, the previous license may be reinstated at the discretion of the commission upon request by the previous licensee.

(3) A license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, except that (a) executors or administrators of the estate of any deceased licensee, when such

estate consists in part of alcoholic liquor, or a partnership or limited liability company upon the death of one or more of the partners or members, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court and may exercise the privileges of the deceased or deceased partner or member after the death of such decedent until the expiration of such license, but if such license would have expired within two months following the death of the licensee, the license may be renewed by the administrators or executors with the approval of the appropriate court for a period not to exceed one additional year; or (b) when a license is issued to a husband and wife, as colicensees with rights of survivorship, upon the death of one spouse the survivor may exercise all rights and privileges under such license in his or her own name. The trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court and may exercise the privileges of the insolvent or bankrupt licensee until the expiration of such license.

Source

- Laws 1935, c. 116, § 27, p. 394;
- C.S.Supp.,1941, § 53-327;
- R.S.1943, § 53-149;
- Laws 1959, c. 249, § 16, p. 874;
- Laws 1972, LB 1375, § 1;
- Laws 1976, LB 204, § 5;
- Laws 1993, LB 121, § 320;
- Laws 2010, LB861, § 72.

Annotations

- **1. License is personal privilege**
- **2. Rights of licensee**
- **3. Miscellaneous**
- **1. License is personal privilege**
- The payment of rent to a lessor based on a percentage of sales does not create a partnership between the lessor and lessee in violation of this section, which states that a liquor license is a privilege personal to the grantee, nor does it violate rules 20 and 14(E) of the Nebraska Liquor Control Commission, which prohibit any partner from sharing in profits arising from the granting of any liquor license. Department of Banking, Receiver v. Wilken, 217 Neb. 796, 352 N.W.2d 145 (1984).
- A liquor license is a purely personal privilege, does not constitute property, and vests no property rights in a licensee. Bali Hai', Inc. v. Nebraska Liquor Control Commission, 195 Neb. 1, 236 N.W.2d 614 (1975).
- Fact that license is a privilege does not prevent license holder from complaining of unconstitutional rules and regulations. Terry Carpenter, Inc. v. Nebraska Liquor Control Commission, 175 Neb. 26, 120 N.W.2d 374 (1963).
- A license to sell liquors is purely a personal privilege and not transferable. Stevens v. Fall, 133 Neb. 610, 276 N.W. 401 (1937).
- **2. Rights of licensee**

- A liquor license is not such a property right as will be protected by injunction. Leeman v. Vocelka, 149 Neb. 702, 32 N.W.2d 274 (1948).
- License to sell liquors is not alienable, transferable, or subject to encumbrance or hypothecation. Marsh & Marsh, Inc. v. Carmichael, 136 Neb. 797, 287 N.W. 616 (1939).
- **3. Miscellaneous**
- An agreement between lessor and lessee that lessee will apply for a license for the premises, and will not seek permission to transfer it to another location, and upon expiration of the lease will assist lessor in obtaining a license for the premises is not void. Greco v. Bonacci, 194 Neb. 685, 234 N.W.2d 904 (1975).
- Licensee was in violation of this section when he permitted another to operate and control the business. Eleven Eighteen Co. v. Nebraska Liquor Control Commission, 191 Neb. 572, 216 N.W.2d 720 (1974).

53-150.

Transferred to section 53-135.02.

53-151.

Repealed. Laws 1991, LB 344, § 75.

53-152.

Repealed. Laws 1991, LB 344, § 75.

53-153.

Repealed. Laws 1991, LB 344, § 75.

53-154.

Repealed. Laws 1991, LB 344, § 75.

53-155.

Repealed. Laws 1991, LB 344, § 75.

53-156.

Repealed. Laws 1991, LB 344, § 75.

53-157.

Transferred to section 53-164.02.

53-158.

Repealed. Laws 1991, LB 344, § 75.

53-159.

Transferred to section 53-130.01.

53-160.

Tax on manufacturer and wholesaler; amount; exemption; duties of commission.

(1) For the purpose of raising revenue, a tax is imposed upon the privilege of engaging in business as a manufacturer or a wholesaler at a rate of thirty-one cents per gallon on all beer; ninety-five cents per gallon for wine, except for wines produced and released from bond in farm wineries; six cents per gallon for wine produced and released from bond in farm wineries; and three dollars and seventy-five cents per gallon on alcohol and spirits manufactured and sold by such manufacturer or shipped for sale in this state by such wholesaler in the course of such business. The gallonage tax imposed by this subsection shall be imposed only on alcoholic liquor upon which a federal excise tax is imposed.

(2) Manufacturers or wholesalers of alcoholic liquor shall be exempt from the payment of the gallonage tax on such alcoholic liquor upon satisfactory proof, including bills of lading furnished to the commission by affidavit or otherwise as the commission may require, that such alcoholic liquor was manufactured in this state but shipped out of the state for sale and consumption outside this state.

(3) Dry wines or fortified wines manufactured or shipped into this state solely and exclusively for sacramental purposes and uses shall not be subject to the gallonage tax.

(4) The gallonage tax shall not be imposed upon any alcoholic liquor, whether manufactured in or shipped into this state, when sold to a licensed nonbeverage user for use in the manufacture of any of the following when such products are unfit for beverage purposes: Patent and proprietary medicines and medicinal, antiseptic, and toilet preparations; flavoring extracts, syrups, food products, and confections or candy; scientific, industrial, and chemical products, except denatured alcohol; or products for scientific, chemical, experimental, or mechanical purposes.

(5) The gallonage tax shall not be imposed upon the privilege of engaging in any business in interstate commerce or otherwise, which business may not, under the Constitution and statutes of the United States, be made the subject of taxation by this state.

(6) The gallonage tax shall be in addition to all other occupation or privilege taxes imposed by this state or by any municipal corporation or political subdivision thereof.

(7) The commission shall collect the gallonage tax and shall account for and remit to the State Treasurer at least once each week all money collected pursuant to this section. If any alcoholic liquor manufactured in or shipped into this state is sold to a licensed manufacturer or wholesaler of this state to be used solely as an ingredient in the manufacture of any beverage for human consumption, the tax imposed upon such manufacturer or wholesaler shall be reduced by the amount of the taxes which have been paid as to such alcoholic liquor so used under the Nebraska Liquor Control Act. The net proceeds of all revenue arising under this section shall be credited to the General Fund.

Source

- Laws 1935, c. 116, § 50, p. 405;
- Laws 1939, c. 66, § 1, p. 273;
- Laws 1941, c. 106, § 1, p. 426;
- C.S.Supp.,1941, § 53-350;
- R.S.1943, § 53-160;
- Laws 1947, c. 189, § 1, p. 624;
- Laws 1951, c. 172, § 1, p. 660;
- Laws 1963, c. 312, § 1, p. 940;
- Laws 1965, c. 320, § 1, p. 911;
- Laws 1965, c. 319, § 3, p. 909;
- Laws 1965, c. 318, § 9, p. 898;
- Laws 1972, LB 66, § 3;
- Laws 1977, LB 254, § 1;
- Laws 1977, LB 220, § 1;
- Laws 1979, LB 260, § 1;
- Laws 1981, LB 129, § 1;
- Laws 1985, LB 279, § 9;
- Laws 1985, LB 280, § 1;
- Laws 1988, LB 901, § 3;
- Laws 1988, LB 1089, § 22;
- Laws 1991, LB 344, § 44;
- Laws 2003, LB 283, § 1;
- Laws 2003, LB 759, § 1;
- Laws 2012, LB824, § 6.

53-160.01.

Tax on manufacturer and wholesaler; instrumentality of armed forces of United States; resale; exemption.

No excise taxes of this state, direct or indirect, shall be imposed upon the sale, use, delivery, or storage of articles of merchandise to any instrumentality of the armed forces of the United States engaged in resale activities, except those state excise taxes which may be specifically authorized by the various acts of the Congress of the United States.

Source

- Laws 1951, c. 180, § 1, p. 683;
- Laws 1985, LB 359, § 2.

53-160.02.

Near beer; regulation.

The manufacture, distribution, sale, and purchase of near beer shall be subject to all provisions of the Nebraska Liquor Control Act, except taxation provisions, to which the manufacture, distribution, sale, and purchase of beer are subject.

Source

- Laws 1989, LB 441, § 7;
- R.S.Supp.,1990, § 53-145;
- Laws 1991, LB 344, § 45.

53-160.03.

Beer-related crop; tax credit; calculation; application; contents; approval; notice.

(1) The Legislature finds that encouraging manufacturers of beer to use beer-related crops grown in this state in their manufacturing operations stimulates the creation of jobs and investments in small communities in this state, encourages the use of lands upon which beer-related crops may be grown, and provides tax revenue to the state which would not otherwise be realized. It is the intent of the Legislature to encourage the use of such beer-related crops by providing a nonrefundable tax credit as provided in this section.

(2) For purposes of this section, beer-related crop means barley or hops.

(3) A nonrefundable credit against the tax imposed in section 53-160 shall be allowed to any manufacturer of beer if at least ten percent of the beer-related crops used by such manufacturer in the previous calendar year were grown in this state. The credit shall be an amount equal to the percentage specified in subsection (4) of this section multiplied by the total amount of tax paid under section 53-160 in the previous calendar year on the first twenty thousand barrels of beer sold by such manufacturer.

(4) The percentage used to determine the credit shall be as follows:

(a) If at least ten percent but less than forty percent of the beer-related crops used by the manufacturer in the previous calendar year were grown in this state, the percentage used to determine the credit shall be fifteen percent;

(b) If at least forty percent but less than seventy percent of the beer-related crops used by the manufacturer in the previous calendar year were grown in this state, the percentage used to determine the credit shall be twenty-five percent; and

(c) If at least seventy percent of the beer-related crops used by the manufacturer in the previous calendar year were grown in this state, the percentage used to determine the credit shall be thirty-five percent.

(5) A manufacturer of beer shall apply for the credit to the commission on a form prescribed by the commission. The application shall be submitted on or before January 25 of each year and shall contain the following information:

(a) The name of the manufacturer;

(b) The total number of barrels of beer sold and the total amount of tax paid under section 53-160 during the previous calendar year;

(c) The percentage of beer-related crops used by the manufacturer in the previous calendar year that were grown in this state; and

(d) Such other information as required by the commission to verify that the manufacturer is qualified to receive the credit allowed under this section and to calculate the amount of the credit.

(6) If the manufacturer of beer qualifies for the credit, the commission shall approve the application and notify the manufacturer of the amount of the credit approved. The manufacturer may then claim the credit on the reports due each month under section 53-164.01 as an offset against the taxes due pursuant to such reports until the credit is fully utilized or until the following December 31, whichever occurs first.

Source

- Laws 2015, LB330, § 22.

53-160.04.

Ready-to-drink cocktails; tax on manufacturer or wholesaler; amount; exemption; duties of commission.

(1) Notwithstanding any other provision of the Nebraska Liquor Control Act, for the purpose of raising revenue, a tax is imposed upon the privilege of engaging in business as a manufacturer or a wholesaler of ready-to-drink cocktails at a rate of ninety-five cents per gallon. The gallonage tax imposed by this section shall be imposed only on alcoholic liquor upon which a federal excise tax is imposed.

(2) Manufacturers or wholesalers of ready-to-drink cocktails shall be exempt from the payment of the gallonage tax imposed by this section on such products upon satisfactory proof, including bills of lading furnished to the commission by affidavit or otherwise as the commission may require, that such ready-to-drink cocktails were manufactured in this state but shipped out of this state for sale and consumption outside this state.

(3) The gallonage tax imposed by this section shall be in addition to all other occupation or privilege taxes imposed by this state or by any municipal corporation or political subdivision thereof.

(4) The commission shall collect the gallonage tax on ready-to-drink cocktails and shall account for and remit to the State Treasurer at least once each week all money collected pursuant to this section. If any spirits manufactured in or shipped into this state are sold to a licensed manufacturer or wholesaler of this state to be used solely as an ingredient in the manufacture of ready-to-drink cocktails for human consumption, the tax imposed upon such manufacturer or wholesaler shall be reduced by the amount of the taxes which have been paid as to such spirits so used under the Nebraska Liquor Control Act. The net proceeds of all revenue arising under this section shall be credited to the General Fund.

Source

- Laws 2021, LB274, § 6.
- **Operative Date: July 1, 2021**

53-160.05.

Repealed. Laws 1981, LB 497, § 1.

53-160.06.

Repealed. Laws 1981, LB 497, § 1.

53-160.07.

Repealed. Laws 1981, LB 497, § 1.

53-160.08.

Transferred to section 53-178.01.

53-160.09.

Repealed. Laws 1989, LB 1, § 1.

53-161.

Beer; credit for tax paid; when allowed.

The commission shall allow credit to any wholesaler for tax paid under section 53-160 (1) for beer shipped out of this state for sale and consumption outside of the state or (2) for beer returned to the manufacturer for credit, substitution, or replacement, and such credit shall be allowed whether such beer is a part of the original inventory of such wholesaler or returned to such wholesaler by a licensee authorized to purchase beer from a wholesaler.

Source

- Laws 1935, c. 116, § 51, p. 407;
- Laws 1941, c. 109, § 1, p. 431;
- C.S.Supp.,1941, § 53-351;
- R.S.1943, § 53-161;
- Laws 1951, c. 173, § 1, p. 662;
- Laws 1955, c. 201, § 2, p. 571;
- Laws 1961, c. 259, § 7, p. 771;
- Laws 1963, c. 311, § 5, p. 938;
- Laws 1965, c. 321, § 1, p. 913;
- Laws 1991, LB 344, § 46.

53-162.

Alcoholic liquor shipped from another state; tax imposed.

For the purpose of raising revenue, a tax is imposed upon persons holding a shipping license issued pursuant to subsection (4) or (5) of section 53-123.15 who ship alcoholic liquor to individuals pursuant to section 53-192 and for which the required taxes in the state of purchase or this state have not been paid. The tax, if due, shall be paid by the holder of the shipping license issued pursuant to subsection (4) or (5) of section 53-123.15. The amount of the tax shall be imposed as provided in section 53-160. The tax shall be collected by the commission, except that the tax shall not be due until December 31 of the year in which the purchase was made. The tax shall be delinquent if unpaid within twenty-five days after December 31. The revenue from the tax shall be credited to the General Fund. The commission shall adopt and promulgate rules and regulations to carry out this section.

Source

- Laws 2000, LB 973, § 2;
- Laws 2001, LB 671, § 3;
- Laws 2013, LB230, § 4.

53-162.01.

Repealed. Laws 1963, c. 311, § 7.

53-163.

Commission; rounding of amounts on returns or reports; authorized.

When the commission finds that the administration of the state alcohol excise tax laws might be more efficiently and economically conducted, the commission may require or allow for rounding of all amounts on returns or reports, including amounts of tax. Amounts shall be rounded to the nearest dollar with amounts ending in fifty cents or more rounded to the next highest dollar.

Source

- Laws 2007, LB578, § 2.

53-164.

Repealed. Laws 1963, c. 311, § 7.

53-164.01.

Alcoholic liquor; tax; payment; report; penalty; bond; sale to instrumentality of armed forces; credit for tax paid.

Payment of the tax provided for in section 53-160 on alcoholic liquor shall be paid by the manufacturer or wholesaler as follows:

(1)(a) All manufacturers or wholesalers, except farm winery producers, whether inside or outside this state shall, on or before the twenty-fifth day of each calendar month following the month in which shipments were made, submit a report to the commission upon forms furnished by the commission showing the total amount of alcoholic liquor in gallons or fractional parts thereof shipped by such manufacturer or wholesaler, whether inside or outside this state, during the preceding calendar month;

(b) All beer wholesalers shall, on or before the twenty-fifth day of each calendar month following the month in which shipments were made, submit a report to the commission upon forms furnished by the commission showing the total amount of beer in gallons or fractional parts thereof shipped by all manufacturers, whether inside or outside this state, during the preceding calendar month to such wholesaler;

(c)(i) Except as provided in subdivision (ii) of this subdivision, farm winery producers which paid less than one thousand dollars of excise taxes pursuant to section 53-160 for the previous calendar year and which will pay less than one thousand dollars of excise taxes pursuant to section 53-160 for the current calendar year shall, on or before the twenty-fifth day of the calendar month following the end of the year in which wine was packaged and released from bond, submit a report to the commission upon forms furnished by the commission showing the total amount of wine in gallons or fractional parts thereof packaged and released from bond by such producer during the preceding calendar year; and

(ii) Farm winery producers which paid one thousand dollars or more of excise taxes pursuant to section 53-160 for the previous calendar year or which become liable for one thousand dollars or more of excise taxes pursuant to section 53-160 during the current calendar year shall, on or before the twenty-fifth day of each calendar month following the month in which wine was packaged and released from bond, submit a report to the commission upon forms furnished by the commission showing the total amount of wine in gallons or fractional parts thereof packaged and released from bond by such producer during the preceding calendar month. A farm winery producer which becomes liable for one thousand dollars or more of excise taxes pursuant to section 53-160 during the current calendar year shall also pay such excise taxes immediately;

(d) A craft brewery shall, on or before the twenty-fifth day of each calendar month following the month in which the beer was released from bond for sale, submit a report to the commission on forms furnished by the commission showing the total amount of beer in gallons or fractional parts thereof produced for sale by the craft brewery during the preceding calendar month;

(e) A microdistillery shall, on or before the twenty-fifth day of each calendar month following the month in which the distilled liquor was released from bond for sale, submit a report to the commission on forms furnished by the commission showing the total amount of distilled liquor in gallons or fractional parts thereof produced for sale by the microdistillery during the preceding calendar month; and

(f) Reports submitted pursuant to subdivision (a), (b), or (c) of this subdivision shall also contain a statement of the total amount of alcoholic liquor, except beer, in gallons or fractional parts thereof shipped to licensed retailers inside this state and such other information as the commission may require;

(2) The wholesaler or farm winery producer shall at the time of the filing of the report pay to the commission the tax due on alcoholic liquor, except beer, shipped to licensed retailers inside this state at the rate fixed in accordance with section 53-160. The tax due on beer shall be paid by the wholesaler on beer shipped from all manufacturers;

(3) The tax imposed pursuant to section 53-160 shall be due on the date the report is due less a discount of one percent of the tax on alcoholic liquor for submitting the report and paying the tax in a timely manner. The discount shall be deducted from the payment of the tax before remittance to the commission and shall be shown in the report to the commission as required in this section. If the tax is not paid within the time provided in this section, the discount shall not be allowed and shall not be deducted from the tax;

(4) If the report is not submitted by the twenty-fifth day of the calendar month or if the tax is not paid to the commission by the twenty-fifth day of the calendar month, the following penalties shall be assessed on the amount of the tax: One to five days late, three percent; six to ten days late, six percent; and over ten days late, ten percent. In addition, interest on the tax shall be collected at the rate of one percent per month, or fraction of a month, from the date the tax became due until paid;

(5) No tax shall be levied or collected on alcoholic liquor manufactured inside this state and shipped or transported outside this state for sale and consumption outside this state;

(6) In order to insure the payment of all state taxes on alcoholic liquor, together with interest and penalties, persons required to submit reports and payment of the tax shall, at the time of application for a license under sections 53-124 and 53-124.01, enter into a surety bond with corporate surety, both the bond form and surety to be approved by the commission. Subject to the limitations specified in this subdivision, the amount of the bond required of any taxpayer shall be fixed by the commission and may be increased or decreased by the commission at any time. In fixing the amount of the bond, the commission shall require a bond equal to the amount of the taxpayer's estimated maximum monthly excise tax ascertained in a manner as determined by the commission. Nothing in this section shall prevent or prohibit the commission from accepting and approving bonds which run for a term longer than the license period. The amount of a bond required of any one taxpayer shall not be less than one thousand dollars. The bonds required by this section shall be filed with the commission; and

(7) When a manufacturer or wholesaler sells and delivers alcoholic liquor upon which the tax has been paid to any instrumentality of the armed forces of the United States engaged in resale activities as provided in section 53-160.01, the manufacturer or wholesaler shall be entitled to a credit in the amount of the tax paid in the event no tax is due on such alcoholic liquor as provided in such section. The amount of the credit, if any, shall be deducted from the tax due on the following monthly report and subsequent reports until liquidated.

Source

- Laws 1955, c. 201, § 3, p. 571;
- Laws 1959, c. 247, § 6, p. 853;
- Laws 1959, c. 251, § 1, p. 880;
- Laws 1967, c. 334, § 1, p. 892;
- Laws 1972, LB 66, § 4;

- Laws 1973, LB 111, § 8;
- Laws 1979, LB 224, § 5;
- Laws 1981, LB 124, § 3;
- Laws 1983, LB 213, § 18;
- Laws 1985, LB 279, § 10;
- Laws 1985, LB 359, § 3;
- Laws 1988, LB 1089, § 23;
- Laws 1989, LB 777, § 1;
- Laws 1989, LB 780, § 12;
- Laws 1991, LB 344, § 47;
- Laws 1991, LB 582, § 3;
- Laws 1994, LB 1292, § 8;
- Laws 1996, LB 750, § 10;
- Laws 2006, LB 1003, § 3;
- Laws 2007, LB549, § 16;
- Laws 2010, LB861, § 73;
- Laws 2012, LB824, § 7.

53-164.02.

Evasion of liquor tax; acts forbidden; violations; penalty.

It shall be unlawful for any person to evade or attempt to evade the payment of tax on any alcoholic liquor in any manner whatever, and upon conviction thereof, in addition to the penalty prescribed for the violation of the Nebraska Liquor Control Act, such person shall forfeit and pay, as a part of costs in such action, double the amount of the tax so evaded or attempted to be evaded. Any person who violates this section shall be guilty of a Class II misdemeanor.

Source

- Laws 1935, c. 116, § 21, p. 387;
- C.S.Supp.,1941, § 53-321;
- R.S.1943, § 53-157;
- Laws 1961, c. 259, § 6, p. 770;
- Laws 1963, c. 311, § 4, p. 938;
- Laws 1977, LB 40, § 314;
- R.S.1943, (1988), § 53-157;
- Laws 1991, LB 344, § 48.

53-165.

Manufacturer and wholesaler; monthly report to commission of manufacture and sale; manufacturer or shipper; certification; record keeping.

(1) Every manufacturer and wholesaler shall, between the first and fifteenth day of each calendar month, make return to the commission of all alcoholic liquor manufactured and sold by such manufacturer or wholesaler in

the course of such business during the preceding calendar month. Such return shall be made upon forms prescribed and furnished by the commission and shall contain such other information as the commission may reasonably require.

(2) Every manufacturer or shipper of beer on filing notice of intention to commence or continue business pursuant to section 53-130.01 shall certify that such manufacturer or shipper will keep or cause to be kept books and records and make reports in the manner and for the purposes specified by rules and regulations of the commission, which books, records, and reports shall be open to inspection by the proper officers of the commission, and that such manufacturer or shipper will in all respects faithfully comply with all of the requirements of the laws of this state and the rules and regulations of the commission relating to the manufacture and shipping to licensed retail beer dealers in this state.

(3) Each manufacturer and wholesaler shall keep complete and accurate records of all sales of liquor, wine, or beer and complete and accurate records of all such alcoholic liquor produced, manufactured, compounded, or imported.

Source

- Laws 1935, c. 116, § 55, p. 408;
- C.S.Supp.,1941, § 53-355;
- R.S.1943, § 53-165;
- Laws 1991, LB 344, § 50;
- Laws 2006, LB 1003, § 4.

53-166.

Repealed. Laws 1991, LB 344, § 75.

53-166.01-166.17

Unconstitutional.

Source

- **Note:** The Revisor of Statutes, as authorized by section 49-705, has omitted sections 53-166.01 to 53-166.17, which the Supreme Court has held to be unconstitutional. United States Brewers' Assn., Inc. v. State, 192 Neb. 328, 220 N.W.2d 544 (1974).

53-167.

Repealed. Laws 1977, LB 176, § 2.

53-167.01.

Legislative findings.

The Legislature finds that every year hundreds of people, many of them teenagers, are seriously injured or killed as a result of alcohol-related accidents. In recognition of such facts it is the intent of the Legislature, through the implementation of section 53-167.02, to protect the public health, safety, and welfare of all Nebraskans.

Source

- Laws 1993, LB 332, § 2.

53-167.02.

Keg sales; requirements; keg identification number; violation; penalty.

(1) When any person licensed to sell alcoholic liquor at retail sells alcohol for consumption off the premises in a container with a liquid capacity of five or more gallons or eighteen and ninety-two hundredths or more liters, the seller shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if such military identification contains a picture of the purchaser, together with the purchaser's signature. Such record shall be on a form prescribed by the commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months.

(2) The commission shall adopt and promulgate rules and regulations which require the licensee to place a label on the alcohol container, which label shall at least contain a keg identification number and shall be on a form prescribed by the commission. Such label shall be placed on the keg at the time of retail sale. The licensee shall purchase the forms referred to in this section from the commission. The cost incurred to produce and distribute such forms shall be reasonable and shall not exceed the reasonable and necessary costs of producing and distributing the forms. Any money collected by the commission relating to the sale of such forms shall be credited to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund.

(3) The keg identification number for each container shall be registered with the commission. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall, upon conviction, be guilty of a Class III misdemeanor.

Source

- Laws 1993, LB 332, § 3;
- Laws 2015, LB330, § 23.

53-167.03.

Keg identification number; prohibited acts; violation; penalty; deposit.

(1) Any person who unlawfully tampers with, alters, or removes the keg identification number from a container described in section 53-167.02 or is in possession of a container described in section 53-167.02 with an altered or removed keg identification number after such container has been taken from the licensed premises

pursuant to a retail sale and before its return to such licensed premises or other place where returned kegs are accepted shall be guilty of a Class III misdemeanor.

(2) A licensee may require a deposit of not more than the replacement cost of the container described in section 53-167.02 from a person purchasing alcohol for consumption off the premises. Such deposit may be retained by the licensee, in the amount of actual damages, if upon return the container or any associated equipment is damaged or if the keg identification number has been unlawfully tampered with, altered, or removed and such tampering, alteration, or removal has been reported to a law enforcement officer.

Source

- Laws 1993, LB 332, § 4;
- Laws 2002, LB 1126, § 5;
- Laws 2007, LB573, § 10;
- Laws 2015, LB330, § 24.

53-167.04.

Repealed. Laws 2006, LB 562, § 8.

53-168.

Receiving money, credit, discounts, rebates, or other inducement; unlawful acts; penalty; private or generic label permitted.

(1) It shall be unlawful for any person having a retail license to sell beer to accept credit for the purchase of beer from any manufacturer or wholesaler of beer and for any person having a retail license to sell alcoholic liquor or any officer, associate, member, representative, or agent of such licensee to accept, receive, or borrow money or anything else of value or to accept or to receive credit, other than merchandising credit in the ordinary course of business for a period not to exceed thirty days, directly or indirectly, from (a) any person, partnership, limited liability company, or corporation engaged in manufacturing or wholesaling such liquor, (b) any person connected with or in any way representing such manufacturer or wholesaler, (c) any member of the family of such manufacturer or wholesaler, (d) any stockholders in any corporation engaged in manufacturing or wholesaling such liquor, or (e) any officer, manager, agent, member, or representative of such manufacturer or wholesaler.

(2) It shall be unlawful for any manufacturer or wholesaler to give or lend money or otherwise loan or extend credit, except the merchandising credit referred to in subsection (1) of this section, directly or indirectly, to any such licensee or to the manager, representative, agent, member, officer, or director of such licensee. It shall be unlawful for any wholesaler to participate in any manner in a merchandising and coupon plan of any manufacturer involving alcoholic liquor and the redemption in cash. The redemption of any merchandising and coupon plan involving cash shall be made by the manufacturer to the consumer.

(3) If any holder of a license to sell alcoholic liquor at retail or wholesale violates subsection (1) or (2) of this section, such license shall be suspended or revoked by the commission in the manner provided by the Nebraska Liquor Control Act.

(4) It shall not be a violation of subsection (1) or (2) of this section for a manufacturer or wholesaler to sell or provide alcoholic liquor exclusively or in minimum quantities in containers bearing a private label or to sell or provide alcoholic liquor in containers bearing a generic label to a wholesaler or retailer.

(5) It shall not be a violation of subsection (1) or (2) of this section for a wholesaler or retailer to accept or purchase from a manufacturer or wholesaler alcoholic liquor exclusively or in minimum quantities in containers bearing a private label or for a wholesaler or retailer to accept or purchase from a manufacturer or wholesaler alcoholic liquor in containers bearing a generic label.

Source

- Laws 1935, c. 116, § 29, p. 395;
- Laws 1941, c. 104, § 1, p. 424;
- C.S.Supp.,1941, § 53-329;
- R.S.1943, § 53-168;
- Laws 1953, c. 182, § 2, p. 573;
- Laws 1953, c. 181, § 1, p. 571;
- Laws 1967, c. 335, § 1, p. 896;
- Laws 1969, c. 441, § 1, p. 1475;
- Laws 1969, c. 442, § 1, p. 1478;
- Laws 1969, c. 443, § 1, p. 1480;
- Laws 1980, LB 874, § 1;
- Laws 1981, LB 483, § 2;
- Laws 1985, LB 183, § 2;
- Laws 1991, LB 344, § 51;
- Laws 1993, LB 121, § 321;
- Laws 2004, LB 485, § 28.

Annotations

- The 1969 amendment making it unlawful for any manufacturer, distributor, or wholesaler of alcoholic liquor to give discounts to any retailer is constitutional. Central Markets West, Inc. v. State, 186 Neb. 79, 180 N.W.2d 880 (1970) supplemental opinion, 186 Neb. 276, 182 N.W.2d 898 (1971).
- The 1967 amendment to this section prohibiting a retailer from accepting credit for the purchase of beer from a wholesaler is constitutional; exception as to baseball stadiums is unconstitutional. Tom & Jerry, Inc. v. Nebraska Liquor Control Commission, 183 Neb. 410, 160 N.W.2d 232 (1968).
- Liquor Control Commission cannot adopt rules and regulations in conflict with Liquor Control Act. Terry Carpenter, Inc. v. Nebraska Liquor Control Commission, 175 Neb. 26, 120 N.W.2d 374 (1963).
- Provisions of rule promulgated by the Liquor Control Commission authorizing the giving away of advertising novelties were invalid. State ex rel. Nebraska Beer Wholesalers Assn. v. Young, 153 Neb. 395, 44 N.W.2d 806 (1950).

53-168.01.

Repealed. Laws 1991, LB 344, § 75.

53-168.02.

Repealed. Laws 1985, LB 183, § 7.

53-168.03.

Repealed. Laws 1985, LB 183, § 7.

53-168.04.

Repealed. Laws 1985, LB 183, § 7.

53-168.05.

Violations; procedure.

The commission may revoke or suspend the license of any manufacturer, wholesaler, or retailer found violating section 53-169, and all proceedings under such section shall be governed by the provisions of the Nebraska Liquor Control Act governing the suspension or revocation of licenses and the appeals to the courts from any orders of the commission.

Source

- Laws 1971, LB 751, § 6;
- Laws 1985, LB 183, § 4;
- Laws 1991, LB 344, § 53.

53-168.06.

General prohibition; exceptions.

No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish, or possess any alcoholic liquor for beverage purposes except as specifically provided in the Nebraska Liquor Control Act. Nothing in the act shall prevent:

(1) The possession of alcoholic liquor legally obtained as provided in the act for the personal use of the possessor and his or her family and guests;

(2) The making, transport, and delivery of wine, cider, beer, mead, perry, or other alcoholic liquor by a person from fruits, vegetables, honey, or grains, or the product thereof, by simple fermentation and without distillation, (a) if made solely for the use of the maker and his or her family and guests if such alcoholic liquor is not sold or offered for sale, or (b) if made without a permit for an exhibition, festival, or tasting competition, including exhibitions, festivals, or tasting competitions that are for nonprofit organizations such as fundraising events, legally conducted under the act, if such alcoholic liquor is not sold or offered for sale. Alcoholic liquor

served pursuant to this subdivision (b) shall clearly be identified as alcoholic liquor that was manufactured under an exception to the rules and regulations of the commission by signage, and the location of the manufacturer shall be available upon request. Free or reduced admission to the exhibition, festival, or tasting competition shall not be considered a sale of the alcoholic liquor;

(3) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;

(4) The possession and dispensation of alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual, or ceremony;

(5) Persons who are sixteen years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

(6) Persons who are sixteen years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

(7) Persons who are sixteen years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment;

(8) Persons who are sixteen years old or older from completing a transaction for the sale of alcoholic liquor in the course of their employment if they are not handling or serving alcoholic liquor; or

(9) Persons who are nineteen years old or older from serving or selling alcoholic liquor in the course of their employment.

Source

- Laws 1935, c. 116, § 1, p. 374;
- C.S.Supp.,1941, § 53-301;
- R.S.1943, § 53-102;
- Laws 1971, LB 666, § 1;
- Laws 1978, LB 386, § 2;
- Laws 1980, LB 221, § 1;
- Laws 1985, LB 359, § 1;
- R.S.1943, (1988), § 53-102;
- Laws 1991, LB 344, § 52;
- Laws 1995, LB 874, § 2;
- Laws 2001, LB 114, § 3;
- Laws 2016, LB1105, § 24;
- Laws 2019, LB235, § 1.

Annotations

- Exemption accorded to possession of liquor for personal use of possessor, his family, or guests did not apply to business conducted as a common nuisance. State ex rel. Fitzgerald v. Kubik, 167 Neb. 219, 92 N.W.2d 533 (1958).
- Possession of intoxicating liquor for personal use is authorized. State v. Kubik, 159 Neb. 509, 67 N.W.2d 755 (1954).
- Purpose of Liquor Control Act was to govern and control sale and use of alcoholic liquors. State ex rel. Johnson v. Hash, 144 Neb. 495, 13 N.W.2d 716 (1944).
- The Nebraska Liquor Control Commission is empowered to determine, by reasonable regulations, the hours for sale of beer outside the corporate limits of cities and villages, regardless of its alcoholic content. Griffin v. Gass, 133 Neb. 56, 274 N.W. 193 (1937).
- It is a penal offense for owner and operator of a truck, not designated as a carrier or granted a permit therefor, to transport from another state a cargo of unstamped alcoholic liquors consigned to a bonded warehouse of liquors in this state. State v. Hyslop, 131 Neb. 681, 269 N.W. 512 (1936).

53-169.

Manufacturer or wholesaler; craft brewery, manufacturer, or microdistillery licensee; limitations.

(1) Except as provided in subsection (2) of this section, no manufacturer or wholesaler shall directly or indirectly: (a) Pay for any license to sell alcoholic liquor at retail or advance, furnish, lend, or give money for payment of such license; (b) purchase or become the owner of any note, mortgage, or other evidence of indebtedness of such licensee or any form of security therefor; (c) be interested in the ownership, conduct, or operation of the business of any licensee authorized to sell alcoholic liquor at retail; or (d) be interested directly or indirectly or as owner, part owner, lessee, or lessor thereof in any premises upon which alcoholic liquor is sold at retail.

(2) This section does not apply to the holder of a farm winery license. The holder of a craft brewery license shall have the privileges and duties listed in section 53-123.14 and the holder of a manufacturer's license shall have the privileges and duties listed in section 53-123.01 with respect to the manufacture, distribution, and retail sale of beer, and except as provided in subsection (2) of section 53-123.14, the Nebraska Liquor Control Act shall not be construed to permit the holder of a craft brewery license or of a manufacturer's license issued pursuant to section 53-123.01 to engage in the wholesale distribution of beer. The holder of a microdistillery license shall have the privileges and duties listed in section 53-123.16 with respect to the manufacture of alcoholic liquor, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a microdistillery license to engage in the wholesale distribution of alcoholic liquor.

Source

- Laws 1935, c. 116, § 30, p. 396;
- C.S.Supp.,1941, § 53-330;
- R.S.1943, § 53-169;
- Laws 1947, c. 187, § 2, p. 619;
- Laws 1953, c. 182, § 3, p. 574;

- Laws 1961, c. 258, § 5, p. 765;
- Laws 1971, LB 751, § 5;
- Laws 1981, LB 483, § 3;
- Laws 1985, LB 183, § 5;
- Laws 1985, LB 279, § 11;
- Laws 1988, LB 1089, § 24;
- Laws 1991, LB 344, § 54;
- Laws 1996, LB 750, § 11;
- Laws 2007, LB549, § 17;
- Laws 2016, LB1105, § 25;
- Laws 2022, LB1236, § 5.
- **Effective Date: July 21, 2022**

53-169.01.

Manufacturer; interest in licensed wholesaler; prohibitions; exception.

(1)(a) Except as otherwise provided in subsection (2) of this section, no manufacturer of alcoholic liquor holding a manufacturer's license under section 53-123.01 and no manufacturer of alcoholic liquor outside this state manufacturing alcoholic liquor for distribution and sale within this state shall, directly or indirectly, as owner or part owner, or through a subsidiary or affiliate, or by any officer, director, or employee thereof, or by stock ownership, interlocking directors, trusteeship, loan, mortgage, or lien on any personal or real property, or as guarantor, endorser, or surety, be interested in the ownership, conduct, operation, or management of any wholesaler holding an alcoholic liquor wholesale license under section 53-123.02 or a beer wholesale license under section 53-123.03.

(b) Except as otherwise provided in subsection (2) of this section, no manufacturer of alcoholic liquor holding a manufacturer's license under section 53-123.01 and no manufacturer of alcoholic liquor outside this state manufacturing alcoholic liquor for distribution and sale within this state shall be interested directly or indirectly, as lessor or lessee, as owner or part owner, or through a subsidiary or affiliate, or by any officer, director, or employee thereof, or by stock ownership, interlocking directors, or trusteeship in the premises upon which the place of business of a wholesaler holding an alcoholic liquor wholesale license under section 53-123.02 or a beer wholesale license under section 53-123.03 is located, established, conducted, or operated in whole or in part unless such interest was acquired or became effective prior to April 17, 1947.

(2) A manufacturer of beer may acquire an ownership interest in a beer wholesaler, for a period not to exceed two years, upon the death or bankruptcy of the beer wholesaler with which the manufacturer is doing business or upon the beer wholesaler with which the manufacturer is doing business becoming ineligible to hold a license under section 53-125.

Source

- Laws 1935, c. 116, § 30, p. 396;
- C.S.Supp.,1941, § 53-330;
- R.S.1943, § 53-169;
- Laws 1947, c. 187, § 2, p. 619;

- Laws 1953, c. 182, § 4, p. 575;
- Laws 1959, c. 250, § 2, p. 876;
- Laws 1969, c. 441, § 3, p. 1477;
- Laws 1991, LB 344, § 55;
- Laws 2007, LB578, § 3;
- Laws 2010, LB861, § 74;
- Laws 2011, LB279, § 1.

Annotations

- The interest forbidden by this section is a financial or business interest. Nebraska Liq. Distrib. v. Nebraska Liq. Cont. Comm., 269 Neb. 401, 693 N.W.2d 539 (2005).
- While the forbidden interest in this section is worded as that of the manufacturer in the wholesaler and not the interest of the wholesaler in the manufacturer, the obvious intent of the Legislature is to forbid both types of interests. Nebraska Liq. Distrib. v. Nebraska Liq. Cont. Comm., 269 Neb. 401, 693 N.W.2d 539 (2005).
- Amendments made to this section by Laws 2007, LB 578, contained a Grandfather Clause that violated the Equal Protection Clause and the Privileges and Immunities Clause of the United States Constitution and the Grandfather Clause was not severable from the other amendments. The section as amended is unconstitutional. Southern Wine & Spirits of America Inc. v. Heineman, 534 F.Supp.2d 1001 (D.Neb.2008).

53-170.

Violations; effect.

Any licensee who permits, assents, or is a party in any way to any violation or infringement of the Nebraska Liquor Control Act shall be deemed guilty of a violation of the act. Any money loaned contrary to a provision of the act shall not be recovered back. Any note, mortgage, or other evidence of indebtedness, any security, or any lease or contract obtained or made contrary to the act shall be unenforceable and void.

Source

- Laws 1935, c. 116, § 30, p. 397;
- C.S.Supp.,1941, § 53-330;
- R.S.1943, § 53-170;
- Laws 1994, LB 859, § 7.

53-170.01.

Repealed. Laws 1991, LB 344, § 75.

53-170.02.

Repealed. Laws 1991, LB 344, § 75.

53-170.03.

Repealed. Laws 1991, LB 344, § 75.

53-170.04.

Repealed. Laws 1991, LB 344, § 75.

53-171.

Licenses; issuance of more than one kind to same person; when unlawful; craft brewery, manufacturer, or microdistillery licensee; limitations.

No person licensed as a wholesaler of alcoholic liquor shall be permitted to receive any retail license at the same time. No person licensed as a manufacturer shall be permitted to receive any retail license at the same time except as set forth in subsection (2) of section 53-123.01 with respect to the manufacture, distribution, and retail sale of beer, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a manufacturer's license issued pursuant to such subsection to engage in the wholesale distribution of alcoholic liquor. No person licensed as a retailer of alcoholic liquor shall be permitted to receive any manufacturer's or wholesale license at the same time. This section shall not apply to the holder of a farm winery license. The holder of a craft brewery license shall have the privileges and duties listed in section 53-123.14 with respect to the manufacture, distribution, and retail sale of beer, and except as provided in subsection (2) of section 53-123.14, the Nebraska Liquor Control Act shall not be construed to permit the holder of a craft brewery license to engage in the wholesale distribution of beer. The holder of a microdistillery license shall have the privileges and duties listed in section 53-123.16 with respect to the manufacture of alcoholic liquor, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a microdistillery license to engage in the wholesale distribution of alcoholic liquor.

Source

- Laws 1935, c. 116, § 30, p. 397;
- C.S.Supp.,1941, § 53-330;
- R.S.1943, § 53-171;
- Laws 1953, c. 182, § 1, p. 573;
- Laws 1969, c. 441, § 4, p. 1478;
- Laws 1985, LB 279, § 12;
- Laws 1988, LB 1089, § 25;
- Laws 1991, LB 344, § 56;
- Laws 1996, LB 750, § 12;
- Laws 2007, LB549, § 18;
- Laws 2016, LB1105, § 26;
- Laws 2022, LB1236, § 6.
- **Effective Date: July 21, 2022**

53-172.

Original packages; labels; seals; requirements.

No manufacturer or wholesaler shall sell or deliver any original package containing alcoholic liquor, except beer and wine, manufactured or distributed by him or her unless the package has affixed thereto a clear and legible label containing the name and address of the manufacturer, the kind of alcoholic liquor contained in the package, and, in the case of alcoholic liquor other than beer, the date when manufactured. No original package of alcoholic liquor shall be delivered by any manufacturer or wholesaler unless the package is securely sealed so that the contents cannot be removed without breaking the seal placed thereon by such manufacturer, and no other licensee shall sell, have in his or her possession, or use any original package which does not comply with this section or which does not bear evidence that such original package, when delivered to him or her, complied with this section.

Source

- Laws 1935, c. 116, § 31, p. 397;
- C.S.Supp.,1941, § 53-331;
- R.S.1943, § 53-172;
- Laws 1955, c. 201, § 5, p. 575;
- Laws 1961, c. 259, § 11, p. 773;
- Laws 1963, c. 311, § 6, p. 939;
- Laws 1989, LB 780, § 13;
- Laws 1991, LB 344, § 57;
- Laws 2010, LB861, § 75.

53-173.

Powdered alcohol; prohibited acts; penalties; effect on license.

(1) Except as otherwise provided in subsection (5) of this section, a person shall not purchase, sell, offer to sell, use, or possess with intent to sell powdered alcohol.

(2) A person holding a license under the Nebraska Liquor Control Act shall be subject to having the license suspended, canceled, or revoked pursuant to the act for a violation of this section.

(3) Any person, other than a person licensed under the act, who sells a powdered alcohol product shall be guilty of a Class I misdemeanor.

(4) Any person knowingly or intentionally possessing powdered alcohol shall:

(a) For the first offense, be guilty of an infraction, receive a citation, and be fined three hundred dollars;

(b) For the second offense, be guilty of a Class IV misdemeanor, receive a citation, and be fined four hundred dollars and may be imprisoned not to exceed five days; and

(c) For the third and all subsequent offenses, be guilty of a Class IIIA misdemeanor, receive a citation, be fined five hundred dollars, and be imprisoned not to exceed seven days.

(5) This section does not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or a pharmaceutical company or biotechnology company conducting bona fide research.

Source

- Laws 2015, LB330, § 8.

53-174.

Repealed. Laws 2010, LB 861, § 85.

53-175.

Liquor; acquisition from other than licensed dealer; when unlawful.

It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any person other than one duly licensed to handle alcoholic liquor under the Nebraska Liquor Control Act unless within the specific exemptions or exceptions provided in the act. No licensed retailer of alcoholic liquor shall purchase such liquor other than from a licensed wholesaler who has his or her place of business within this state. Nothing in this section shall prohibit the sale or exchange among collectors of commemorative bottles or uniquely designed decanters which contain alcoholic liquor.

Source

- Laws 1935, c. 116, § 32, p. 398;
- C.S.Supp.,1941, § 53-332;
- R.S.1943, § 53-175;
- Laws 1988, LB 1089, § 27;
- Laws 1989, LB 154, § 4;
- Laws 1991, LB 344, § 58;
- Laws 2016, LB1105, § 27.

53-176.

Sale or delivery to unauthorized person forbidden; suspension, cancellation, or revocation of license.

No manufacturer or wholesaler shall sell or deliver any package containing alcoholic liquor manufactured or distributed by such manufacturer or wholesaler for resale unless the person to whom such package is sold or delivered is authorized to receive such package in accordance with the Nebraska Liquor Control Act. The commission shall suspend, cancel, or revoke the license of any manufacturer or wholesaler who violates this section.

Source

- Laws 1935, c. 116, § 34, p. 399;
- C.S.Supp.,1941, § 53-334;
- R.S.1943, § 53-176;
- Laws 1979, LB 224, § 6;
- Laws 1980, LB 848, § 16;
- Laws 1991, LB 344, § 59.

53-177.

Sale at retail; bottle club license; restrictions as to locality.

(1) Except as otherwise provided in subsection (2) of this section, no license shall be issued for the sale at retail of any alcoholic liquor or for a bottle club within one hundred fifty feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. This prohibition does not apply (a) to any location within such distance of one hundred fifty feet for which a license to sell alcoholic liquor at retail or for a bottle club has been granted by the commission for two years continuously prior to making of application for license, (b) to hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935, or (c) to a college or university in the state which is subject to section 53-177.01.

(2) If a proposed location for the sale at retail of any alcoholic liquor or for a bottle club is within one hundred fifty feet of any church, a license may be issued if the commission gives notice to the affected church and holds a hearing as prescribed in section 53-133 if the affected church submits a written request for a hearing.

Source

- Laws 1935, c. 116, § 35, p. 399;
- C.S.Supp.,1941, § 53-335;
- R.S.1943, § 53-177;
- Laws 1947, c. 189, § 2, p. 626;
- Laws 1965, c. 322, § 1, p. 914;
- Laws 1999, LB 267, § 13;
- Laws 2009, LB232, § 3;
- Laws 2010, LB861, § 76;
- Laws 2011, LB407, § 7;
- Laws 2015, LB330, § 25;
- Laws 2018, LB1120, § 25.

Annotations

- The plain, ordinary, and popular meaning of the word "church" includes a building in which people assemble for the worship of God and for the administration of such offices and services as pertain to that worship, a building used predominantly for the honor of God and religion, and a place where persons regularly assemble for worship. A building which is used predominantly for the honor of a religion would likewise include buildings in which people

assemble for non-Christian worship, such as a mosque, a synagogue, or a temple. City of Omaha v. Kum & Go, 263 Neb. 724, 642 N.W.2d 154 (2002).

- Distance between church and place where intoxicating liquor is sold is measured in a straight line between the nearest walls of the two buildings. Calvary Baptist Church v. Coonrad, 163 Neb. 25, 77 N.W.2d 821 (1956).

53-177.01.

Sale for consumption on premises or bottle club operation near campus of college or university; restrictions; commission; waiver; application; contents; written approval of governing body of college or university.

(1) No alcoholic liquor shall be sold for consumption on the premises within three hundred feet from the campus of any college or university in the state, except that this section:

(a) Does not prohibit a nonpublic college or university from contracting with an individual or corporation holding a license to sell alcoholic liquor at retail for the purpose of selling alcoholic liquor at retail on the campus of such college or university at events sanctioned by such college or university but does prohibit the sale of alcoholic liquor at retail by such licensee on the campus of such nonpublic college or university at student activities or events; and

(b) Does not prohibit sales of alcoholic liquor by a community college culinary education program pursuant to section 53-124.15.

(2) Except as otherwise provided in subsection (4) of this section, the commission may waive the three-hundred-foot restriction in subsection (1) of this section taking into consideration one or more of the following:

(a) The impact of retail sales of alcoholic liquor for consumption on the premises on the academic mission of the college or university;

(b) The impact on students and prospective students if such sales were permitted on or near campus;

(c) The impact on economic development opportunities located within or in proximity to the campus; and

(d) The waiver would likely reduce the number of applications for special designated licenses requested by the college or university or its designee.

(3) To apply for a waiver under this section, the applicant shall submit a written application to the commission. The commission shall notify the governing body of the affected college or university when the commission receives an application for a waiver. The application shall include:

(a) The address of the location for which the waiver is requested;

(b) The name and type of business for which the waiver is requested; and

(c) A description of the justification for the waiver explaining how the proposed location complies with the findings prescribed in subsection (2) of this section.

(4) The commission shall not waive the three-hundred-foot restriction in subsection (1) of this section without written approval from the governing body of the college or university or its designee if the physical location of the property which is the subject of the requested waiver is (a) surrounded by property owned by the college or university including any public or private easement, street, or right-of-way adjacent to the property owned by the college or university or (b) adjacent to property on two or more sides owned by the college or university including any public or private easement, street, or right-of-way adjacent to the property owned by the college or university.

(5) No bottle club shall be operated within three hundred feet from the campus of any college or university in the state.

Source

- Laws 2011, LB407, § 8;
- Laws 2018, LB1120, § 26.

53-178.

Sale at retail; forbidden in dwelling or lodging house; exceptions.

Except in the case of hotels and clubs, no alcoholic liquor shall be manufactured or sold at retail or wholesale upon any premises which have any access which leads from such premises to any other portion of the same building or structure used for dwelling or lodging purposes and permitted to be used or kept accessible for use by the public. This section does not prevent any connection between such premises and such other portion of the building or structure which is used only by the licensee or his or her family and personal guests.

Source

- Laws 1935, c. 116, § 36, p. 399;
- C.S.Supp.,1941, § 53-336;
- R.S.1943, § 53-178;
- Laws 2016, LB1105, § 28.

53-178.01.

Licensee; sale to person within motor vehicle; prohibited; exceptions.

(1) No licensee shall sell alcoholic liquor, including beer, to any person for consumption off the licensed premises while such person is in any manner within any motor vehicle except as provided in subsection (2) of this section.

(2)(a) A business holding a Class B, Class C, Class D, Class L, Class Y, or Class Z license to sell alcoholic liquor at retail may sell alcoholic liquor authorized under such license to a person twenty-one years of age or older

within a motor vehicle if (a) the alcoholic liquor is sold along with food, (b) the motor vehicle is in park, and (c) the alcoholic liquor is placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(b) A licensee which sells alcoholic liquor in the manner authorized under this section shall provide notice to the commission during initial licensure or at the time of the licensee's annual renewal regarding such sales.

(3) This section shall not apply to sales to handicapped persons in a motor vehicle displaying a current handicapped license plate issued by the Department of Motor Vehicles.

Source

- Laws 1965, c. 318, § 17, p. 903;
- Laws 1973, LB 111, § 7;
- Laws 1978, LB 386, § 7;
- R.S.1943, (1984), § 53-160.08;
- Laws 1991, LB 344, § 60;
- Laws 2021, LB274, § 18.

53-179.

Sale or dispensing of alcoholic liquor; forbidden during certain hours; exceptions; alcoholic liquor in open containers; unlawful after hours.

(1) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1 a.m. and 6 a.m., except that the local governing body of any city or village with respect to area inside the corporate limits of such city or village, or the county board with respect to area outside the corporate limits of any city or village, may by ordinance or resolution (a) require closing prior to 1 a.m. on any day, (b) if adopted by a vote of at least two-thirds of the members of such local governing body or county board, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, later than 1 a.m. and prior to 2 a.m. on any day, (c) if adopted by a vote of at least two-thirds of the members of such local governing body or county board, permit retail sale of alcoholic liquor for consumption off the premises later than 1 a.m. and prior to 2 a.m. on any day, or (d) if adopted by a vote of at least two-thirds of the members of such local governing body or county board, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, and permit retail sale of alcoholic liquor for consumption off the premises later than 1 a.m. and prior to 2 a.m. on any day.

(2) Except as provided for and allowed by ordinance of a local governing body applicable to area inside the corporate limits of a city or village or by resolution of a county board applicable to area inside such county and outside the corporate limits of any city or village, no alcoholic liquor, including beer, shall be sold at retail or dispensed between the hours of 6 a.m. Sunday and 1 a.m. Monday. This subsection shall not apply after 12 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C license or a Class I license.

(3) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of fifteen minutes after the closing hour applicable to the licensed premises and 6 a.m. on any day.

(4) Nothing in this section shall prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section.

Source

- Laws 1935, c. 116, § 37, p. 399;
- Laws 1941, c. 107, § 1, p. 429;
- C.S.Supp.,1941, § 53-337;
- R.S.1943, § 53-179;
- Laws 1955, c. 202, § 2, p. 579;
- Laws 1957, c. 232, § 1, p. 791;
- Laws 1963, c. 310, § 12, p. 934;
- Laws 1963, Spec. Sess., c. 5, § 4, p. 82;
- Laws 1965, c. 318, § 10, p. 900;
- Laws 1967, c. 336, § 2, p. 902;
- Laws 1974, LB 681, § 7;
- Laws 1976, LB 204, § 6;
- Laws 1978, LB 386, § 8;
- Laws 1979, LB 514, § 1;
- Laws 1981, LB 217, § 1;
- Laws 1983, LB 213, § 19;
- Laws 1991, LB 344, § 61;
- Laws 1991, LB 354, § 1;
- Laws 2004, LB 485, § 29;
- Laws 2010, LB861, § 77;
- Laws 2012, LB861, § 1;
- Laws 2014, LB863, § 24.

Annotations

- Amendment to this section, made by Chapter 5, Seventy-fourth Extraordinary Session of the Legislature, 1963, was unconstitutional because not within the Governor's call. Arrow Club, Inc. v. Nebraska Liquor Control Commission, 177 Neb. 686, 131 N.W.2d 134 (1964).
- There are no restrictions imposed by this section on the right of the Liquor Control Commission to determine the permissible hours for sale of beer outside the corporate limits of cities and villages. Griffin v. Gass, 133 Neb. 56, 274 N.W. 193 (1937).

53-180.

Prohibited acts relating to minors and incompetents.

No person shall sell, furnish, give away, exchange, or deliver, or permit the sale, gift, or procuring of, any alcoholic liquors to or for any minor or to any person who is mentally incompetent.

Source

- Laws 1935, c. 116, § 38, p. 400;
- Laws 1937, c. 125, § 1, p. 437;
- C.S.Supp.,1941, § 53-338;
- Laws 1943, c. 121, § 1, p. 419;
- R.S.1943,§ 53-180;
- Laws 1951, c. 174, § 1(1), p. 664;
- Laws 1980, LB 848, § 17;
- Laws 2011, LB667, § 21.

Cross References

- **Minor Alcoholic Liquor Liability Act,** see section 53-401.

Annotations

- This section does not make it a crime to permit the possession or consumption of alcohol by a minor. State v. Jansen, 241 Neb. 196, 486 N.W.2d 913 (1992).
- A criminal conviction under this section may rest upon circumstantial evidence. State v. Wilson, 238 Neb. 217, 469 N.W.2d 749 (1991).
- This section does not create a duty toward third parties, and, as such, it does not fix a standard of care, the violation of which could be proof of negligence in actions by third parties. Pelzek v. American Legion, 236 Neb. 608, 463 N.W.2d 321 (1990).
- In procuring liquor for a minor, which does not involve a specific criminal intent, the general criminal intent is supplied by the performance of the proscribed act. State v. Lesiak, 234 Neb. 163, 449 N.W.2d 550 (1989).
- This section does not create a duty toward third parties and, therefore, the statute does not fix a standard of care, the violation of which could be proof of negligence in actions by third parties. Schroer v. Synowiecki, 231 Neb. 168, 435 N.W.2d 875 (1989).
- Requisite intent may be inferred from defendant's acts and surrounding circumstances, so evidence was sufficient to support conviction. State v. Smith, 221 Neb. 406, 377 N.W.2d 527 (1985).
- The Nebraska Liquor Control Act does not create a civil cause of action in favor of third parties for violation of this section, nor is such violation evidence of negligence. Holmes v. Circo, 196 Neb. 496, 244 N.W.2d 65 (1976).
- City ordinance prohibiting sale of intoxicating liquors to minors is not void as being inconsistent with state statute. Bodkin v. State, 132 Neb. 535, 272 N.W. 547 (1937).
- Procuring alcoholic liquor for a minor is a general intent crime, and there is sufficient evidence to convict a defendant even when he or she did not intend for a minor to obtain the alcohol which the defendant purchased. State v. Butzke, 7 Neb. App. 360, 584 N.W.2d 449 (1998).

53-180.01.

Minor misrepresenting age; unlawful.

No minor shall obtain, or attempt to obtain, alcoholic liquor by misrepresentation of age, or by any other method, in any tavern or other place where alcoholic liquor is sold.

Source

- Laws 1935, c. 116, § 38, p. 400;
- Laws 1937, c. 125, § 1, p. 437;
- C.S.Supp.,1941, § 53-338;
- Laws 1943, c. 121, § 1, p. 419;
- R.S.1943, § 53-180;
- Laws 1951, c. 174, § 1(2), p. 664.

53-180.02.

Minor; prohibited acts; exception; governing bodies; powers.

Except as provided in section 53-168.06, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State of Nebraska or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the State of Nebraska or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence.

The governing bodies of counties, cities, and villages shall have the power to, and may by applicable resolution or ordinance, regulate, suppress, and control the transportation, consumption, or knowing possession of or having under his or her control beer or other alcoholic liquor in or transported by any motor vehicle, by any person under twenty-one years of age, and may provide penalties for violations of such resolution or ordinance.

Source

- Laws 1951, c. 174, § 1(3), p. 664;
- Laws 1955, c. 205, § 1, p. 584;
- Laws 1957, c. 233, § 1, p. 792;
- Laws 1965, c. 323, § 1, p. 915;
- Laws 1967, c. 337, § 1, p. 904;
- Laws 1969, c. 440, § 2, p. 1473;
- Laws 1980, LB 221, § 3;
- Laws 1980, LB 848, § 18;
- Laws 1981, LB 124, § 4;
- Laws 1984, LB 56, § 2;

- Laws 1991, LB 344, § 62;
- Laws 2001, LB 114, § 4;
- Laws 2007, LB573, § 11.

Annotations

- Circumstantial evidence can be sufficient to sustain a conviction of a minor in possession in violation of this section. When relying upon circumstantial evidence, it is not necessary for the State to disprove every hypothesis but that of guilt. One accused of a crime may be convicted on the basis of circumstantial evidence if, taken as a whole, the evidence establishes guilt beyond a reasonable doubt. Circumstantial evidence is sufficient to support a conviction if such evidence and the reasonable inferences that may be drawn therefrom establish the defendant's guilt beyond a reasonable doubt. State v. Laue, 225 Neb. 57, 402 N.W.2d 313 (1987).
- Circumstantial evidence was sufficient to sustain a conviction under this section. State v. Reeder, 183 Neb. 425, 160 N.W.2d 753 (1968).
- To sustain conviction, minor must have known or have been conscious of actual or constructive possession of intoxicating liquor. State v. Eberhardt, 176 Neb. 18, 125 N.W.2d 1 (1963).

53-180.03.

Minor; sale or gift to; misrepresenting age; parent or guardian; duties.

No parent or guardian shall knowingly suffer or permit any minor, of whom he or she may be a parent or guardian, to violate the provisions of section 53-180.01 or 53-180.02.

Source

- Laws 1951, c. 174, § 1(4), p. 664;
- Laws 1961, c. 258, § 6, p. 765.

53-180.04.

Minors; warning notice; posting.

(1) Every licensee of a place where alcoholic liquor is sold at retail shall display at all times in a prominent place a printed card with a minimum height of twenty inches and a width of fourteen inches, with each letter to be a minimum of one-fourth inch in height, which shall read as follows:

WARNING TO PERSONS UNDER 21
YOU ARE SUBJECT TO
NOTIFICATION OF PARENTS OR GUARDIAN
AND
YOU ARE SUBJECT TO A PENALTY OF UP TO
$500 FINE
3 MONTHS IN JAIL
OR BOTH IF YOU ARE UNDER 21 AND YOU CONSUME,
PURCHASE, ATTEMPT TO PURCHASE,

OR HAVE IN YOUR POSSESSION
ALCOHOLIC LIQUOR IN THIS ESTABLISHMENT
AND
WARNING TO ADULTS
YOU ARE SUBJECT TO A PENALTY OF UP TO
$1000 FINE
1 YEAR IN JAIL
OR BOTH
IF YOU ARE 21 OR OVER AND YOU PURCHASE
ALCOHOLIC LIQUOR
FOR A PERSON UNDER 21
AND
WARNING TO PURCHASERS OF BEER KEGS
PROPER IDENTIFICATION AND PURCHASER'S SIGNATURE
ARE REQUIRED
LAWS OF THE STATE OF NEBRASKA

(2) Such warning sign may be provided electronically by the commission to the licensee.

Source

- Laws 1951, c. 174, § 1(5), p. 664;
- Laws 1963, c. 313, § 1, p. 943;
- Laws 1969, c. 440, § 3, p. 1474;
- Laws 1980, LB 221, § 4;
- Laws 1980, LB 848, § 19;
- Laws 1984, LB 56, § 3;
- Laws 1985, LB 493, § 1;
- Laws 1993, LB 332, § 7;
- Laws 2001, LB 114, § 5;
- Laws 2022, LB1204, § 9.
- **Effective Date: July 21, 2022**

53-180.05.

Prohibited acts relating to minors and incompetents; violations; penalties; possible alcohol overdose; actions authorized; false identification; penalty; law enforcement agency; duties.

(1) Except as provided in subsection (2) of this section, any person who violates section 53-180 shall be guilty of a Class I misdemeanor.

(2) Any person who knowingly and intentionally violates section 53-180 shall be guilty of a Class IIIA felony and serve a mandatory minimum of at least thirty days' imprisonment as part of any sentence he or she receives if serious bodily injury or death to any person resulted and was proximately caused by a minor's (a) consumption of the alcoholic liquor provided or (b) impaired condition which, in whole or in part, can be attributed to the alcoholic liquor provided.

(3) Any person who violates any of the provisions of section 53-180.01 or 53-180.03 shall be guilty of a Class III misdemeanor.

(4)(a) Except as otherwise provided in subdivisions (b), (c), and (d) of this subsection or section 28-1701, any person older than eighteen years of age and under the age of twenty-one years violating section 53-180.02 is guilty of a Class III misdemeanor.

(b) Subdivision (a) of this subsection shall not apply if the person:

(i) Made a good faith request for emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent after such violation of section 53-180.02;

(ii) Made the request for medical assistance under subdivision (b)(i) of this subsection as soon as the emergency situation is apparent after such violation of section 53-180.02; and

(iii) When emergency medical assistance was requested for the possible alcohol overdose of another person:

(A) Remained on the scene until the medical assistance arrived; and

(B) Cooperated with medical assistance and law enforcement personnel.

(c) The exception from criminal liability provided in subdivision (b) of this subsection applies to any person who makes a request for emergency medical assistance and complies with the requirements of subdivision (b) of this subsection.

(d) Subdivision (a) of this subsection shall not apply to the person experiencing a possible alcohol overdose if a request for emergency medical assistance in response to such possible alcohol overdose was made by another person in compliance with subdivision (b) of this subsection.

(e) A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance with subdivision (b), (c), or (d) of this subsection.

(5) Any person eighteen years of age or younger violating section 53-180.02 is guilty of a misdemeanor as provided in section 53-181 and shall be punished as provided in such section.

(6) Any person who knowingly manufactures, creates, or alters any form of identification for the purpose of sale or delivery of such form of identification to a person under the age of twenty-one years shall be guilty of a Class I misdemeanor. For purposes of this subsection, form of identification means any card, paper, or legal document that may be used to establish the age of the person named thereon for the purpose of purchasing alcoholic liquor.

(7) When a minor is arrested for a violation of sections 53-180 to 53-180.02 or subsection (6) of this section, the law enforcement agency employing the arresting peace officer shall make a reasonable attempt to notify such minor's parent or guardian of the arrest.

Source

- Laws 1935, c. 116, § 38, p. 400;
- Laws 1937, c. 125, § 1, p. 437;
- C.S.Supp.,1941, § 53-338;
- Laws 1943, c. 121, § 1, p. 419;
- R.S.1943, § 53-180;
- Laws 1951, c. 174, § 1(6), p. 664;
- Laws 1963, c. 313, § 2, p. 943;
- Laws 1969, c. 444, § 1, p. 1482;
- Laws 1973, LB 25, § 3;
- Laws 1977, LB 40, § 315;
- Laws 1982, LB 869, § 1;
- Laws 1984, LB 56, § 4;
- Laws 1985, LB 493, § 2;
- Laws 1989, LB 440, § 1;
- Laws 1991, LB 454, § 1;
- Laws 2001, LB 114, § 6;
- Laws 2010, LB258, § 2;
- Laws 2011, LB667, § 22;
- Laws 2015, LB439, § 1;
- Laws 2018, LB923, § 2;
- Laws 2022, LB519, § 6.
- **Effective Date: July 21, 2022**

Annotations

- This section provides the only penalty for violation of section 53-180. Holmes v. Circo, 196 Neb. 496, 244 N.W.2d 65 (1976).

53-180.06.

Documentary proof of age; separate book; record; contents.

(1) To establish proof of age for the purpose of purchasing or consuming alcoholic liquor, a person shall present or display only a valid driver's or operator's license, state identification card, military identification card, alien registration card, or passport.

(2) Every holder of a retail license may maintain, in a separate book, a record of each person who has furnished documentary proof of age for the purpose of making any purchase of alcoholic liquor. The record shall show the name and address of the purchaser, the date of the purchase, and a description of the identification used and shall be signed by the purchaser.

Source

- Laws 1969, c. 437, § 1, p. 1467;
- Laws 1991, LB 454, § 2;
- Laws 1999, LB 267, § 14;

- Laws 2013, LB173, § 1.

53-180.07.

Minors; licensee charged with sale; defenses.

In any prosecution of or any proceeding against any licensee charged with having made a sale to a minor, proof of the following shall be an absolute defense to the charge:

(1)(a) The purchaser falsely represented in writing and supported with other documentary proof that he or she was of legal age to purchase alcoholic liquor;

(b) The appearance of such purchaser was such that an ordinary and prudent person would believe that such appearance conformed to any documentary description of appearance presented by the purchaser; and

(c) The seller was acting in good faith, in reliance upon the written representation, other documentary evidence, and the appearance of the purchaser, and in the belief the purchaser was of legal age to make such purchase; or

(2) The seller was acting with the knowledge of and in cooperation with a duly authorized law enforcement officer.

Source

- Laws 1969, c. 437, § 2, p. 1467;
- Laws 1978, LB 386, § 9;
- Laws 1991, LB 344, § 63;
- Laws 1993, LB 561, § 1.

53-181.

Person eighteen years of age or younger; penalty; copy of abstract to Director of Motor Vehicles; possible alcohol overdose; actions authorized.

(1) Except as otherwise provided in subsections (3), (4), and (5) of this section, the penalty for violation of section 53-180.02 by a person eighteen years of age or younger shall be as follows:

(a) If the person convicted or adjudicated of violating such section has one or more licenses or permits issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, such person is guilty of a Class III misdemeanor and the court may, as a part of the judgment of conviction or adjudication, impound any such licenses or permits for thirty days and require such person to attend an alcohol education class;

(ii) For a second offense, such person is guilty of a Class III misdemeanor and the court, as a part of the judgment of conviction or adjudication, may (A) impound any such licenses or permits for ninety days and (B)

require such person to complete no fewer than twenty and no more than forty hours of community service and to attend an alcohol education class; and

(iii) For a third or subsequent offense, such person is guilty of a Class III misdemeanor and the court, as a part of the judgment of conviction or adjudication, may (A) impound any such licenses or permits for twelve months and (B) require such person to complete no fewer than sixty hours of community service, to attend an alcohol education class, and to submit to an alcohol assessment by a licensed alcohol and drug counselor; and

(b) If the person convicted or adjudicated of violating such section does not have a permit or license issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until thirty days after the date of such order and (B) require such person to attend an alcohol education class;

(ii) For a second offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until ninety days after the date of such order and (B) require such person to complete no fewer than twenty hours and no more than forty hours of community service and to attend an alcohol education class; and

(iii) For a third or subsequent offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until twelve months after the date of such order and (B) require such person to complete no fewer than sixty hours of community service, to attend an alcohol education class, and to submit to an alcohol assessment by a licensed alcohol and drug counselor.

(2) A copy of an abstract of the court's conviction or adjudication shall be transmitted to the Director of Motor Vehicles pursuant to sections 60-497.01 to 60-497.04.

(3) Subsection (1) of this section shall not apply if the person:

(a) Made a good faith request for emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent after such violation of section 53-180.02;

(b) Made the request for medical assistance under subdivision (a) of this subsection as soon as the emergency situation is apparent after such violation of section 53-180.02; and

(c) When emergency medical assistance was requested for the possible alcohol overdose of another person:

(i) Remained on the scene until the medical assistance arrived; and

(ii) Cooperated with medical assistance and law enforcement personnel.

(4) The exception from criminal liability provided in subsection (3) of this section applies to any person who makes a request for emergency medical assistance and complies with the requirements of subsection (3) of this section.

(5) Subsection (1) of this section shall not apply to the person experiencing a possible alcohol overdose if a request for emergency medical assistance in response to such possible alcohol overdose was made by another person in compliance with subsection (3) of this section.

(6) A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance with subsection (3), (4), or (5) of this section.

Source

- Laws 2010, LB258, § 3;
- Laws 2015, LB439, § 2;
- Laws 2018, LB923, § 3.

Cross References

- **Motor Vehicle Operator's License Act,** see section 60-462.

53-182.

Repealed. Laws 1977, LB 93, § 1.

53-183.

Sale on credit or for goods or services forbidden; exceptions.

(1) No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered, and if any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law.

(2) Nothing in this section shall prevent:

(a) Any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the bylaws of such club;

(b) Any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing at such hotel or eating at such restaurant and charged to the accounts of such guests; or

(c) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers.

Source

- Laws 1935, c. 116, § 40, p. 401;
- C.S.Supp.,1941, § 53-340;
- R.S.1943, § 53-183;
- Laws 1959, c. 252, § 1, p. 883;
- Laws 1978, LB 386, § 10;
- Laws 1991, LB 344, § 64;
- Laws 2011, LB314, § 1;
- Laws 2014, LB863, § 25.

53-184.

Sale only in original package; refilling forbidden; exception.

No person except a manufacturer or wholesaler shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor. It shall be unlawful for any person to have in his or her possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor except in original packages. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale.

Source

- Laws 1935, c. 116, § 41, p. 401;
- C.S.Supp.,1941, § 53-341;
- R.S.1943, § 53-184;
- Laws 1991, LB 124, § 1;
- Laws 1991, LB 344, § 65.

53-185.

Contract to sell for only one manufacturer or wholesaler; void.

No manufacturer or wholesaler shall enter into any contract with any person licensed to sell at retail whereby such licensee agrees not to sell any alcoholic liquor manufactured or distributed by any other manufacturer or wholesaler. Any provision in any contract which violates this section shall render the entire contract void, and no action shall be brought on such contract in any court.

Source

- Laws 1935, c. 116, § 42, p. 401;
- C.S.Supp.,1941, § 53-342;
- R.S.1943, § 53-185;
- Laws 1991, LB 344, § 66.

53-186.

Consumption of liquor on public property; forbidden; exceptions; license authorized.

(1) Except as provided in subsection (2) of this section or section 60-6,211.08, it shall be unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property.

(2) The commission may issue licenses for the sale of alcoholic liquor at retail (a) on lands owned by public power districts, public power and irrigation districts, the Bureau of Reclamation, or the Corps of Army Engineers or (b) for locations within or on structures on land owned by the state, cities, or villages or on lands controlled by airport authorities. The issuance of a license under this subsection shall be subject to the consent of the local governing body having jurisdiction over the site for which the license is requested as provided in the Nebraska Liquor Control Act.

Source

- Laws 1935, c. 116, § 44, p. 402;
- C.S.Supp.,1941, § 53-344;
- R.S.1943, § 53-186;
- Laws 1953, c. 182, § 5, p. 576;
- Laws 1967, c. 332, § 12, p. 891;
- Laws 1993, LB 235, § 45;
- Laws 1999, LB 585, § 1;
- Laws 2011, LB281, § 1.

53-186.01.

Consumption of liquor in public places; license required; exceptions; violations; penalty.

(1) It shall be unlawful for any person owning, operating, managing, or conducting any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act.

(2) It shall be unlawful for any person to consume alcoholic liquor in any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the act.

(3) This section shall not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under section 60-6,211.08.

(4) Any person violating subsection (1) of this section shall, upon conviction thereof, be subject to the penalties contained in section 53-1,100.

(5) Any person violating subsection (2) of this section shall be guilty of a Class III misdemeanor.

Source

- Laws 1965, c. 318, § 1, p. 885;
- Laws 1978, LB 386, § 11;
- Laws 1991, LB 344, § 67;
- Laws 1991, LB 454, § 3;
- Laws 2011, LB281, § 2;
- Laws 2018, LB1120, § 27.

53-187.

Nonbeverage licensee forbidden to give or sell alcoholic liquor; violation; penalty.

No nonbeverage user shall sell, give away, or otherwise dispose of any alcoholic liquor, purchased under his or her license as such nonbeverage user, in any form fit for beverage purposes. Any nonbeverage user who violates this section shall pay to the commission, for the use of the General Fund, the sum of three dollars and seventy-five cents for each gallon of alcoholic liquor so diverted, and in addition thereto shall be subject to the penalties provided in section 53-1,100.

Source

- Laws 1935, c. 116, § 57, p. 408;
- Laws 1939, c. 64, § 2, p. 271;
- C.S.Supp.,1941, § 53-357;
- R.S.1943, § 53-187;
- Laws 1959, c. 250, § 3, p. 877;
- Laws 1965, c. 319, § 4, p. 910;
- Laws 2016, LB1105, § 29.

53-187.

Nonbeverage licensee forbidden to give or sell alcoholic liquor; violation; penalty.

No nonbeverage user shall sell, give away, or otherwise dispose of any alcoholic liquor, purchased under his or her license as such nonbeverage user, in any form fit for beverage purposes. Any nonbeverage user who violates this section shall pay to the commission, for the use of the General Fund, the sum of three dollars and seventy-five cents for each gallon of alcoholic liquor so diverted, and in addition thereto shall be subject to the penalties provided in section 53-1,100.

Source

- Laws 1935, c. 116, § 57, p. 408;
- Laws 1939, c. 64, § 2, p. 271;
- C.S.Supp.,1941, § 53-357;
- R.S.1943, § 53-187;

- Laws 1959, c. 250, § 3, p. 877;
- Laws 1965, c. 319, § 4, p. 910;
- Laws 2016, LB1105, § 29.

53-188.

Repealed. Laws 2014, LB 863, § 31.

53-189.

Repealed. Laws 2014, LB 863, § 31.

53-190.

Premises violating law declared common nuisances.

All places where alcoholic liquor is sold or consumed in violation of any provision of section 53-186.01 shall be taken and held and are declared to be common nuisances and may be abated as such in the manner provided in the Nebraska Liquor Control Act.

Source

- Laws 1935, c. 116, § 61, p. 409;
- C.S.Supp.,1941, § 53-361;
- R.S.1943, § 53-190;
- Laws 1965, c. 318, § 11, p. 901;
- Laws 2014, LB863, § 26.

53-191.

Repealed. Laws 2014, LB 863, § 31.

53-192.

Transportation of liquor into state forbidden; when.

A person or common carrier shall not haul or transport alcoholic liquor, whether by boat, airplane, automobile, truck, or other conveyance, in or into this state, for sale, or for storage and sale in this state, upon which the required labeling or gauging fee, tax, duty, or license has not been paid. A person or common carrier shall not haul or transport alcoholic liquor, whether by boat, airplane, automobile, truck, or other conveyance, in or into this state, for personal use, unless the required labeling or gauging fee, tax, duty, or license has been paid, either in this state or the state where such alcoholic liquor was purchased.

Source

- Laws 1935, c. 116, § 68, p. 410;
- C.S.Supp.,1941, § 53-368;

- R.S.1943, § 53-192;
- Laws 1991, LB 344, § 69;
- Laws 2000, LB 973, § 8.

53-192.01.

Wholesale licensee; purchases and imports; restrictions.

A holder of an alcoholic liquor wholesale license shall purchase and import all alcoholic liquor from a primary American source of supply. For purposes of this section, primary American source of supply shall mean the manufacturer, the owner of alcoholic liquor at the time it becomes a marketable product, or the manufacturer's or owner's agent, who, if such liquor cannot be secured directly from such manufacturer or owner by American wholesalers, is the source closest to such manufacturer or owner in the channel of commerce from which the product can be secured by American wholesalers.

Source

- Laws 1994, LB 1292, § 2.

53-193.

Repealed. Laws 1991, LB 344, § 75.

53-194.

Repealed. Laws 1991, LB 344, § 75.

53-194.01.

Repealed. Laws 1983, LB 213, § 21.

53-194.02.

Repealed. Laws 1983, LB 213, § 21.

53-194.03.

Transportation of liquor into state; forbidden; when; penalty.

(1) Except as provided in subsection (2) of this section, it shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into the State of Nebraska for the personal use of the possessor, his or her family, or guests a quantity of alcoholic liquor in excess of nine liters in any one calendar month.

(2) Subsection (1) of this section does not apply to a person importing alcoholic liquor from a holder of a retail direct sales shipping license or its equivalent, which alcoholic liquor is for personal use or for use by such person’s family or guests, if the total amount imported by such person in any one calendar year does not exceed one hundred eight liters.

(3) Alcoholic liquor transported, imported, brought, or shipped into the State of Nebraska in violation of this section shall be seized by the commission and disposed of in the manner provided for contraband. Any person violating this section shall be guilty of a Class IV misdemeanor.

Source

- Laws 1985, LB 359, § 4;
- Laws 1994, LB 1292, § 9;
- Laws 2016, LB1105, § 30.

53-194.04.

Sale of confections or candy; license requirements; label.

No person, firm, or corporation shall sell or offer for sale any confections or candy that contains more than one-half of one percent alcohol rendered unfit for beverage purposes unless licensed under the Nebraska Liquor Control Act.

Any confections or candy sold in this state that contains more than one-half of one percent alcohol rendered unfit for beverage purposes shall bear a label containing the following statement: Sale of this product to persons under the legal age for purchasing alcoholic liquor is unlawful.

Source

- Laws 1988, LB 901, § 4.

53-195.

Repealed. Laws 1991, LB 344, § 75.

53-196.

Repealed. Laws 1978, LB 593, § 5.

53-197.

Violations; peace officer; duties; neglect of duty; penalty.

(1) Every sheriff, deputy sheriff, police officer, marshal, or deputy marshal who knows or who is credibly informed that any offense has been committed against any law of this state relating to the sale of alcoholic liquor shall make complaint against the person so offending within their respective jurisdictions to the proper court, and for every neglect or refusal so to do, every such officer shall be guilty of a Class V misdemeanor.

(2) Every sheriff, deputy sheriff, police officer, marshal, or deputy marshal who knows or who is credibly informed that any offense has been committed against any law of this state relating to the sale of alcoholic liquor shall report such offense in writing to the executive director of the commission (a) within thirty days

after such offense is committed, (b) within thirty days after such sheriff, deputy sheriff, police officer, marshal, or deputy marshal is informed of such offense, (c) within thirty days after the conclusion of an ongoing police investigation, or (d) within thirty days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later.

Source

- Laws 1935, c. 116, § 75, p. 412;
- C.S.Supp.,1941, § 53-375;
- R.S.1943, § 53-197;
- Laws 1972, LB 1032, § 257;
- Laws 1977, LB 40, § 318;
- Laws 1988, LB 1030, § 44;
- Laws 2011, LB641, § 2.

53-198.

Places operated in violation of act; declared common nuisances; violations; penalty.

Any room, house, building, boat, structure, or place of any kind where alcoholic liquors are sold, manufactured, bartered, or given away in violation of the Nebraska Liquor Control Act or where persons are permitted to resort for the purpose of drinking same in violation of the act, or any place where such liquors are kept for sale, barter, or gift in violation of the act, and all such liquors, and all property kept in and used in maintaining such a place, are each and all of them hereby declared to be a common nuisance. Any person who maintains or assists in maintaining such common nuisance shall be guilty of a violation of the act. If it is proved that the owner of any building or premises has knowingly suffered the same to be used or occupied for the manufacture, sale, or possession of alcoholic liquors contrary to the provisions of the act, such building or premises shall be subject to a lien for and may be sold to pay all fines and costs assessed against the occupant of such building or premises for any violation of the act. Such lien shall be immediately enforced by civil action in any court having jurisdiction by the county attorney of the county wherein such building or premises is located or by one of the assistant attorneys general assigned to the commission when directed by the commission.

Source

- Laws 1935, c. 116, § 76, p. 413;
- C.S.Supp.,1941, § 53-376;
- R.S.1943, § 53-198;
- Laws 1994, LB 859, § 9.

Annotations

- Sale of liquor by the drink outside corporate limits of city or village was a common nuisance. State ex rel. Fitzgerald v. Kubik, 167 Neb. 219, 92 N.W.2d 533 (1958).

- Maintenance of place outside corporate limits of city where persons were permitted to resort for purpose of drinking alcoholic liquors violated this section. State ex rel. Johnson v. Hash, 144 Neb. 495, 13 N.W.2d 716 (1944).

53-199.

Nuisance; abatement; procedure; owner or lessee may give bond.

The Attorney General, any one of the assistant attorneys general assigned to the commission when directed by the commission, or the county attorney in the county where such nuisance exists or is kept or maintained may maintain an action by injunction, in the name of the State of Nebraska, to abate and temporarily or permanently to enjoin such nuisance. The court shall have the right to make temporary and final orders as in other injunction proceedings. The plaintiff shall not be required to give bond in such action, and upon final judgment against the defendant, such court shall also order that such room, house, building, structure, boat, or place of any kind shall be closed and padlocked for a period of not less than three months nor more than two years and until the owner, lessee, tenant, or occupant thereof gives bond with sufficient surety to be approved by the court making the order, in the penal sum of not less than one thousand dollars, payable to the State of Nebraska and conditioned that no alcoholic liquors will thereafter be manufactured, possessed, sold, bartered, given away, furnished, or otherwise disposed of thereon or therein, or kept thereon or therein with intent to sell, barter, give away, or otherwise dispose of the same, contrary to the Nebraska Liquor Control Act, and that he or she and his or her surety will pay all fines and costs assessed for any violation of the act. If any condition of such bond is violated, the whole amount may be recovered as a penalty for the use of the State of Nebraska; and in such suit on the bond, both the principal and surety shall be joined as party defendants, and satisfaction may be had from either of them. In such action a notice to nonresident defendants may be given by publication as authorized by law under the code of civil procedure, or upon their agents for service in this state, if any.

Source

- Laws 1935, c. 116, § 77, p. 413;
- C.S.Supp.,1941, § 53-377;
- R.S.1943, § 53-199;
- Laws 1994, LB 859, § 10.

Cross References

- **Service by publication,** see sections 25-518.01 to 25-523.

Annotations

- Common nuisance arising from sale of liquor by drink outside city or village can be abated by injunction. State ex rel. Fitzgerald v. Kubik, 167 Neb. 219, 92 N.W.2d 533 (1958).
- Court of equity has jurisdiction to padlock building and enjoin maintenance of nuisance by injunction for violation of Liquor Control Act. State ex rel. Johnson v. Hash, 145 Neb. 405, 16 N.W.2d 734 (1944).

- Premises outside corporate limits of city, where intoxicating liquors were habitually brought for consumption which owner encouraged by sale of setups, was a public nuisance. State ex rel. Johnson v. Hash, 144 Neb. 495, 13 N.W.2d 716 (1944).

53-1,100.

Violations; general penalties.

(1) Any person (a) who imports alcoholic liquor for distribution as a wholesaler or distributes or sells alcoholic liquor at any place within the state without having first obtained a valid license to do so under the Nebraska Liquor Control Act, (b) who manufactures alcoholic liquor other than spirits within the state without having first obtained a valid license to do so under the act, (c) who makes any false statement or otherwise violates any of the provisions of the act in obtaining any license under the act, (d) who, having obtained a license under the act, violates any of the provisions of the act with respect to the manufacture, possession, distribution, or sale of alcoholic liquor or with respect to the maintenance of the licensed premises, or (e) who violates any other provision of the act for which a penalty is not otherwise provided, shall for a first offense be guilty of a Class IV misdemeanor and for a second or subsequent offense shall be guilty of a Class II misdemeanor.

(2) Any person who manufactures spirits at any place within the state without having first obtained a valid license to do so under the act shall be guilty of a Class I misdemeanor for a first offense and a Class IV felony for a second or subsequent offense.

(3) Each day any person engages in business as a manufacturer, wholesaler, retailer, or bottle club in violation of the act shall constitute a separate offense.

(4) In any prosecution in which a person is charged with an offense arising out of the failure to obtain a valid license as provided in subdivision (1)(a) or (b) or subsection (2) of this section, evidence of the failure of the accused to produce such license upon demand shall constitute prima facie proof that a license has not been issued by the commission to such person.

Source

- Laws 1935, c. 116, § 63, p. 409;
- C.S.Supp.,1941, § 53-363;
- R.S.1943, § 53-1,100;
- Laws 1945, c. 128, § 1, p. 411;
- Laws 1949, c. 170, § 1, p. 450;
- Laws 1977, LB 40, § 319;
- Laws 1991, LB 344, § 70;
- Laws 2016, LB1105, § 31;
- Laws 2018, LB1120, § 28.

Annotations

- It is a penal offense for owner and operator of a truck, who has not been designated as a carrier of alcoholic liquor or granted a permit, to transport from another state a cargo of unstamped alcoholic liquors, consigned to a bonded warehouse in this state. State v. Hyslop, 131 Neb. 681, 269 N.W. 512 (1936).

53-1,101.

Owner of premises or agent knowing of violations; penalty.

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person, knowingly permits the licensee to use such licensed premises in violation of the terms of the Nebraska Liquor Control Act, such owner, agent, or other person shall be deemed guilty of a violation of the act to the same extent as such licensee and be subject to the same punishment.

Source

- Laws 1935, c. 116, § 64, p. 409;
- C.S.Supp.,1941, § 53-364;
- R.S.1943, § 53-1,101;
- Laws 1994, LB 859, § 11.

53-1,102.

Violations by agent or employee of licensee; deemed act of licensee, when.

Every act or omission of whatsoever nature constituting a violation of any of the provisions of the Nebraska Liquor Control Act by any officer, director, manager, or other agent or employee of any licensee, if such act is committed or omission is made with the authorization, knowledge, or approval of the licensee, shall be deemed and held to be the act of such employer or licensee, and such employer or licensee shall be punishable in the same manner as if such act or omission had been done or omitted by him or her personally.

Source

- Laws 1935, c. 116, § 65, p. 410;
- C.S.Supp.,1941, § 53-365;
- R.S.1943, § 53-1,102;
- Laws 1994, LB 859, § 12.

53-1,103.

False branding; penalty.

Any person who knowingly possesses, sells, ships, transports, or in any way disposes of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of such alcoholic liquor or who causes any such act to be done

shall forfeit to the state such alcoholic liquor and such packages and containers and shall be subject to the punishment and penalties provided for violation of the Nebraska Liquor Control Act.

Source

- Laws 1935, c. 116, § 66, p. 410;
- C.S.Supp.,1941, § 53-366;
- R.S.1943, § 53-1,103;
- Laws 1994, LB 859, § 13.

53-1,104.

Violations by licensee; suspension, cancellation, or revocation of license; cash penalty in lieu of suspending sales; election authorized.

(1) Any licensee which sells or permits the sale of any alcoholic liquor not authorized under the terms of such license on the licensed premises or in connection with such licensee's business or otherwise shall be subject to suspension, cancellation, or revocation of such license by the commission.

(2) When an order suspending a license to sell alcoholic liquor becomes final, the licensee may elect to pay a cash penalty to the commission in lieu of suspending sales of alcoholic liquor for the designated period if such election is not prohibited by order of the commission. Except as otherwise provided in subsection (3) of this section, for the first such suspension for any licensee, the penalty shall be fifty dollars per day, and for a second or any subsequent suspension, the penalty shall be one hundred dollars per day.

(3)(a) For a second suspension for violation of section 53-180 or 53-180.02 occurring within four years after the date of the first suspension, the commission, in its discretion, may order that the licensee be required to suspend sales of alcoholic liquor for a period of time not to exceed forty-eight hours and that the licensee may not elect to pay a cash penalty. The commission may use the required suspension of sales of alcoholic liquor penalty either alone or in conjunction with suspension periods for which the licensee may elect to pay a cash penalty. For purposes of this subsection, second suspension for violation of section 53-180 shall include suspension for a violation of section 53-180.02 following suspension for a violation of section 53-180 and second suspension for violation of section 53-180.02 shall include suspension for a violation of section 53-180 following suspension for a violation of section 53-180.02;

(b) For a third or subsequent suspension for violation of section 53-180 or 53-180.02 occurring within four years after the date of the first suspension, the commission, in its discretion, may order that the licensee be required to suspend sales of alcoholic liquor for a period of time not to exceed fifteen days and that the licensee may not elect to pay a cash penalty. The commission may use the required suspension of sales of alcoholic liquor penalty either alone or in conjunction with suspension periods for which the licensee may elect to pay a cash penalty. For purposes of this subsection, third or subsequent suspension for violation of section 53-180 shall include suspension for a violation of section 53-180.02 following suspension for a violation of section 53-180 and third or subsequent suspension for violation of section 53-180.02 shall include suspension for a violation of section 53-180 following suspension for a violation of section 53-180.02; and

(c) For a first suspension based upon a finding that a licensee or an employee or agent of the licensee has been convicted of possession of a gambling device on a licensee's premises in violation of sections 28-1107 to 28-1111, the commission, in its discretion, may order that the licensee be required to suspend sales of alcoholic liquor for thirty days and that the licensee may not elect to pay a cash penalty. For a second or subsequent suspension for such a violation of sections 28-1107 to 28-1111 occurring within four years after the date of the first suspension, the commission shall order that the license be canceled.

(4) For any licensee which has no violation for a period of four years consecutively, any suspension shall be treated as a new first suspension.

(5) The election provided for in subsection (2) of this section shall be filed with the commission in writing one week before the suspension is ordered to commence and shall be accompanied by payment in full of the sum required by this section. If such election has not been received by the commission by the close of business one week before the day such suspension is ordered to commence, it shall be conclusively presumed that the licensee has elected to close for the period of the suspension and any election received later shall be absolutely void and the payment made shall be returned to the licensee. The election shall be made on a form prescribed by the commission. The commission shall remit all funds collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(6) Recognizing that suspension of the license of a licensee domiciled outside of the state poses unique enforcement difficulties, the commission may, at its discretion, mandate that a licensee domiciled outside of the state pay the cash penalty found in subsection (2) of this section rather than serve the suspension.

Source

- Laws 1935, c. 116, § 105, p. 429;
- C.S.Supp.,1941, § 53-3,105;
- R.S.1943, § 53-1,104;
- Laws 1977, LB 40, § 320;
- Laws 1980, LB 848, § 20;
- Laws 1991, LB 344, § 71;
- Laws 1991, LB 586, § 2;
- Laws 1999, LB 267, § 15;
- Laws 2000, LB 973, § 9;
- Laws 2003, LB 205, § 3;
- Laws 2010, LB861, § 78;
- Laws 2011, LB311, § 1.

53-1,105.

Sufficiency of charge of violation; sufficiency of proof.

In any indictment, information, affidavit, or complaint charging the violation of any of the provisions of the Nebraska Liquor Control Act, it shall be sufficient to charge that the accused unlawfully manufactured, sold, offered for sale, kept for sale, delivered, or otherwise unlawfully disposed of alcoholic liquor without any further or more specific description of such liquor, and proof of any kind of alcoholic liquor unlawfully

manufactured, sold, offered for sale, kept for sale, delivered, or otherwise unlawfully disposed of shall be sufficient proof as to the character or kind of alcoholic liquor.

Source

- Laws 1935, c. 116, § 71, p. 411;
- C.S.Supp.,1941, § 53-371;
- R.S.1943, § 53-1,105;
- Laws 1991, LB 344, § 72.

53-1,106.

Charge of violation; sufficiency of allegations; second offense; proof; former conviction.

In any indictment, information, complaint, or affidavit charging the violation of any of the provisions of the Nebraska Liquor Control Act, it shall not be necessary to allege the quantity or kind of such alcoholic liquor further than to allege that it was alcoholic liquor. In case of sale, keeping for sale, or delivering, it shall not be necessary to set out the name of the person to whom sale or delivery has been made. In any prosecution for a second offense, it shall not be necessary to state in the indictment, complaint, or affidavit the record of the former conviction, but it shall be sufficient briefly to allege such conviction. In any prosecution for an offense, no indictment, information, complaint, or affidavit shall state or allege and no consideration shall be given to the record of a former filing of an indictment, information, complaint, or affidavit, or the record of a former conviction, which is four years old or older. Proof of sale, delivery, or unlawful disposition of alcoholic liquor to any person not authorized by the act to purchase or receive the same shall be sufficient to sustain the allegation of unlawful sale, delivery, or disposition.

Source

- Laws 1935, c. 116, § 72, p. 411;
- C.S.Supp.,1941, § 53-372;
- R.S.1943, § 53-1,106;
- Laws 1978, LB 386, § 12;
- Laws 1991, LB 344, § 73.

53-1,107.

Complaint, indictment, or information; contents; sufficiency.

In any indictment, information, complaint, or affidavit against any one or more individuals charging the violation of the Nebraska Liquor Control Act, separate offenses under the act may be joined in the same indictment, information, complaint, or affidavit and the accused may be prosecuted and convicted upon all or any of such counts so joined the same as upon separate indictments, information, complaint, or affidavits and judgment may be rendered on each count upon which there is a conviction. In any indictment, information, complaint, or affidavit for any violation of the act, it shall not be necessary to describe the place where the offense was committed except to allege that it was committed in the county wherein the prosecution was had unless the particular place where the violation occurred constitutes one of specific ingredients of the offense

and it shall not be necessary to negative any of the exceptions contained in the act or to state the day or the hour when the offense was committed unless the day or hour constitutes a special element or ingredient of the offense.

Source

- Laws 1935, c. 116, § 73, p. 412;
- C.S.Supp.,1941, § 53-373;
- R.S.1943, § 53-1,107;
- Laws 1994, LB 859, § 14.

53-1,107.

Complaint, indictment, or information; contents; sufficiency.

In any indictment, information, complaint, or affidavit against any one or more individuals charging the violation of the Nebraska Liquor Control Act, separate offenses under the act may be joined in the same indictment, information, complaint, or affidavit and the accused may be prosecuted and convicted upon all or any of such counts so joined the same as upon separate indictments, information, complaint, or affidavits and judgment may be rendered on each count upon which there is a conviction. In any indictment, information, complaint, or affidavit for any violation of the act, it shall not be necessary to describe the place where the offense was committed except to allege that it was committed in the county wherein the prosecution was had unless the particular place where the violation occurred constitutes one of specific ingredients of the offense and it shall not be necessary to negative any of the exceptions contained in the act or to state the day or the hour when the offense was committed unless the day or hour constitutes a special element or ingredient of the offense.

Source

- Laws 1935, c. 116, § 73, p. 412;
- C.S.Supp.,1941, § 53-373;
- R.S.1943, § 53-1,107;
- Laws 1994, LB 859, § 14.

53-1,109.

Search warrants; contents; directed to peace officer.

If the judge before whom any such complaint is made is satisfied that there is reasonable cause for such belief, he or she shall issue a warrant directed to any peace officer having jurisdiction, commanding him or her to enter the house, building, premises, boat, vehicle, receptacle, or other place described and designated with particularity and to make diligent and careful search for alcoholic liquor manufactured, possessed, or kept for sale, contrary to the Nebraska Liquor Control Act, and if any such alcoholic liquor is found, to seize the same, together with the vessels containing the same, and all property, implements, furniture, and vehicles kept or used for the purpose of violating, or with which to violate any of the provisions of the act, and to bring the

same and any and all persons, if there are any, in whose possession they are found, before the judge who issued the warrant or some other judge having cognizance of the case.

Source

- Laws 1935, c. 116, § 79, p. 415;
- C.S.Supp.,1941, § 53-379;
- R.S.1943, § 53-1,109;
- Laws 1994, LB 859, § 16.

53-1,110.

Arrest of persons found violating act.

Nothing shall be construed to prevent any officer whose duty it is to make arrests from arresting with or without a warrant any person or persons found violating the Nebraska Liquor Control Act.

Source

- Laws 1935, c. 116, § 80, p. 416;
- C.S.Supp.,1941, § 53-380;
- R.S.1943, § 53-1,110;
- Laws 1994, LB 859, § 17.

53-1,111.

Search warrants; search and seizure of property; sale; disposition of proceeds; arrests.

Upon the issuance of any search warrant pursuant to section 53-1,108, it shall be the duty of the officers executing the same to enter the house, building, premises, boat, vehicle, receptacle, or other place described, either in the daytime or nighttime, by force if necessary and to remove and confiscate any alcoholic liquor manufactured, possessed, or kept for sale contrary to the terms of the Nebraska Liquor Control Act and any machinery, equipment, or material used in connection therewith and to hold such property until all prosecution arising out of such search and seizure shall have ended and determined. It shall be the duty of the officers executing such search warrant to arrest any person or persons found using or in possession or control of such alcoholic liquor, articles, or things. All alcoholic liquor unlawfully manufactured, stored, kept, sold, or otherwise disposed of, and the containers thereof, and all equipment used or fit for use in the manufacture or production of the same which are found at or about any still or outfit for the unlawful manufacture of alcoholic liquor on unlicensed premises are hereby declared contraband, and no right of property shall be or exist in any person owning, furnishing, or possessing any such property, liquor, material, or equipment, but all such property, articles, and things, including alcoholic liquor, shall be sold upon an order of the court as provided in section 53-1,113, and the proceeds thereof shall be disposed of in the manner provided for the disposition of license money under the Constitution of Nebraska.

Source

- Laws 1935, c. 116, § 80, p. 416;
- C.S.Supp.,1941, § 53-380;
- R.S.1943, § 53-1,111;
- Laws 1994, LB 859, § 18;
- Laws 2015, LB330, § 26.

Annotations

- When an officer seizes alcoholic liquors under a search warrant, it is his duty to retain possession, where injunction to abate nuisance is pending, even though criminal complaint has been dismissed. Picard v. Steinacher, 135 Neb. 723, 283 N.W. 849 (1939).

53-1,112.

Search warrant; return; form and contents.

Any officer executing a search warrant shall forthwith make his return thereon to the court or officer issuing such search warrant of the manner and date of his execution thereof, showing what, if anything, was seized and held by such search, together with the name of the owner or owners, if known, and shall attach to such return an accurate list or inventory of the articles and things so seized.

Source

- Laws 1935, c. 116, § 80, p. 416;
- C.S.Supp.,1941, § 53-380;
- R.S.1943, § 53-1,112.

53-1,113.

Search warrant; sale of property seized; procedure; destruction, when required.

(1) It shall be the duty of the officer who has seized and is holding any of the property mentioned in section 53-1,111 to make application to the court on final determination of any prosecution arising under such search and seizure, and in which such prosecution has been commenced or prosecuted, for an order to sell such property. The court, if satisfied that the property so seized and held was at the time of its seizure being kept or used, or was fit for use in the unlawful manufacture or production of alcoholic liquor, shall make an order that (a) the commission dispose of any alcoholic liquor in accordance with the Nebraska Liquor Control Act and (b) any other property and effects be sold by such officer subject to the time, place, manner, and notice of such sale set by the order.

(2) Nothing contained in the Nebraska Liquor Control Act shall be considered to authorize the sale of any alcoholic liquor unlawfully manufactured fit for human consumption which comes into the possession of any officer or the commission by seizure, confiscation, or forfeiture under the provisions of the act without the payment of all taxes and inspection fees required by the laws of this state and of the United States, and all such unlawfully manufactured alcoholic liquor which is unfit for human consumption shall be destroyed.

(3) The commission shall destroy alcoholic liquor which is unfit for human consumption and may sell alcoholic liquor, when directed by order of the court, at the time, place, and manner the commission determines to be in the public interest and subject to the taxes and inspection fees required by the laws of this state and of the United States.

Source

- Laws 1935, c. 116, § 80, p. 416;
- C.S.Supp.,1941, § 53-380;
- R.S.1943, § 53-1,113;
- Laws 1994, LB 859, § 19;
- Laws 2015, LB330, § 27.

53-1,114.

Transferred to section 53-134.04.

53-1,115.

Proceedings before commission; service upon parties; rehearings; costs.

(1) A copy of the rule, regulation, order, or decision of the commission denying an application or suspending, canceling, or revoking a license or of any notice required by any proceeding before it, certified under the seal of the commission, shall be served upon each party of record to the proceeding before the commission. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the commission shall enter his or her appearance and indicate to the commission his or her address for such service. The mailing of a copy of any rule, regulation, order, or decision of the commission or of any notice by the commission, in the proceeding, to such party at such address shall be deemed to be service upon such party.

(2) Within thirty days after the service of any rule, regulation, order, or decision of the commission denying an application or suspending, canceling, or revoking any license upon any party to the proceeding, as provided for by subsection (1) of this section, such party may apply for a rehearing with respect to any matters determined by the commission. The commission shall receive and consider such application for a rehearing within thirty days after its filing with the executive director of the commission. If such application for rehearing is granted, the commission shall proceed as promptly as possible to consider the matters presented by such application. No appeal shall be allowed from any decision of the commission except as provided in section 53-1,116.

(3) Upon final disposition of any proceeding, costs shall be paid by the party or parties against whom a final decision is rendered. Costs may be taxed or retaxed to local governing bodies as well as individuals. Only one rehearing referred to in subsection (2) of this section shall be granted by the commission on application of any one party.

(4) For purposes of this section, party of record means:

(a) In the case of an administrative proceeding before the commission on the application for a retail, bottle club, craft brewery, or microdistillery license:

(i) The applicant;

(ii) Each individual protesting the issuance of such license pursuant to subdivision (1)(b) of section 53-133;

(iii) The local governing body if it is entering an appearance to protest the issuance of the license or if it is requesting a hearing pursuant to subdivision (1)(c) of section 53-133; and

(iv) The commission;

(b) In the case of an administrative proceeding before a local governing body to cancel or revoke a retail, bottle club, craft brewery, or microdistillery license:

(i) The licensee; and

(ii) The local governing body; and

(c) In the case of an administrative proceeding before the commission to suspend, cancel, or revoke a retail, bottle club, craft brewery, or microdistillery license:

(i) The licensee; and

(ii) The commission.

Source

- Laws 1989, LB 781, § 15;
- Laws 1993, LB 183, § 17;
- Laws 1999, LB 267, § 16;
- Laws 2004, LB 485, § 30;
- Laws 2007, LB549, § 20;
- Laws 2018, LB1120, § 29.

Annotations

- This section defines which parties qualify as parties of record in the Nebraska Liquor Control Commission's proceedings. Thus, it defines which parties are "parties of record" that must be included in the district court's review of the commission's proceedings pursuant to section 84-917 of the Administrative Procedure Act. Kozal v. Nebraska Liquor Control Comm., 297 Neb. 938, 902 N.W.2d 147 (2017).

53-1,116.

Appeal; procedure.

Any order or decision of the commission granting, denying, suspending, canceling, revoking, or renewing or refusing to suspend, cancel, revoke, or renew a license, special designated permit, or permit for the sale of alcoholic liquor, including beer, may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source

- Laws 1935, c. 116, § 90, p. 423;
- C.S.Supp.,1941, § 53-390;
- R.S.1943, § 53-1,116;
- Laws 1955, c. 207, § 1, p. 585;
- Laws 1976, LB 413, § 4;
- Laws 1980, LB 848, § 22;
- Laws 1983, LB 213, § 20;
- Laws 1984, LB 947, § 5;
- Laws 1986, LB 911, § 8;
- Laws 1988, LB 352, § 93;
- Laws 1988, LB 1089, § 29;
- Laws 1989, LB 781, § 16;
- Laws 1989, LB 780, § 14;
- Laws 1991, LB 344, § 74;
- Laws 1993, LB 183, § 18;
- Laws 1999, LB 267, § 17.

Cross References

- **Administrative Procedure Act,** see section 84-920.

Annotations

- This section, as amended by 1993 Neb. Laws, L.B. 183, is unenforceable. Marting v. Nebraska Liquor Control Comm., 250 Neb. 134, 548 N.W.2d 326 (1996).
- In proceedings in error, a reviewing court determines whether the liquor control commission acted within its jurisdiction and whether there is sufficient evidence as a matter of law to support the decision. 2301 Leavenworth v. Nebraska Liquor Control Comm., 244 Neb. 247, 505 N.W.2d 708 (1993).
- The portion of this section amended by 1986 Neb. Laws, L.B. 911, is declared unconstitutional. Bosselman, Inc. v. State, 230 Neb. 471, 432 N.W.2d 226 (1988).
- For appeals pursuant to subsection (5) of this section, the district court may not disturb the decision of the Liquor Control Commission unless it was arbitrary and unreasonable. R.D.B., Inc. v. Nebraska Liquor Control Comm., 229 Neb. 178, 425 N.W.2d 884 (1988).

- Where district court sets aside order which denied issuance of liquor license, it should remand with directions to issue license. Hadlock v. Nebraska Liquor Control Commission, 193 Neb. 721, 228 N.W.2d 887 (1975).
- The review of the discretion of the Nebraska Liquor Control Commission on appeal applies to the findings of fact and all applications of the law, including the penalty assessed. Eleven Eighteen Co. v. Nebraska Liquor Control Commission, 191 Neb. 572, 216 N.W.2d 720 (1974).
- The statutory pattern for judicial review varies even for different types of decisions of the same agency. The 20's Inc. v. Nebraska Liquor Control Commission, 190 Neb. 761, 212 N.W.2d 344 (1973).
- On trial de novo, courts should not reverse order of Nebraska Liquor Control Commission unless its action was unreasonable or arbitrary. T & N P Co., Inc. v. Nebraska Liquor Control Commission, 189 Neb. 708, 204 N.W.2d 809 (1973).
- Under prior law, the procedure for appeal under this section is not applicable for an order of suspension by the Nebraska Liquor Control Commission, the procedure for such appeal being prescribed by section 84-917. Happy Hour, Inc. v. Nebraska Liquor Control Commission, 186 Neb. 533, 184 N.W.2d 630 (1971).
- Under prior law, a suspension is not a revocation and is not governed by this section. The Flamingo, Inc. v. Nebraska Liquor Control Commission, 185 Neb. 22, 173 N.W.2d 369 (1969).
- Under prior law, appeal to the courts is not provided from an order granting or refusing to grant a transfer of location of business. City of Lincoln v. Nebraska Liquor Control Commission, 181 Neb. 277, 147 N.W.2d 803 (1967).
- Cited in making comparison of powers and duties of Liquor Control Commission with those of heads of executive departments. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

53-1,117.

Repealed. Laws 1991, LB 344, § 75.

53-1,118.

Transferred to section 53-101.05.

53-1,119.

Local law, ordinance, resolution, or rule; penalty for drinking or intoxication; prohibited.

(1) No county, municipality, or other political subdivision may adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) No county, municipality, or other political subdivision may interpret or apply any law of general application to circumvent subsection (1) of this section.

Source

- Laws 1978, LB 593, § 2.

53-1,120.

Alcohol-related offenses; law, ordinance, resolution, or rule; effect.

(1) Nothing in sections 53-1,119, 53-1,120, and 60-679 shall affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

(2) The fact that a person is intoxicated or incapacitated by alcohol shall not prevent such person from being arrested or prosecuted for the commission of any criminal act or conduct not enumerated in subsection (1) of this section.

(3) No provision of such sections shall prevent such person from being taken into custody under the provisions of the Nebraska Mental Health Commitment Act as an alcoholic person who presents the risks enumerated in section 71-908.

(4) Nothing in sections 53-1,119, 53-1,120, and 60-679 shall be construed as a limitation upon the right of a police officer to make an otherwise legal arrest, even though the arrested person may be intoxicated or incapacitated by alcohol.

Source

- Laws 1978, LB 593, § 3;
- Laws 1993, LB 370, § 45;
- Laws 2004, LB 1083, § 99.

Cross References

- **Nebraska Mental Health Commitment Act,** see section 71-901.

53-1,120.01.

County resolution or city ordinance prohibiting smoking; not applicable to cigar shops.

No county resolution or city ordinance that prohibits smoking in indoor areas shall apply to cigar shops.

Source

- Laws 2009, LB355, § 5;
- Laws 2015, LB118, § 7.

53-1,121.

Law enforcement officer; intoxicated person; removal; civil protective custody; procedure; Department of Health and Human Services; limit on licensure actions.

(1) City police, county sheriffs, officers of the Nebraska State Patrol, and any other such law enforcement officer with power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, or mental health substance use treatment center or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances for longer than twenty-four hours.

(2) The placement of such person in civil protective custody shall be recorded at the facility or jail to which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

(3) The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions.

(4) The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(5) The Department of Health and Human Services shall not deny issuance or renewal of a license under the Health Care Facility Licensure Act to a mental health substance use treatment center on the basis that the mental health substance use treatment center utilizes locked rooms to provide civil protective custody services if the mental health substance use treatment center is otherwise in compliance with the applicable rules and regulations of the department and if a person placed into civil protective custody in the mental health substance use treatment center is not kept in a locked room after such person is no longer a danger to himself or herself or other patients or staff of the mental health substance use treatment center.

(6) For purposes of this section:

(a) Mental health substance use treatment center has the same meaning as in section 71-423;

(b) Public property means any public right-of-way, street, highway, alley, park, or other state, county, or municipally owned property; and

(c) Quasi-public property means and includes private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

Source

- Laws 1979, LB 376, § 2;
- Laws 1981, LB 87, § 1;
- Laws 2019, LB200, § 1.

Cross References

- **Health Care Facility Licensure Act,** see section 71-401.

53-1,122.

Compliance checks; participation by minors; when.

In order to further the public policy of deterring minors from illegally obtaining or consuming alcoholic liquor, persons under twenty-one years of age may be authorized to assist duly authorized law enforcement officers to determine compliance with sections 53-180 and 53-180.02. Such compliance checks shall be conducted pursuant to guidelines adopted and promulgated by the Nebraska State Patrol with input from the commission. Unless a person is an emancipated minor at least eighteen years of age, no person under twenty-one years of age shall be authorized to participate or assist law enforcement officers in such compliance checks without the written consent of his or her parents or legal guardian.

Source

- Laws 2001, LB 114, § 7.

53-201.

Purpose of sections.

The purpose of sections 53-201 to 53-223 is to provide fair, efficient, and competitive distribution of beer by (1) regulating the termination, expiration, and renewal of distribution agreements between beer suppliers and beer wholesalers, (2) promoting a distribution system in which each beer wholesaler will devote reasonable efforts and resources to sales, distribution, and quality control of the beer it sells, (3) promoting the continued availability of good quality beer for the consumers of Nebraska through orderly marketing and vigorous interbrand competition, (4) preventing a beer supplier from unfairly depriving a beer wholesaler of the value of the investment the wholesaler made in its business in terms of money, time, effort, and skill, and (5) controlling the sale of malt beverages in this state and facilitating the lawful and orderly marketing of malt beverages pursuant to the police powers of this state.

Source

- Laws 1989, LB 371, § 1.

53-202.

Definitions, where found.

For purposes of sections 53-201 to 53-223, the definitions found in sections 53-203 to 53-215 shall be used.

Source

- Laws 1989, LB 371, § 2.

53-203.

Advertising, defined.

Advertising shall mean the commercial use of media forms used to make consumers aware of or familiar with the supplier's trademark, trade name, logo, slogan, colors, signs, or product. The term media forms shall include, but not be limited to, television, radio, newspaper, billboards, and point-of-sale signs produced by the supplier for use by the wholesaler. The terms promote, promotional, promotion, market, and marketing shall be considered separate and distinct from advertising in meaning and application.

Source

- Laws 1989, LB 371, § 3.

53-204.

Agreement, defined.

Agreement shall mean any agreement between a wholesaler and a supplier, whether oral or written, by which a wholesaler is granted the right to purchase and sell a brand or brands of beer sold by a supplier.

Source

- Laws 1989, LB 371, § 4.

53-205.

Ancillary business, defined.

Ancillary business shall mean a business owned by a wholesaler, by a substantial stockholder of a wholesaler, by a substantial partner of a wholesaler, or by a substantial member of a limited liability company, the primary business of which is directly related to the transporting, storing, or marketing of the brand or brands of beer of a supplier with whom the wholesaler has an agreement, or a business owned by a wholesaler, by a substantial stockholder of a wholesaler, by a substantial partner of a wholesaler, or by a substantial member of a limited liability company which recycles empty beverage containers.

Source

- Laws 1989, LB 371, § 5;
- Laws 1993, LB 121, § 322.

53-206.

Control of a wholesaler's business, defined.

Control of a wholesaler's business shall mean that combination of ownership interests which legally or in practical effect has the power to determine the policies under which the wholesaler's business shall be operated and shall include, but not be limited to, any change of ownership of twenty-five percent or more interest in the wholesaler's business or any change in the form of business entity being utilized by the wholesaler, including, but not limited to, a change from a sole proprietorship to a corporation.

Source

- Laws 1989, LB 371, § 6.

53-207.

Designated member, defined.

Designated member shall mean the spouse, child, grandchild, parent, brother, or sister of a deceased individual who owned an interest in a wholesaler who inherits the deceased individual's ownership interest under the terms of the deceased individual's will, who has otherwise succeeded the deceased individual in the wholesaler's business, or who inherits such ownership interest under the laws of intestate succession of this state. With respect to an incapacitated individual having an ownership interest in a wholesaler, the term shall mean the person appointed by the court as the conservator of such individual's property. The term shall also include the appointed and qualified personal representative and the testamentary trustee of a deceased individual having an ownership interest in a wholesaler.

Source

- Laws 1989, LB 371, § 7.

53-208.

Good faith, defined.

Good faith shall mean honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

Source

- Laws 1989, LB 371, § 8;
- Laws 2005, LB 570, § 2.

53-209.

Reasonable qualifications, defined.

Reasonable qualifications shall mean the standard of the reasonable criteria established and consistently used by the supplier for similarly situated Nebraska wholesalers that entered into, continued, or renewed an agreement with the supplier during a period of twenty-four months prior to the proposed transfer of the wholesaler's business or for similarly situated Nebraska wholesalers who have changed managers or designated managers during a period of twenty-four months prior to the proposed change in the manager or successor manager of the wholesaler's business.

Source

- Laws 1989, LB 371, § 9.

53-210.

Retaliatory action, defined.

Retaliatory action shall include, but not be limited to, the refusal to continue an agreement or a material reduction in the quality of service or quantity of products available to a wholesaler under an agreement, which refusal or reduction is not made in good faith.

Source

- Laws 1989, LB 371, § 10.

53-211.

Sales territory, defined.

Sales territory shall mean an area of exclusive sales responsibility for the brand or brands and quality thereof granted to a wholesaler by a supplier as designated in an agreement between them.

Source

- Laws 1989, LB 371, § 11.

53-212.

Substantial stockholder, substantial partner, and substantial member, defined.

Substantial stockholder, substantial partner, or substantial member shall mean a stockholder of, partner in, or member of the wholesaler who owns fifty percent or more of the capital stock of a corporate wholesaler or of the partnership or the limited liability company.

Source

- Laws 1989, LB 371, § 12;
- Laws 1993, LB 121, § 323.

53-213.

Supplier, defined.

Supplier shall mean a manufacturer or importer of beer licensed by the State of Nebraska.

Source

- Laws 1989, LB 371, § 13.

53-214.

Transfer of the wholesaler's business, defined.

Transfer of the wholesaler's business shall mean the voluntary sale, assignment, or other transfer (1) of all or control of the wholesaler's business, (2) of all or substantially all of the assets of the wholesaler, or (3) of all or control of the capital stock of the wholesaler, including the sale or other transfer of capital stock or assets by merger, consolidation, or dissolution, or of the capital stock of the parent corporation, or of the capital stock or beneficial ownership of any other entity owning or controlling the wholesaler.

Source

- Laws 1989, LB 371, § 14.

53-215.

Wholesaler, defined.

Wholesaler shall mean a wholesaler of beer licensed by the State of Nebraska.

Source

- Laws 1989, LB 371, § 15.

53-216.

Supplier; prohibited acts.

A supplier shall not:

(1) Fail to provide each wholesaler of the supplier's brand or brands with a written agreement which contains the entire agreement with the wholesaler and designates a specific, exclusive sales territory. Any agreement which is in existence on April 18, 1989, shall be renewed in a manner consistent with sections 53-201 to 53-223, and the provisions of such sections may be incorporated by reference in the agreement. Nothing in such sections shall prevent a supplier from making a one-time appointment, for a period not to exceed ninety days, of a wholesaler to temporarily service a sales territory not designated to another wholesaler until such time as a wholesaler is appointed by the supplier. The wholesaler who is designated to service the sales territory during the period of temporary service shall not be in violation of such sections and, with respect to the temporary sales territory, shall not have any of the rights provided under sections 53-218 and 53-220. The temporary service period may be extended beyond ninety days by the Nebraska Liquor Control Commission if justifiable circumstances exist as determined by the commission;

(2) Fix, maintain, establish, or unduly influence the price at which a wholesaler shall be required to sell any beer;

(3) Enter into an additional agreement with any other wholesaler for or to sell to any other wholesaler the same brand or brands of beer in the same sales territory or any portion thereof or to sell directly to any retailer in this state;

(4) Coerce or attempt to coerce any wholesaler to accept delivery of any beer or other commodity which has not been ordered by the wholesaler, except that a supplier may impose reasonable inventory requirements upon a wholesaler if the requirements are made in good faith and are generally applied to other similarly situated Nebraska wholesalers having an agreement with the supplier;

(5) Coerce or attempt to coerce any wholesaler to accept delivery of any beer or other commodity ordered by a wholesaler if the order was canceled by the wholesaler in accordance with acceptable procedures;

(6) Coerce or attempt to coerce any wholesaler to do any illegal act or to violate any law, rule, or regulation by threatening to amend, modify, cancel, terminate, or refuse to renew any agreement existing between the supplier and wholesaler;

(7) Require a wholesaler to assent to any condition, stipulation, or provision limiting the wholesaler's right to sell the brand or brands of beer or other products of any other supplier unless the acquisition of the brand or brands or products of another supplier would materially impair or adversely affect the wholesaler's quality of service, sales, or ability to compete effectively in representing the brand or brands of the supplier presently being sold by the wholesaler. The supplier shall have the burden of proving that such acquisition of such other brand or brands or products would have such effect;

(8) Require a wholesaler to purchase one or more brands of beer or other products in order for the wholesaler to purchase another brand or brands of beer for any reason. A wholesaler that has agreed to distribute a brand or brands before April 18, 1989, shall continue to distribute the brand or brands in conformance with sections 53-201 to 53-223;

(9) Require a wholesaler to submit audited profit and loss statements, audited balance sheets, or audited financial records as a condition of renewal or continuation of an agreement. A supplier may require profit and loss statements, balance sheets, or financial records which are certified by the wholesaler or an officer thereof;

(10) Coerce, compel, or require a wholesaler to provide or divulge specific information regarding the wholesaler's individual accounts or customers or his or her exclusive relationship with them or coerce, compel, or require a wholesaler to provide specific information concerning competitive brands;

(11) Use the threat of losing or withholding its credit as a means of compelling a wholesaler to standards of performance in any area of business except that area directly relating to credit;

(12) Withhold delivery of beer ordered by a wholesaler or change a wholesaler's quota of a brand or brands if the withholding or change is not made in good faith;

(13) Require a wholesaler by any means directly to participate in or contribute to any local or national advertising fund controlled, directly or indirectly, by a supplier;

(14) Willfully discriminate, directly or indirectly, in price, programs, or terms of sale offered to franchisees if the effect of such discrimination may be to substantially lessen competition or to give to one holder of a franchise any economic, business, or competitive advantage not offered to all holders of the same or similar franchise. This subdivision shall not govern dock prices;

(15) Take any action against a wholesaler who files a complaint regarding an alleged violation by the supplier of a federal, state, or local law, rule, or regulation in retaliation for such complaint;

(16) Restrict or inhibit, directly or indirectly, the right of free association among wholesalers for any lawful purpose;

(17) Require or prohibit, without just cause, any change in the manager or successor manager of any wholesaler who has been approved by the supplier as of or subsequent to April 18, 1989. If a wholesaler changes an approved manager or successor manager, a supplier shall not require or prohibit the change unless the person selected by the wholesaler fails to meet the reasonable qualifications for managers of Nebraska wholesalers of the supplier, which reasonable qualifications previously have been consistently applied to similarly situated Nebraska wholesalers by the supplier. The supplier shall have the burden of proving that such person fails to meet such reasonable qualifications and that the qualifications have been consistently applied to similarly situated Nebraska wholesalers;

(18) Upon written notice of intent to transfer the wholesaler's business, interfere with, prevent, or unreasonably delay for a period of sixty days or more the transfer of the wholesaler's business if the proposed transferee is a designated member; or

(19) Upon written notice of intent to transfer the wholesaler's business other than to a designated member, withhold consent to or approval of, or unreasonably delay for a period of sixty days or more after receipt of all material information reasonably requested of the wholesaler a response to a request by the wholesaler for, any transfer of a wholesaler's business if the proposed transferee meets the reasonable qualifications required by the supplier for similarly situated Nebraska wholesalers. The supplier shall have the burden of proving that

the proposed transferee fails to meet such reasonable qualifications and that the qualifications have been consistently applied to similarly situated Nebraska wholesalers.

Source

- Laws 1989, LB 371, § 16.

53-217.

Wholesaler; prohibited acts.

A wholesaler shall not:

(1) Fail to devote such efforts as are required in the agreement between the supplier and wholesaler within the supplier's designated sales territory relating to the sale and distribution of the supplier's brand or brands of beer which the wholesaler has been granted the right to sell or distribute;

(2) Sell or deliver beer to a retail licensee located outside the sales territory designated to the wholesaler by the supplier of a particular brand or brands of beer, except that during a period of temporary service interruption impacting a particular sales territory, a wholesaler who normally services the impacted sales territory shall file with the Nebraska Liquor Control Commission and give to the affected supplier written notice designating the specific wholesaler or wholesalers, not disapproved by the supplier, who will service the sales territory during the period of temporary service interruption and the approximate length of time of the service interruption. Each wholesaler designated to temporarily service a sales territory shall be a wholesaler who has a current agreement with a supplier for the brand or brands affected. When the temporary service interruption is over, the wholesaler who normally services the sales territory shall notify the commission, the supplier, and the wholesaler or wholesalers servicing the sales territory on a temporary basis of this fact in writing, and any wholesaler servicing the sales territory on a temporary basis shall cease servicing the sales territory upon receipt of the notice. A wholesaler who is designated to service a sales territory during a period of temporary service shall not be in violation of sections 53-201 to 53-223 and, with respect to the sales territory, shall not have any of the rights provided under sections 53-218 and 53-220; or

(3) Transfer his or her business without giving the supplier written notice of intent to transfer the business and, when required by sections 53-201 to 53-223, receiving the supplier's approval for the proposed transfer. Consent or approval from the supplier shall not be required for any transfer of the wholesaler's business to a designated member or any transfer of less than control of the wholesaler's business. The wholesaler shall give the supplier written notice of any change in ownership of the wholesaler.

Source

- Laws 1989, LB 371, § 17.

53-218.

Supplier; agreements; prohibited acts; changes or termination; procedures; quality control; temporary service interruption.

(1) Notwithstanding any agreement and except as otherwise provided for in sections 53-201 to 53-223, a supplier shall not amend or modify an agreement, cause a wholesaler to resign from an agreement, or cancel, terminate, fail to renew, or refuse to continue under an agreement unless the supplier has:

(a) Satisfied the applicable notice requirements of subsection (3) of this section;

(b) Acted in good faith; and

(c) Good cause for the amendment, modification, forced resignation, cancellation, termination, nonrenewal, or discontinuance.

(2) For each amendment, modification, cancellation, termination, nonrenewal, or discontinuance, the supplier shall have the burden of proving that it has acted in good faith, that the notice requirements under this section have been complied with, and that there was good cause for the amendment, modification, cancellation, termination, nonrenewal, or discontinuance.

(3) Notwithstanding any agreement and except as to new products and as otherwise provided in this section and in addition to the time limits set forth in subdivision (4)(e) of this section, the supplier shall furnish written notice of the amendment, modification, cancellation, termination, nonrenewal, or discontinuance of an agreement to the wholesaler not less than thirty days before the effective date of the amendment, modification, cancellation, termination, nonrenewal, or discontinuance. The notice shall be sent by certified mail and shall contain:

(a) A statement of intention to amend, modify, cancel, terminate, not renew, or discontinue the agreement;

(b) A statement of the reason for the amendment, modification, cancellation, termination, nonrenewal, or discontinuance; and

(c) The date on which the amendment, modification, cancellation, termination, nonrenewal, or discontinuance shall take effect.

(4) Notwithstanding any agreement, good cause shall exist for the purposes of a cancellation, termination, nonrenewal, or discontinuance under subdivision (1)(c) of this section when:

(a) There is a failure by the wholesaler to comply with a provision of the agreement which is both reasonable and of material significance to the business relationship between the wholesaler and the supplier;

(b) The supplier first acquired knowledge of the failure described in subdivision (a) of this subsection not more than twenty-four months before the date notification was given pursuant to subsection (3) of this section;

(c) The wholesaler was given notice by the supplier of failure to comply with the agreement within twenty-four months of such failure;

(d) The wholesaler was afforded a reasonable opportunity to assert good faith efforts to comply with the agreement within the time limits provided for in subdivision (e) of this subsection; and

(e) The wholesaler has been afforded thirty days in which to submit a plan of corrective action to comply with the agreement and an additional ninety days to cure such noncompliance in accordance with the plan.

(5) Notwithstanding subsections (1) and (3) of this section, a supplier may cancel, terminate, fail to renew, or discontinue an agreement immediately upon written notice given in the manner and containing the information required by subsection (3) of this section if:

(a) The wholesaler becomes insolvent, files or has filed against it a petition under any bankruptcy or receivership law, makes an assignment for the benefit of creditors, or is dissolved or liquidated and such action materially affects the wholesaler's ability to remain in business;

(b) The wholesaler's state or federal license is revoked or suspended by the appropriate regulatory agency and the wholesaler cannot service the wholesaler's sales territory for more than sixty-one days;

(c) The wholesaler or a partner, a member, or an individual who owns ten percent or more of the partnership, the limited liability company, or the stock of a corporate wholesaler has been convicted of a felony under the United States Code or the laws of any state which reasonably may adversely affect the goodwill or interest of the wholesaler or supplier. An existing stockholder, partner, or member or a designated member shall have, subject to the provisions of sections 53-201 to 53-223, the right to purchase the partnership interest, the limited liability company member interest, or the stock of the offending partner or stockholder, and if the sale is completed prior to conviction, the provisions of this subdivision shall not apply; or

(d) The supplier and wholesaler agree to a termination.

(6) Notwithstanding subsections (1), (3), and (4) of this section, upon not less than fifteen days' written notice given in the manner and containing the information required by subsection (3) of this section, a supplier may cancel, terminate, fail to renew, or discontinue an agreement if:

(a) There was intentional fraudulent conduct relating to a material matter on the part of the wholesaler in dealings with the supplier or its producers. The supplier shall have the burden of proving intentional fraudulent conduct relating to a material matter on the part of the wholesaler;

(b) The wholesaler failed to confine its sales of a brand or brands to retailers in its designated sales territory. This subdivision shall not apply if there is a dispute between two or more wholesalers as to the boundaries of the assigned territory and the boundaries cannot be determined by a reading of the description contained in the agreements between the supplier and the wholesalers;

(c) A wholesaler who has failed to pay for beer ordered and delivered in accordance with established terms with the supplier fails to make full payment within two business days after receipt of written notice of the delinquency and demand for immediate payment from the supplier;

(d) A wholesaler intentionally has made a transfer of the wholesaler's business, other than a transfer to a designated member or pursuant to a loan agreement or debt instrument, without prior written notice to the

supplier and has failed, within thirty days from the receipt of written notice from the supplier of its intent to terminate on the ground of such transfer, to reverse the transfer of the wholesaler's business;

(e) A wholesaler intentionally has made a transfer of his or her business, other than a transfer to a designated member, although the wholesaler has prior to the transfer received from the supplier a timely notice of disapproval of the transfer in accordance with sections 53-201 to 53-223; or

(f) The wholesaler intentionally ceases or ceases for a period of more than thirty-one days to carry on business with respect to any of the supplier's brand or brands previously serviced by a wholesaler in its sales territory designated by the supplier unless such cessation is due to a force beyond the control of the wholesaler or to a labor dispute and the wholesaler has made good faith efforts to overcome such events. This subdivision shall affect only that brand or brands with respect to which the wholesaler ceased to carry on business.

(7) Notwithstanding subsections (1), (3), (5), and (6) of this section, a supplier may cancel, terminate, not renew, or discontinue an agreement upon not less than thirty days' written notice if the supplier discontinues production or discontinues distribution in this state of all the brands sold by the supplier to the wholesaler. Nothing in this section shall prohibit a supplier from (a) upon not less than thirty days' written notice, discontinuing the distribution of any particular brand or package of beer or (b) conducting test marketing of a new brand of beer or of a brand of beer which is not currently being sold in this state if the supplier has notified the Nebraska Liquor Control Commission in writing of its plans to test market. The notice to the commission shall describe the market area in which the test will be conducted, the name or names of the wholesaler or wholesalers who will be selling the beer, the name or names of the brand of beer being tested, and the period of time, not to exceed eighteen months, during which the testing will take place.

(8) Each wholesaler who sells beer to a retailer in this state shall service for the purpose of quality control all the beer it sells to that retailer. Each wholesaler shall, to the extent permitted by the Nebraska Liquor Control Act and the rules and regulations adopted and promulgated pursuant to such act:

(a) Rotate the beer it sold to a retailer no less frequently than may be specified from time to time by the brand owner so that beer produced first will be sold first;

(b) Clean and maintain tap equipment and provide related services as may be specified from time to time by the brand owner;

(c) Remove and replace with the same kind of beer any beer it sold to a retailer which has not been resold to a consumer within the time limits specified by the brand owner; and

(d) Provide whatever additional quality control services and comply with whatever additional quality control requirements are specified in writing from time to time by the brand owner, subject to the conditions that those services and requirements are reasonable and are reasonably related to promotion of quality control and that the wholesaler has received written notice of the services to be provided and the requirements to be satisfied and has been granted a reasonable time within which to comply.

(9) Except in the event of a temporary service interruption, a wholesaler shall not sell beer (a) to a retailer who does not have a location within the wholesaler's sales territory at which the retailer is entitled to resell beer to consumers or who the wholesaler knows or reasonably should know does not have a location within the

wholesaler's sales territory at which the retailer is entitled to resell beer or (b) to any person who the wholesaler has reason to believe will sell or supply all or part of such beer to any retailer who does not have a location within the wholesaler's sales territory at which the retailer is entitled to resell beer. During a period of temporary service interruption impacting a particular wholesaler's sales territory, the wholesaler who normally services the sales territory shall file with the Nebraska Liquor Control Commission and serve on his or her suppliers a written notice stating that a temporary service interruption has occurred and indicating the anticipated duration of the temporary service interruption. After receiving such notice the supplier may designate another wholesaler or wholesalers to service the sales territory during the period of temporary service interruption. After the temporary service interruption, the wholesaler who normally services the sales territory shall file with the commission and serve on each wholesaler providing temporary service and each supplier a written notice stating that the temporary service interruption has ended. Each wholesaler providing temporary service shall cease servicing the sales territory after receiving such notice.

Source

- Laws 1989, LB 371, § 18;
- Laws 1993, LB 121, § 324.

Cross References

- **Nebraska Liquor Control Act,** see section 53-101.

53-219.

Wholesaler's business; transfer; restrictions.

(1) Upon written notice of intent to transfer the wholesaler's business, any individual owning or personal representative of a deceased individual who owned an interest in a wholesaler's business may transfer the wholesaler's business to a designated member or to any other person who meets the reasonable qualifications required by the supplier for Nebraska wholesalers. The consent or approval of the supplier shall not be required of any transfer of the wholesaler's business, including the assignment of wholesaler's rights under the agreement, to a designated member except as provided in this subsection and shall not be withheld or unreasonably delayed to a proposed transferee other than a designated member who meets such reasonable qualifications. The supplier shall have the burden of proving that the proposed transferee fails to meet such reasonable qualifications and that the qualifications are consistently applied to Nebraska wholesalers by the supplier. A designated member or transferee shall not be qualified as a transferee without the written approval or consent of the supplier if such proposed transferee:

(a) Has been insolvent, has filed a voluntary or involuntary petition under any bankruptcy or receivership law, or has executed an assignment for the benefit of creditors;

(b) Has had a license issued under the Nebraska Liquor Control Act revoked or suspended for a period of sixty-one days or more;

(c) Has been convicted of a felony under the United States Code or the laws of any state which reasonably may adversely affect the goodwill or interest of the wholesaler or supplier; or

(d) Has had an agreement involuntarily canceled, terminated, not renewed, or discontinued by a supplier for good cause.

(2) The supplier shall not interfere with, prevent, or unreasonably delay the transfer of the wholesaler's business, including an assignment of wholesaler's rights under the agreement, if the proposed transferee is a designated member or if the transferee other than a designated member meets the reasonable qualifications required by the supplier for Nebraska wholesalers. When the transferee is other than a designated member, the supplier may, in good faith and for good cause related to the reasonable qualifications, refuse to accept the transfer of the wholesaler's business or the assignment of wholesaler's rights under the agreement. The supplier shall have the burden of proving that it has acted in good faith and that there was good cause for failure to accept or consent to the transfer of the wholesaler's business or the assignment of wholesaler's rights under the agreement.

Source

- Laws 1989, LB 371, § 19.

Cross References

- **Nebraska Liquor Control Act,** see section 53-101.

53-220.

Supplier; violations; compensation to wholesaler.

A supplier that, in violation of section 53-218 or 53-219, (1) has amended, modified, canceled, terminated, or refused to renew any agreement, (2) has caused a wholesaler to resign from an agreement, or (3) has interfered with, prevented, or unreasonably delayed or, when required by sections 53-201 to 53-223, has unreasonably withheld or unreasonably delayed consent to or approval of any assignment or transfer of a wholesaler's business shall pay the wholesaler reasonable compensation for the diminished value of the wholesaler's business, including any ancillary business which has been negatively affected by the act of the supplier. The value of the wholesaler's business or ancillary business shall include, but not be limited to, any goodwill. Nothing in such sections shall give rise to a claim against the supplier or wholesaler by any proposed purchaser of the wholesaler's business.

Source

- Laws 1989, LB 371, § 20.

53-221.

Wholesaler; waiver of rights prohibited; dispute settlements.

A wholesaler may not waive any of the rights granted in sections 53-201 to 53-223, and the provisions of any agreement which would have such an effect shall be null and void. Nothing in such sections shall be construed to limit or prohibit good faith dispute settlements voluntarily entered into by the parties.

Source

- Laws 1989, LB 371, § 21.

53-222.

Applicability of sections; transfer of business; effect on agreements.

(1) Sections 53-201 to 53-223 shall apply to agreements in existence on April 18, 1989, and agreements entered into or renewed after such date.

(2) A transferee of a wholesaler that continues in business as a wholesaler shall have the benefit of and be bound by all terms and conditions of the agreement with the supplier in effect on the date of the transfer. A transfer of a wholesaler's business which requires the supplier's consent or approval but is disapproved by the supplier shall be null and void.

(3) A successor to a supplier that continues in business as a supplier shall be bound by all terms and conditions of each distribution agreement that the predecessor was a party to at the time of transfer with respect to each brand the successor continues to make available for sale in this state.

Source

- Laws 1989, LB 371, § 22.

53-223.

Civil actions authorized; damages; jurisdiction.

(1) If a supplier engages in conduct prohibited under sections 53-201 to 53-223, a wholesaler with whom the supplier has an agreement may maintain a civil action against the supplier to recover actual damages reasonably incurred as the result of the prohibited conduct. If a wholesaler engages in conduct prohibited under such sections, a supplier with whom the wholesaler has an agreement may maintain a civil action against the wholesaler to recover actual damages reasonably incurred as the result of the prohibited conduct.

(2) A supplier who violates any provision of such sections shall be liable for all actual damages, all court costs, and, in the court's discretion, reasonable attorney's fees incurred by a wholesaler as a result of the violation. A wholesaler who violates any provision of such sections shall be liable for all actual damages, all court costs, and, in the court's discretion, reasonable attorney's fees incurred by the supplier as a result of the violation.

(3) A supplier or wholesaler may bring an action for declaratory judgment for determination of any controversy arising pursuant to such sections.

(4) Upon proper application to the court, a supplier or wholesaler may obtain injunctive relief against any violation of such sections. If the court grants injunctive relief or issues a temporary restraining order, bond shall be posted.

(5) The remedies provided by such sections are not exclusive, and nothing contained in such sections shall abolish any cause of action or remedy available to the supplier or the wholesaler existing on April 18, 1989.

(6) Any legal action taken under such sections or relating to a dispute arising out of an agreement or breach thereof or over the provisions of an agreement shall be filed in a state or federal court located in Nebraska, which state court is located in, or which federal court has jurisdiction and venue of, the county in which the wholesaler maintains its principal place of business in this state.

Source

- Laws 1989, LB 371, § 23.

53-301.

Nebraska Grape and Winery Board; created.

(1) The Nebraska Grape and Winery Board is created. The board shall consist of five members to be appointed by the Governor on a nonpartisan basis. All board members shall be (a) citizens of Nebraska, (b) at least twenty-one years of age, and (c) either engaged in or previously engaged in wine or grape production or research in this state. At least two board members shall be members of the Nebraska Winery and Grape Growers Association. In addition, the Director of Agriculture and the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources or their designees shall be ex officio members of the board but shall have no vote in board matters.

(2) Whenever a vacancy occurs on the board for any reason, the Governor shall appoint an individual to fill such vacancy pursuant to the qualifications set forth in subsection (1) of this section.

Source

- Laws 2000, LB 477, § 1.

53-302.

Board; officers; terms; expenses.

(1) Within thirty days after the appointment of the initial members of the Nebraska Grape and Winery Board, such board shall conduct its first regular meeting. During that meeting, the board members shall elect from among themselves, by majority vote, a chairperson, vice-chairperson, secretary, and treasurer, all to serve for terms of one year from the date of election. Subsequent board meetings shall take place at least once every six months and at such times as called by the chairperson or by any three board members.

(2) Each board member shall serve for a term of three years, except that at the expiration of the terms of the members in 2021, the Governor shall appoint one member for a term of one year, two members for a term of two years, and two members for a term of three years, and their successors shall be appointed for a term of three years. Upon completion of a term, a member may, at the Governor's discretion, be reappointed.

(3) All voting board members shall be reimbursed for expenses as provided for in sections 81-1174 to 81-1177 while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board.

(4) A board member shall be removable by the Governor for cause. The board member shall first be given a written copy of the charges against him or her and also an opportunity to be heard publicly. In addition to all other causes, the failure of a board member to continue to meet any of the requirements for eligibility set out in section 53-301 shall be deemed sufficient cause for removal from office.

Source

- Laws 2000, LB 477, § 2;
- Laws 2019, LB75, § 1;
- Laws 2020, LB381, § 46.

53-303.

Board; powers and duties.

The duties and responsibilities of the Nebraska Grape and Winery Board include, but are not limited to, the following:

(1) To establish a public forum whereby any producer of wine, grapes, or other wine-producing agricultural products has the opportunity, at least once annually, to discuss with the board its policy and procedures;

(2) To keep minutes of its meetings and other books and records which will clearly reflect all of the acts and transactions of the board and to make these records available for examination upon request by members of the public;

(3) To authorize and approve the Department of Agriculture's expenditure of funds collected pursuant to section 53-304;

(4) To serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the wine industry; and

(5) To adopt and promulgate rules and regulations to carry out sections 53-301 to 53-305.

Source

- Laws 2000, LB 477, § 3.

53-304.

Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment.

Each Nebraska winery shall pay to the Nebraska Liquor Control Commission twenty dollars for every one hundred sixty gallons of juice produced or received by its facility. Gifts, grants, or bequests may be received for the support of the Nebraska Grape and Winery Board. Funds paid pursuant to the charge imposed by this section and funds received pursuant to subsection (4) or (5) of section 53-123.15 and from gifts, grants, or bequests shall be remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund which is hereby created. For administrative purposes, the fund shall be located in the Department of Agriculture. All revenue credited to the fund pursuant to the charge imposed by this section and excise taxes collected pursuant to section 2-5603 and any funds received as gifts, grants, or bequests and credited to the fund shall be used by the department, at the direction of and in cooperation with the board, to develop and maintain programs for the research and advancement of the growing, selling, marketing, and promotion of grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry. Such expenditures may include, but are not limited to, all necessary funding for the employment of experts in the fields of viticulture and enology, as deemed necessary by the board, and programs aimed at improving the promotion of all varieties of wines, grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Funds credited to the fund shall be used for no other purposes than those stated in this section and any transfers authorized pursuant to section 2-5604. Any funds not expended during a fiscal year may be maintained in the fund for distribution or expenditure during subsequent fiscal years. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source

- Laws 2000, LB 477, § 4;
- Laws 2003, LB 536, § 4;
- Laws 2007, LB441, § 7;
- Laws 2013, LB230, § 5.

Cross References

- **Nebraska Capital Expansion Act,** see section 72-1269.
- **Nebraska State Funds Investment Act,** see section 72-1260.

53-305.

Board; annual report.

The Nebraska Grape and Winery Board shall make and publish an annual report on or before January 1 of each year, which report shall set forth in detail the following:

(1) The name and address of each board member and a copy of all rules and regulations adopted and promulgated by the board; and

(2) A detailed explanation of all programs for which the board approved funding that fiscal year, pursuant to section 53-304, for the research, discovery, promotion, and development of programs for the growing, production, and marketing of Nebraska wines, grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Each annual report shall be presented to the Nebraska Liquor Control Commission within thirty days after its publication and made available also to any person who requests a copy. Except for the annual copy required by this section to be provided to the commission, the board may charge a nominal fee to cover the costs of printing and postage for making available copies of its annual reports.

Source

- Laws 2000, LB 477, § 5.

53-401.

Act, how cited.

Sections 53-401 to 53-409 shall be known and may be cited as the Minor Alcoholic Liquor Liability Act.

Source

- Laws 2007, LB573, § 1.

53-402.

Purposes of act.

The purposes of the Minor Alcoholic Liquor Liability Act are to prevent intoxication-related traumatic injuries, deaths, and other damages and to establish a legal basis for obtaining compensation for persons suffering damages as a result of provision or service of alcoholic liquor to minors under circumstances described in the act.

Source

- Laws 2007, LB573, § 2.

53-403.

Terms, defined.

For purposes of the Minor Alcoholic Liquor Liability Act:

(1) Alcoholic liquor has the definition found in section 53-103.02;

(2) Intoxication means an impairment of a person's mental or physical faculties as a result of his or her use of alcoholic liquor so as to diminish the person's ability to think and act in the manner of a reasonably prudent person in full possession of his or her faculties using reasonable care under the same or similar circumstances;

(3) Licensee means a person holding a license issued under the Nebraska Liquor Control Act to sell alcoholic liquor at retail;

(4) Minor has the definition found in section 53-103.23;

(5) Retailer means a licensee, any agent or employee of the licensee acting within the scope and course of his or her employment, or any person who at the time of the events leading to an action under the Minor Alcoholic Liquor Liability Act was required to have a license issued under the Nebraska Liquor Control Act in order to sell alcoholic liquor at retail;

(6) Service of alcoholic liquor means any sale, gift, or other manner of conveying possession of alcoholic liquor; and

(7) Social host means a person who knowingly allows consumption of alcoholic liquor in his or her home or on property under his or her control by one or more minors. Social host does not include (a) a parent providing alcoholic liquor to only his or her minor child and to no other minors or (b) a religious corporation, organization, association, or society, and any authorized representative of such religious corporation, organization, association, or society, dispensing alcoholic liquor as part of any bona fide religious rite, ritual, or ceremony.

Source

- Laws 2007, LB573, § 3;
- Laws 2010, LB861, § 79.

Cross References

- **Nebraska Liquor Control Act,** see section 53-101.

53-404.

Cause of action authorized.

Any person who sustains injury or property damage, or the estate of any person killed, as a proximate result of the negligence of an intoxicated minor shall have, in addition to any other cause of action available in tort, a cause of action against:

(1) A social host who allowed the minor to consume alcoholic liquor in the social host's home or on property under his or her control;

(2) Any person who procured alcoholic liquor for the minor, other than with the permission and in the company of the minor's parent or guardian, when such person knew or should have known that the minor was a minor; or

(3) Any retailer who sold alcoholic liquor to the minor. The absolute defenses found in section 53-180.07 shall be available to a retailer in any cause of action brought under this section.

Source

- Laws 2007, LB573, § 4.

53-405.

Defense.

It shall be a complete defense in any action brought under the Minor Alcoholic Liquor Liability Act that the intoxication did not contribute to the negligent conduct.

Source

- Laws 2007, LB573, § 5.

53-406.

Limitation on cause of action.

No cause of action under the Minor Alcoholic Liquor Liability Act shall be available to the intoxicated person, his or her estate, or anyone whose claim is based upon injury to or death of the intoxicated person.

Source

- Laws 2007, LB573, § 6.

53-407.

Damages.

In an action under the Minor Alcoholic Liquor Liability Act, damages may be awarded for all actual damages, including damages for wrongful death, as in other tort actions.

Source

- Laws 2007, LB573, § 7.

53-408.

Statute of limitation.

Notwithstanding any other provision of law, any action under the Minor Alcoholic Liquor Liability Act shall be brought within four years after the occurrence causing the injury, property damage, or death.

Source

- Laws 2007, LB573, § 8.

53-409.

Effect of settlement and release; offset; joint and several liability; right of contribution.

(1) A plaintiff's settlement and release of one defendant in an action under the Minor Alcoholic Liquor Liability Act does not bar claims against any other defendant.

(2) The amount paid to a plaintiff in consideration for the settlement and release of a defendant in an action under the act shall be offset against all other subsequent judgments awarded to the plaintiff.

(3) The retailer, licensee, social host, person procuring alcoholic liquor for a minor, and minor who are defendants in an action brought under the act are jointly and severally liable in such action as provided in section 25-21,185.10 for those who act in concert to cause harm.

(4) In an action based on the act, the retailer, licensee, social host, person procuring alcoholic liquor for a minor, and minor shall have a right of contribution and not a right of subrogation from one another.

Source

- Laws 2007, LB573, § 9.

53-501.

Nebraska Craft Brewery Board; created; members; qualifications; vacancy.

(1) The Nebraska Craft Brewery Board is created. All board members shall be (a) citizens of Nebraska, (b) at least twenty-one years of age, and (c) either engaged in or previously engaged in the manufacture or the wholesale or retail sale of beer in this state or engaged or previously engaged in the production in this state of agricultural products that are utilized in the brewing process. The board shall consist of seven members to be appointed by the Governor on a nonpartisan basis. At least two board members shall be selected by the Governor from a list of no fewer than ten candidates submitted by the Nebraska Craft Brewers Guild or its successor organization. In addition, at least two board members shall be selected by the Governor from a list of no fewer than ten candidates submitted by the Associated Beverage Distributors of Nebraska or its successor organization. The Director of Agriculture or his or her designee and the executive director of the Nebraska Tourism Commission or his or her designee shall be nonvoting, ex officio members of the board.

(2) Whenever a vacancy occurs on the board for any reason, the Governor shall appoint an individual to fill such vacancy pursuant to the qualifications set forth in subsection (1) of this section.

Source

- Laws 2016, LB1105, § 1.

53-502.

Nebraska Craft Brewery Board; meetings; members; terms; expenses; removal; procedure.

(1) Within thirty days after the appointment of the initial members of the Nebraska Craft Brewery Board, such board shall conduct its first regular meeting. During that meeting, the board members shall elect from among themselves, by majority vote, a chairperson, vice-chairperson, secretary, and treasurer, all to serve for terms of one year from the date of election. Subsequent board meetings shall take place at least once every six months and at such times as called by the chairperson or by any three board members.

(2) Each member shall serve for a term of three years, except that at the expiration of the terms of the members in 2022, the Governor shall appoint two members for a term of one year, two members for a term of two years, and three members for a term of three years, and their successors shall be appointed for a term of three years. Upon completion of a term, a member may, at the Governor's discretion, be reappointed.

(3) All voting members of the board shall be reimbursed for expenses incurred while engaged in the performance of official responsibilities as members of such board pursuant to sections 81-1174 to 81-1177.

(4) A member may be removed by the Governor for cause. The member shall first be given a written copy of the charges against him or her and also an opportunity to be heard publicly. If a member moves out of Nebraska, that shall be deemed sufficient cause for removal from office.

Source

- Laws 2016, LB1105, § 2;
- Laws 2019, LB624, § 1;
- Laws 2020, LB381, § 47.

53-503.

Nebraska Craft Brewery Board; powers and duties.

The Nebraska Craft Brewery Board has the following powers and duties:

(1) Establish a public forum to provide any manufacturer of beer or producer of agricultural products used in the brewing process the opportunity, at least once annually, to discuss with the board its policies and procedures;

(2) Keep minutes of its meetings and other books and records which will clearly reflect all of the acts and transactions of the board and to make these records available for examination upon request by members of the public;

(3) Authorize and approve the expenditure of funds collected pursuant to section 53-504;

(4) Serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the beer industry; and

(5) Adopt and promulgate rules and regulations to carry out sections 53-501 to 53-505.

Source

- Laws 2016, LB1105, § 3.

53-504.

Nebraska Beer Industry Promotional Fund; created; use; investment; holder of craft brewery license; annual fee; use.

(1) The Nebraska Beer Industry Promotional Fund is created. The fund shall consist of money credited pursuant to this section, fees received from shipping licenses issued to beer manufacturers pursuant to subsection (2) of section 53-123.15, gifts, grants, bequests, and any money appropriated by the Legislature. For administrative purposes, the fund shall be located in the Department of Agriculture.

(2) Beginning July 1, 2016, in addition to the annual license fee imposed by section 53-124.01, each holder of a craft brewery license shall pay an annual fee in the amount of two hundred fifty dollars to the Nebraska Liquor Control Commission or shall opt out of paying the additional fee on forms provided by the commission. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Nebraska Beer Industry Promotional Fund.

(3) The Department of Agriculture, at the direction of and in cooperation with the Nebraska Craft Brewery Board, shall use the Nebraska Beer Industry Promotional Fund to develop and maintain programs for the research and advancement of the beer brewing process, the marketing and promotion of the beer industry in Nebraska, and the marketing and promotion of agricultural products and their byproducts grown and produced in Nebraska for use in the beer industry. Such expenditures may include, but are not limited to, all necessary funding for the employment of experts in the field of beer brewing and business development, as deemed necessary by the board, and programs to carry out the purposes of this subsection. None of the money credited to the Nebraska Beer Industry Promotional Fund may be used for lobbying purposes.

(4) Money in the Nebraska Beer Industry Promotional Fund not expended during any fiscal year may be reappropriated for the ensuing biennium. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source

- Laws 2016, LB1105, § 4.

Cross References

- **Nebraska Capital Expansion Act,** see section 72-1269.
- **Nebraska State Funds Investment Act,** see section 72-1260.

53-505.

Nebraska Craft Brewery Board; annual report; contents; fee.

(1) The Nebraska Craft Brewery Board shall publish an annual report on or before January 1 of each year which shall set forth in detail the following:

(a) The name and address of each board member and a copy of all rules and regulations adopted and promulgated by the board; and

(b) A detailed explanation of all programs for which the board approved funding during the most recently completed fiscal year pursuant to section 53-504.

(2) Each annual report shall be presented electronically to the Nebraska Liquor Control Commission within thirty days after its publication and made available also to any person who requests a copy. Except for the annual copy required by this section to be provided to the commission, the board may charge a nominal fee to cover the costs of printing and postage for making available copies of its annual reports.

Source

- Laws 2016, LB1105, § 5.

Nebraska Liquor Control Commission
Nebraska Rules and Regulations

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CHAPTER 1 - PRACTICE AND PROCEDURE

001 PUBLIC MEETINGS

01.01 Public meetings of the Nebraska Liquor Control Commission shall be held at its headquarters office, located at 301 Centennial Mall South, Lincoln, Nebraska, as noticed by the Commission unless otherwise ordered by the Commission.

01.02 Notice of the time and date of public meetings, along with an agenda of the subject matters to be considered at each public meeting shall be posted by the Executive Director of the Commission at headquarters office for the purpose of public notice, inspection and review at least three days prior to the each meeting of the Commission provided, at least two of the three days shall be days in which the headquarters office is open for general business, and provided further, when it is necessary to hold an emergency meeting without reasonable advance public notice the nature of the emergency shall be stated in the minutes and any formal action taken at such meeting shall pertain only to the emergency.

01.03 Public presentation(s) before the Commission at a public meeting shall be allowed at the start of a scheduled meeting with the following provisions:

001.03A Any written materials presented to the Commission shall be done so by submitting four copies thereof to the Executive Director who shall distribute a copy to each Commissioner;

001.03B The Commission may limit the length of time for public presentations; and may limit the content of any public presentation to matters of policy rule and

or regulation, and not matters regarding specific contested cases, current litigation or third party petitions.

001.03C In the interest of Commission review regarding any subject matter before it in a public meeting, the Commission may waive the provisions set out hereinabove established by this paragraph.

02 CONTESTED CASES

02.01 Notices of formal hearings conducted under the provisions of the Nebraska Liquor Control Act and the Rules and Regulations of the Nebraska Liquor Control Commission shall contain the following:

002.01A The date and time of the hearing;

002.01B The place of the hearing;

002.01C The nature of the proceeding; and

02.01 D The issues involved, if they can be fully stated at the time. If the issues cannot be fully stated at the time of the notice, and amended notice containing the issues involved shall be issued as soon as the issues can be fully stated.

02.02 Continuances agreed and consented to by all parties to a hearing shall be allowed for a period of the time not to exceed 30 days. Any continuances of a hearing beyond the 30 days shall be accepted or denied by the Commission.

02.03 The Commission may order two or more proceedings, which are legally or factually related, to be heard and considered together on a consolidated record unless any party thereto makes a showing sufficient to satisfy the Commission that prejudice would result therefrom.

02.04 The Commission may procure waiver of any notice required by this rule from all parties to a proceedings and hold the hearing as soon as necessary. In the event the Commission declares an emergency exists, the Commission may, upon written notice to the parties, waive any or all of the requirements of this rule and set a matter for hearing as soon as the Commission determines that it is required by the public interest.

02.05 In all proceedings wherein the Commission has authority to subpoena witnesses, a subpoena requiring the attendance of a witness will be issued by the Commission on written application of any party, or on the order of the Commission. Subpoenas for the production of accounts, books, documents, electronic records, and associated data storage devices and media, video tapes or digital video storage devices, or paper are required and the facts expected to be proved thereby. All parties directed to produce accounts, books, documents, or papers shall furnish and deliver the same at the time and to the place

specified in the subpoena. A subpoena issued pursuant to this rule shall be served in a manner permitted by law which shall include service by certified mail, return receipt requested. In the case of disobedience to a subpoena, the Commission may invoke the aid of any court of this state in requiring the attendance and testimony of the witnesses and the production of accounts, books, documents, electronic records, and associated data storage devices and media, video tapes or digital video storage devices, or papers. Any charges for service of a subpoena are to be paid prior to the date set for hearing by the parties at whose instance the subpoena is issued.

02.06 Any witness who is summoned and who responds thereto is entitled to the same fees and expenses as is paid for like service in the District Court for the county wherein such hearing is held. Mileage for officers and fees for service of documents served by Order of the Commission, when served by law enforcement officers, shall be equal to those established by law in similar cases for charges in the District Court of said county.

02.07 The taking of depositions and proceedings before the Commission shall be in the manner prescribed by law for taking depositions in civil actions in the District Courts for the State of Nebraska.

02.08 Formal hearings held before the Commission shall conform to the requirements of Chapter 84, Section 914, R.R.S., Nebraska, as amended, unless otherwise provided for by this rule.

02.09 The Commission, when it deems it necessary in the enforcement of the laws of Nebraska and Rules and Regulations of the Commission, may cite a licensee before it for a formal hearing. The citations shall be in writing and definitely state the charges or complaints the licensee is called upon to answer. The charges or complaint that the licensee is called upon to answer may be amended at the time of the hearing provided the amended charges or complaint is agreed to by the licensee called upon to answer. The Commission may authorize certain law enforcement officers to issue citations to licensees.

02.10 If it is found by the Commission that any licensee is violating any provisions of the Nebraska Liquor Control Act or the Rules and Regulations of the Commission promulgated thereunder, or is failing to observe in good faith the purposes of said act, the license of such licensee may be suspended, cancelled or revoked by the Commission.

02.11 The licensee may appear in person and by counsel, and produce such witnesses and evidence as the licensee deems necessary in the protection of the licensee's interest.

02.12 Upon the suspension, cancellation or revocation of any license, the local governing body shall be notified of such suspension, cancellation or revocation and said licensee shall be prohibited from operation under such license during such period of time.

02.13 All orders or decisions of the Commission and rehearing's or appeals of such orders or decisions of the Commission shall conform to the requirements of Chapter 53, Section 1,116, R.R.S., Nebraska, as amended. All orders and decisions of the Commission assessing penalties, fixing the time of hearings or rehearings, or pertaining to motions filed with respect to the same, shall become effective as such when recorded in the records of the Commission.

02.14 The Commission may employ a hearing officer who shall assist the Commission with the review of any issue or matter which the Commission deems proper in order to carry out the provisions of the Nebraska Liquor Control Act and who shall perform such other duties as the Commission may prescribe, provided, any issue or matter reviewed by a hearing officer involving a contested case shall conform to the requirements of 237-LCC1-002, and provided further, if a hearing is conducted by a hearing officer, the hearing officer shall submit a report of the findings made by such hearing officer along with a recommendation of order or decision to the Commission within 20 days of the date of such hearing, and a copy of the report and recommendation of the hearing officer shall be forwarded to all parties requesting the same, and provided further, any recommendation of order or decision made to the Commission by a hearing officer will not be considered an order or decision of the Commission unless accepted and affirmed by the Commission, and the Commission may further reverse, adopt, modify, supplement, amend or reject the recommendation of order or decision by the hearing officer, in whole or in part, and provided further, upon its motion or motion by any party to a hearing held before a hearing officer, the Commission shall allow a rehearing before the Commission of any issue or matter reviewed by a hearing officer. The written motion by an outside party shall be in writing and must be made within 20 days of the date of the Commission's decision and shall include the reasons why a rehearing should take place.

02.15 Any hearing conducted by a hearing officer shall require the department to prepare an official record of the hearing, including all testimony recorded mechanically or stenographically, and all exhibits introduced. The department is not required to transcribe such record except pursuant to an appeal, except that, upon written request and receipt of a reasonable fee for transcribing such record, the department may transcribe the record or allow for its transcription by the persons requesting.

03 PROMULGATION, AMENDMENT OR REPEAL OF RULES: DECLARATORY RULINGS

03.01 Any interested person may petition the Commission requesting the promulgation, amendment or repeal of any rule of the Nebraska Liquor Control Commission. The form for such petition or procedure for the submission, consideration or disposition of such petition shall be as set forth and provided for by 237-LCC1-004.

03.02 Any interested person may petition the Commission to issue a declaratory ruling with respect to the applicability to any person, property or state of facts or any rule or

statute enforceable by the Commission. The form for such petition or procedure for the submission, consideration or disposition of such petition shall be set forth and provided for by 237-LCC1-004. A declaratory ruling, if issued after argument and stated to be binding upon the petitioner or the Commission by the Nebraska Liquor Control Commission shall remain binding unless it is altered or set aside by a court.

03.03 Submission of petitions as allowed for by 237-LCC1-004 shall be made to the Nebraska Liquor Control Commission in duplicate. The Commission shall offer consideration of any petition submitted as set forth hereinabove within a reasonable amount of time at a public meeting or by hearing before the Commission. After consideration of any petition received by the Commission as set forth hereinabove, the Commission shall dispose of the same by proper order of the Commission.

04 PETITION: FORM:

BEFORE THE NEBRASKA LIQUOR CONTROL COMMISSION
STATE OF NEBRASKA

In the matter of:

_____)
_____)
_____)

Petition For:

_____
_____
_____
(Specify request for promulgation or repeal of rule or for declaratory ruling on)

(Give name & address of petitioner) _____
_____
_____
_____
_____
(Specify statute or rule)

COMES NOW PETITIONER and requests the Nebraska Liquor Control Commission for
a(n) (promulgation, amendment or repeal of rule_____) or declaratory ruling with respect
to the applicability of the aforementioned (specify statute or rule).

The following are statements of facts that shall apply:

_____
_____
_____
_____
_____

Petitioner states that the aforementioned (request for promulgation, amendment or repeal of rule) or (declaratory ruling) is needed for the following reason(s):

(Show how an appropriate action of the Commission would be in the best interest of the State of Nebraska or would terminate controversy or uncertainty) Petitioner alleges that the
following named persons are the only persons who have or claim any interest, or would be
affected by the disposition of this petition:

(Name) (Address) (City) (State)

WHEREFORE, petitioner prays that the Nebraska Liquor Control Commission take the following action:

(Date) (Signature of Petitioner)

05 FAILURE TO COMPLY WITH ORDER OF COMMISSION

05.01 Willful failure or refusal by a licensee to comply with a specific written order of the Commission, which has been made by the Commission, in the enforcement of the laws of Nebraska or rules of the Commission, shall be grounds for suspension, cancellation or revocation of said license after formal public hearing.

06 MANDATORY MEETING

06.01 The Commission may order any licensee to appear before it to discuss in an informal matter any issue involving that licensee which is of concern to the Commission. Failure to comply with an order requiring a licensee to appear before the Commission may result in an action for failure to comply with an order of the Commission.

07 PENALTY IN ABEYANCE

07.01 It is the intent of the Nebraska Liquor Control Commission to provide assistance to liquor licensees in obtaining guidance for good management skills and styles, to facilitate operating their businesses within the guidelines established by the Nebraska State Statutes and Liquor Control Commission's rules.

07.02 The "Penalty In Abeyance" allows the Liquor Control Commission to delay a penalty for a violation (in abeyance) for a period of time. This period of time allows the Commission to scrutinize the management, premises, and training of employees of the licensee. The Commission may determine, through this process, that a lesser penalty is warranted for the violation.

07.03 During the period the penalty is held in abeyance, the licensee may be required to follow certain guidelines. Some corrective actions may be required to improve management styles, including employee training. This period of time will allow the Commission to exercise its "broad powers" to improve professional liquor dispensing in licensed establishments in Nebraska.

07.04 Should the Commission elect to require a licensee or employees to receive server training during the period of abeyance, the course shall be one approved by the education review committee as appointed by the Commission.

07.05 Should the Commission require the licensee to report to a designee during the period of abeyance, the designee may be an employee of the Liquor Control Commission, an officer of the Nebraska State Patrol or other enforcement agency, or other local authority selected by the Commission.

07.06 The "penalty in abeyance" process would follow these steps:

007.06A On the day of hearing:

007.06A1 Liquor Control Commission finds licensee guilty of violation.

007.06A2 Penalty is placed in abeyance for a period of 12 months (or other appropriate time period).

007.06A3 "Preconditions of sanction" are explained and written copy furnished to licensee.

007.06A4 Entry is made on licensee's record that there is a penalty in abeyance.

007.06B Upon successful completion of period of abeyance:

007.06B1 Preconditions have been successfully met.

007.06B2 Placed on Commission's hearing agenda for final disposition.

007.06B3 Commission would establish penalty (i.e., letter of reprimand, minimal suspension, etc.).

007.06B4 Entry is made on licensee's record of final sanction.

007.06C Upon unsuccessful completion of period of abeyance:

007.06C1 Should a violation of the established precondition occur:

007.06C1A The license would be set for a show cause hearing to show why abeyance should not be terminated and immediate sanctions imposed.

007.06C2 Should a violation of statute, rule, etc. occur during period of abeyance:

007.06C2A Hearing is held on 2nd offense.

007.06C2B Finding of guilt for new offense (If found not guilty, abeyance continues).

007.06C2C Appeal period of new offense is exhausted.

007.06C2D Show cause hearing is placed on agenda to show cause why abeyance should not be terminated and immediate sanctions imposed.

007.06C2E Sanction for first violation is imposed.

007.06C2F Entry is placed on licensee's record of final sanction.

08 PENALTY FOR LATE FEES

08.01 Every licensee shall pay all fees required under the Liquor Control Act in a timely manner. The failure to pay a requisite fee by the date prescribed by law and regulation may result in the suspension, cancellation or revocation of the license held, after a formal hearing before the Commission.

010 CLOSING TIME ORDINANCES/RESOLUTIONS

010.01 In the event of a 2am closing time, clerks shall notify the Commission in writing and attach a copy of the ordinance or resolution.

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CHAPTER 2 – GENERAL REQUIREMENTS FOR LICENSEES

001 GENERAL REQUIREMENTS

01.01 The licensee shall, at all times, be responsible for the licensed premises and for the control, sale and dispensing of alcoholic liquors permitted by the license. Only the licensee may receive the proceeds resulting from the sale or dispensing of alcoholic liquor except (a) a manager may receive a percentage of gross or net sales as employment compensation, (b) a landlord may receive a percentage of gross sales as rent, (c) the franchisor may receive a percentage of gross sales as a franchise fee and (d) except whereas otherwise provided by the provisions of the Nebraska Liquor Control Act.

01.02 In cases wherein the Commission has fixed certain requirements and prescribed certain conditions upon which a license is granted or is permitted to continue in full force and effect by order of the Commission, whether such requirements or conditions are imposed at a formal hearing, by a written notice or in a written stipulation, such requirements or conditions shall be deemed a part of the license issued by the Commission as though actually endorsed thereon; and any violation or breach of any such requirements or conditions is prohibited.

02 PARTNERSHIP WHEN BUSINESS OPERATED ON PERCENTAGE OR SHARE BASIS

02.01 Any license covering premises financed or operated on a percentage or share of the business basis will be considered a partnership between the parties involved insofar as the rights and duties of the licensee of record under his license are concerned.

03 TRANSFER OF STOCK OF TERMINATED LICENSE

03.01 When a licensee has discontinued business under his license and his license has been terminated, he may apply in writing to the Commission for permission to transfer his stock of alcoholic liquors to another qualified licensee. He shall furnish the Commission with an inventory of the liquors contemplated in such transfer.

03.02 The licensee who desires to purchase such stock of liquor shall also apply in writing to the Commission for permission to make such purchase and he shall report to the Commission in writing the quantity, brands, and types of such liquor purchased and the address to which it was actually delivered after the purchase.

04 TEMPORARY OPERATING PERMITS

04.01 Someone other than a licensee may operate a business holding a liquor license if all of the following criteria are met:

004.01A A formal application for a new license must be on file with the Commission.

004.01B A request for a temporary operating permit must be filed with the application.

004.01C Temporary operating permits may not exceed 90 days in total duration.

04.01 D If the sale of the business fails to occur, the previous licensee can be reinstated during the pendency of the temporary operating permit upon request of the previous license holder.

04.02 Any violations occurring during the pendency of a temporary operating permit will be adjudicated in the following manner:

004.02A Any violations occurring during the temporary operating permit will be used and conferred upon a license if issued. Any violation may be used to determine the fitness of the applicant to receive the requested license.

05 LICENSE APPLICATION REQUIREMENTS

05.01 A person applying for a license of any kind, except those issued under Neb. Rev. Stat. 53-124.11, shall file with their license application (1) birth certificate or naturalization papers proving United States citizenship, and (2) the required fingerprints card(s) and fee(s). Fingerprints filed with the Nebraska Liquor Control Commission within the past two years of the filing of the application shall meet this requirement.

005.01A For corporations, fingerprints are required of the Chief Executive Officer, the manager, or any stockholder owning in the aggregate more than twenty-five percent of the stock of such corporation. For nonprofit corporations and governmental subdivision, this shall only mean the manager. [No citizenship or residency requirements per Sec. 53-125(9)]

005.01B Fingerprints of spouses, including those ineligible to hold a license, will not be required upon receipt of a signed affidavit of no interest, upon the form provided by the Nebraska Liquor Control Commission.

05.01 C For corporations owning shares in the applicant's corporation, the Chief Executive officer and/or President and any shareholder owning in the aggregate more than twenty-five percent of the stock of the corporation shall file an affidavit on a form supplied by the Commission stating that they are eligible to hold a license under the Nebraska Liquor Control Act.

05.02 Any proposed change from a profit to a nonprofit or from a nonprofit to a for profit license shall require the filing of a new application.

05.03 Any change from an individual license to a partnership, when adding a spouse, or when an individual or partnership incorporates, with no additional partners, or from a

corporation to an individual, shall not require the filing of a new application, but may be done by the filing of an affidavit with the Nebraska Liquor Control Commission.

06 RESIDENCY REQUIREMENTS

06.01 Any licensee, required to be a state resident must be a registered voter in Nebraska and must, if a vehicle is owned, have at least one such owned vehicle registered in Nebraska.

06.02 Additionally, all licensees are required to do any two of the following:

006.02A Own or rent property in Nebraska;

006.02B Have a mailing address in Nebraska;

006.02C Actually reside in Nebraska;

006.02D Use a Nebraska address on tax returns.

08 TRADE NAME

08.01 The Liquor Control Commission shall be notified in writing of any change in an operating trade name (DBA). Notification shall be made by licensee within thirty (30) days of change.

09 MANAGER APPLICATION

09.01 Upon departure, death or termination of a manager, a licensed corporation shall file an application with the Liquor Control Commission for a new manager within sixty (60) days. Should the corporation be unable to establish a manager within sixty (60) days, the corporation may apply for a hardship.

10 FALSIFICATION OF APPLICATION

10.01 No applicant for a liquor license, or partner, principal, agent or employee of any applicant for a liquor license shall provide false or misleading information to the Nebraska Liquor Control Commission, its executive director, or employees. Any violation of this provision may result in denial of application for a liquor license or, in the event that a license has already been issued, suspension, cancellation or revocation of such license.

11 FALSIFICATION OF INFORMATION

11.01 No licensee or partner, principal, agent or employee of any licensee shall provide false or misleading information to the Nebraska Liquor Control Commission, its

executive director or employees. Any violation of this provision may result in suspension, cancellation or revocation of such license.

12 DEFINITIONS

12.01 "School" shall mean a building which is used as a place for the instruction of pupils in elementary or high school grades, and which is owned, leased, or otherwise under the jurisdiction and control of a public school district or the administrative body of a private, denominational or parochial school accredited by the State Board of Education, provided, that a satellite location that is not adjacent to the school's primary location and which serves not more than 25% of the number of students enrolled at such school shall not be considered a "school" for purposes of Neb. Rev. Stat. Rec. 53-177. A student attending a satellite location and the school's primary location shall be counted as served by the satellite location.

12.02 "College" shall mean a technical community college, a state college, or a private college approved by the Nebraska Coordinating Commission for Postsecondary Education.

12.03 "University" shall mean two or more colleges under a central administration, offering baccalaureate and/or graduate degree program.

12.04 "Campus" shall mean any buildings owned, leased, or otherwise under the jurisdiction and control of the administration of a college or university, which are used as a place for the education of students or for student living quarters, and the grounds surrounding such buildings, provided that a satellite location that is not adjacent to a university or college's primary location and which serves not more than 25% of the number of students enrolled at such university or college shall not be considered a "campus" for purposes of Neb. Rev. Stat. Sec 53-177. A student attending a satellite location and the university or college's primary location shall be counted as served by the satellite location.

12.05 "Church" shall mean a building where people regularly assemble for worship and for the administration of such offices and is held out to the public as a house of worship and used predominately for the honor of religion and includes, but is not limited to, a building such as a mosque, synagogue or a temple.

12.06 "Guest" shall mean a patron of a club, as defined in Sec. 53-103(20), who comes to the club at the invitation of a member and who uses the club's services or facilities while accompanied by that member. Nothing herein shall prevent clubs from entering into reciprocity agreements to enable a member of one club to use the services or facilities of another club.

12.07 Outdoor area shall mean an outdoor area included in licensed premises, which is used for the service and consumption of alcoholic liquors and which is contained by a

permanent fence, wall or other barrier approved by the Commission and shall be in compliance with all building and fire, or other applicable local ordinances.

012.08 Satellite Locations: Craft Breweries, a holder of a Class L craft brewery liquor license under Neb. Rev. Stat. 53-123.14 and a holder of a manufacturing license under Neb. Rev. Stat. 53-123.01(2) may hold additional retail licensed locations as authorized by Neb. Rev. Stat. 53-123.14 and 53-123.01(2), hereinafter called Satellite Locations. A Satellite Location must be licensed for the sale of alcohol at retail and conform to all other requirements for a retail license. To qualify as a Satellite Location, it must be wholly owned in common by the holder of the Class L brewery license under Neb. Rev. Stat. 53-123.14 or the holder of the manufacturing license under Neb. Rev. Stat. 53-123.01(2). Such Class L brewery licensee under Neb. Rev. Stat. 53-123.14 or manufacturing licensee under Neb. Rev. Stat. 53-123.01(2) may transfer product produced at the licensed brewery to its Satellite Locations without the use of a Nebraska Wholesaler. However, proper documentation of all quantities of transfers shall be maintained by such Class L brewery licensee under Neb. Rev. Stat. 53-123.14 or manufacturing licensee under Neb. Rev. Stat. 53-123.01(2). Any sale to any licensed retailer other than a Satellite Location must be accomplished through a Nebraska Wholesaler.

13 SPECIAL DESIGNATED LICENSES

13.01 Except as provided for in 013.04 all applications for a special designated license, with local governing body approval, and proper fees, must be received by the Commission at least ten working days prior to the event. Such notice is required to enable a reasonable notification to the Nebraska State Patrol, local law enforcement, the fire marshal, and the sanitation division of the Department of Agriculture. Applications not received at least ten working days prior to the event will not be processed.

13.02 In connection with each event, the applicant must provide a written showing of estimated size of the crowd and how it intends to assure that alcohol will not be served to minors and intoxicated persons.

13.03 Each of the following conditions, unless waived or modified as herein provided, shall apply to all Special Designated Liquor Licenses issued to organizations that do not hold a valid retail or caterer's liquor license.

> **013.03A** Events attended by more than 150 people that includes minors unaccompanied by a parent (excluding minors acting as service personnel and minors attending as program or entertainment participants) shall conduct age checking at the entrance to the licensed area and all adults shall be identified with wrist bands that are destroyed by removal.

013.03B At events attended by more than 150 people which do not involve a sit down meal served to all attendees simultaneously there shall be a minimum of one security person for attendees up to 200 and one more security person for each 200 additional. Security personnel whether paid or volunteer shall have no duties other than maintaining order and enforcing all liquor laws and license conditions including prohibiting minors and intoxicated attendees from consuming or possessing alcohol. All security personnel shall be dressed in distinctive clothing with visual markings identifying them as security personnel.

013.03C The individual designated on the license as the event supervisor shall be in the licensed area at all times alcohol is being served and the immediate post clean up period. If the event supervisor is to be absent from the licensed premise during any part of the designated period, the event supervisor must designate a person to be in charge in his/her absence.

013.03D All workers performing duties for the sponsoring organization at the licensed event whether paid or volunteers shall refrain from consuming alcohol while on duty during the event and any immediate post event clean up period.

013.03E If minors are in attendance at events of more than 150 people (excluding minors attending as service personnel and minors attending as program or entertainment participants) alcoholic drinks shall be served in distinctively different containers than those in which non-alcoholic drinks are served.

013.03F At outdoor events attended by more than 150 people where non-attendees have access to property adjacent to any portion of the licensed area all open areas (defined below) with the exception of a reasonably sized access and exit aisle shall have double row fencing with plastic or wood snow fence materials (or equal). The two rows of fence shall be at least 4 feet apart with clear space between the two rows of fence. Open areas are all portions of the licensed area which adjoin areas that can be used or occupied by non-attendees where there is not a solid wall or chain link fence at least 6 feet in height. Except for people entering and exiting the licensed area all attendees shall remain inside the interior row of fencing.

13.03 G Any condition may be waived or modified by the Liquor Control Commission upon a showing by the applicant that such condition is not necessary for the promotion of the health, safety and welfare of the people of the state.

13.04 Applications for Special Designated Liquor Licenses by non-licensees requesting a waiver or modification of conditions along with the reasons and justification for such waiver or modification must be received by the Liquor Control Commission at least 30 calendar days prior to the licensed event. When no waiver or

modification is required the Commission must receive Special Designated Liquor License applications at least 10 working days prior to the licensed event.

13.05 All Special Designated Liquor Licenses issued to organizations that do not hold a valid retail or caterer's liquor license will list all the applicable conditions that are a part of that license.

13.06 It is the declared policy of the Commission that Special Designated Licenses should not be used to avoid the oversight and accountability imposed upon a regular retail license. Therefore, applications for Special Designated Licenses may be denied if the proposed location could otherwise be granted a regular license and if such regular license best serves the purposes of the Liquor Control Act. To help accomplish this policy any location that has received twelve (12) Special Designated Licenses in one calendar year shall have any further applications set for hearing to make a determination whether additional licenses are justified prior to the issuance of the requested Special Designated License.

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CHAPTER 3 - CORPORATIONS/PARTNERSHIPS

001 RESIDENT MANAGER FOR CORPORATION

01.01 In the case of a corporation making application for a retail or wholesale license under the Nebraska Liquor Control Act, a resident manager qualified under the laws of Nebraska shall be appointed as by law provided.

01.02 Any person desiring to obtain status as a manager for a corporate license currently in effect and issued by the Nebraska Liquor Control Commission shall file with the Commission:

001.02A An application upon such forms that the Commission may from time to time prescribe;

02 CHANGE OF OWNERSHIP OR CONTROL - CORPORATIONS AND PARTNERSHIPS

002.01 General Partnerships: When a licensee operating as a general partnership acquires a new partner, the licensee must at once make that fact known to the Commission. The Commission may require such information and documentation as it deems necessary from the new partner to enable the State Patrol to complete a background check of the new partner, and/or the Commission may require the partnership to submit an application for a new license. One of the general partners must be named as agent. If the general partner is a corporation, one individual must be named as agent (or person in charge) with the filing of a manager's application.

002.02 When one general partner sells part or all of his interest in a licensed business to another existing general partner, or when an existing general partner or general partners acquires by any lawful means an interest held by another general partner or general partners, that fact must be made known to the Commission by a sworn affidavit, however, an application for a new license need not be made.

002.03 Limited Partnerships: When any business is operated as a limited partnership and one or more of the limited partnerships are sold to another, whether that limited partner is an existing partner or not, the existence of the change in the limited partnership must be made known to the Commission by affidavit within ten days, however, an application for a new license need not be made.

002.04 Corporations: All direct or indirect interests in a license held in whole or part by a corporation must be disclosed to the Commission in the application for a liquor license. When any corporation applying for a license has outstanding shares issued to a corporation and/or holding company, that fact must be disclosed in the application. Each corporation listed on the application must disclose any corporation and/or holding company which hold shares in it. For each corporation and/or holding company disclosed, a disclosure shall be made of each shareholder owning in the aggregate more than 25% of the corporation. Any applicant who has a corporation as a shareholder shall file an organizational chart which lists all shareholders which are either a corporation and/or any shareholder which owns in the aggregate more than 25% of the stock of the corporation.

002.05 Corporations: Any transfer of the outstanding and issued stock of a corporation holding a license which results in any person holding in the aggregate more than twenty-five percent of all of the outstanding and issued stock of such corporation shall be communicated to the Commission within ten days in writing by certified or registered mail, along with an affidavit of said stockholder in the form prescribed by the Commission, concerning whether or not he is qualified to meet the standards established by law for those to whom such a license may be issued as an individual, other than citizenship or residence; in the event such stockholder fails to qualify as hereinbefore set out as a licensee under the Nebraska Liquor Control Act said corporation shall be notified in writing by certified or registered mail, and shall within twenty days of the notification surrender for cancellation said corporate license or show cause why the same should not be surrendered for cancellation or file with the

Commission an application for a new liquor license in the manner prescribed by law and regulation.

002.06 The sale of the majority of the corporate outstanding and issued stock or the transfer of the control of the majority of such outstanding and issued stock by a power of attorney or proxy filed with said corporation or held by any person or exercised at any stockholders meeting of a corporation holding a wholesale or retail license under the Nebraska Liquor Control Act shall constitute a change of ownership of said corporation. The corporation shall notify the Commission at once of such a change of ownership. The Commission may require such information and documentation as it deems necessary from the new owner(s) to enable the State Patrol to complete a background check of those new owner(s) and/or the Commission may require the corporation to submit an application for a new license. When all or part of the outstanding and issued stock of a corporation is held by any number of stockholders, and one or more existing stockholder acquires by sale or transfer any part of or all the outstanding and issued stock held by another existing stockholder, that fact must be made known to the Commission within 10 days of such transfer, by a sworn affidavit stating the number of shares having been transferred and whether or not the transferee is qualified to meet the standards established by law for those to whom such a license may be issued as an individual, other than citizenship or residence, but an application for a new license need not be made.

002.07 Any time any person or persons acquire for the first time a beneficial interest in the form of ownership of outstanding and issued stock in any licensed corporation in an amount equal to more than five percent of the outstanding and issued corporate stock that person must inform the Commission by affidavit of the other liquor license in which a beneficial interest is possessed, if any, within ten days by registered mail. Provided, however, any corporate licensee listed on the New York Stock Exchange, or any corporate licensee having one hundred or more shareholders need only so inform the Commission of any such beneficial interest of persons comprising the ten largest stockholders of that corporation.

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CHAPTER 4 - STORAGE AND TRANSPORTATION OF ALCOHOLIC LIQUORS

01 STORAGE OF LIQUOR BY RETAIL LICENSEE

01.01 All liquors shall be stored and maintained in the licensed premises of the licensee in a safe manner, and no such liquors shall be stored in any other place than the licensed premises except after application submitted in writing to the Commission by said licensee and receipt by said licensee of written authority from the Commission.

01.02 Officers of the Nebraska State Patrol or agents of the Commission may grant temporary permission for storage of any liquors off the licensed premises, upon notification to the Commission staff of such temporary permission as soon as practical. An application submitted in writing for storage off the licensed premises shall be submitted to the Commission by said licensee as soon as possible.

02 TRANSPORTATION OF LIQUOR BY RETAIL LICENSEES

02.01 A retail licensee shall not permit the transportation of alcoholic liquor from his licensed premises for storage purposes in any manner, for any purpose, or to any location other than has been expressly authorized in writing by the Commission.

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CHAPTER 5 - LABELS AND CONTAINERS

001 LABELS

001.01 Labels attached to all original containers or packages of alcoholic liquor offered for sale in this state shall set forth in plain and legible print in the English language:

001.01A The quantity of such liquors in such original containers;

001.01B The grade and quality of such liquors together with their alcoholic content (except beer);

001.01C The age of such liquor (except beer and wine) if required by federal regulations;

01.01 D If the liquor be a blended product, the labels shall include the other ingredients contained in such blended product.

01.02 The labels shall not contain any false or misleading statements or representations. The label of every container of beer shall set forth the name and address of the brewer.

002 CONTAINERS

002.01 All original containers with alcoholic liquors, sold or offered for sale in this State, shall be constructed of such material and be in such form as has been generally found and recognized by State and Federal Enforcement Officers to be safe, sanitary and in no manner prejudicial to the health and interest of the public.

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CHAPTER 6 LICENSEE OPERATIONS

53-168

01 SIGNS

01.01 The Nebraska Liquor Control Act, Chapter 53, Section 118, establishes in the Commission, the power to promulgate a Rule or Regulation establishing standards of honest advertising and representation.

01.02 Signs and advertisements shall not contain:

001.02A Any statement, illustration, design, device or representation that is false or misleading;

001.02B Any statement, illustration, design, device or representation which is obscene or indecent or which is obnoxious or offensive to the commonly and generally accepted standards of fitness and good taste;

001.02C Any statement of, or reference to, a price of an alcoholic liquor which is deceptive or misleading or tends to deceive or mislead;

001.02D Any illustration which is not dignified, modest and in good taste;

001.02E Any scene which promotes the sale of alcoholic liquors, including beer, to minors in which is portrayed a child or objects suggestive of the presence of a child or in any manner portrays the likeness of a child or contains the use of figures or symbols which are traditionally associated with children;

001.02F Any statement, design, device or representation relating to any refund, exchange, or money-back guarantee, irrespective of truth or falsity;

001.02G Any reference by name or other identification to any other licensed retailers; or

001.02H Any statement, design, device, or representation which the Nebraska Liquor Control Commission finds to be likely to mislead the consumer.

02 SAMPLING/TASTING

02.01 Sampling

002.01A Retailers and their employees may sample limited quantities of beer, wine or spirits furnished or dispensed by a manufacturer or wholesaler whether the license permits consumption on or off the licensed premises. (53-123.02)

002.01B Conditions

002.01B1 sampling may also be done on the premises of a licensed wholesaler by a licensed retailer (53-123.02, 53-123.03),

002.01B2 consumption shall not exceed more than five samples of one fluid ounce or less of alcoholic liquor by the same person in a twenty-four hour period [53-103(37)],

002.01B3 no samples may be given unless all taxes, including the Nebraska Excise Tax, have been paid,

02.01 B4 no samples should be shipped or brought into the State of Nebraska except directly to the Nebraska Wholesalers.

02.02 Tasting

002.02A Representatives of manufacturers, wholesalers, brewpubs and farm wineries may dispense limited quantities of beer, wine or spirits (that has been invoiced to retailers) to customers on a retail premises licensed for on premises consumption.

002.02B Conditions

002.02B1 representatives of manufacturers, wholesalers, brewpubs and farm wineries shall not sell beer, wine or spirits directly to a consumer,

002.02B2 tasting samples shall be for the express purpose of allowing customers to determine the grade, type and quality of alcoholic beverages,

002.02B3 tasting shall be exempt from the multiple drinks rule (6-019.01U).

03 KEG REGISTRATION REQUIREMENTS

03.01 Where the purchaser obtains more than one keg for off-premises consumption at the same location and on the same date, only one keg registration declaration and receipt

form must contain all required information. All other keg registration declaration and receipt forms for that particular transaction must contain the registration number from the fully completed form as a reference and be signed by the purchaser. Such keg registration declaration and receipt forms which contain the reference number of a fully completed form and have been signed by the purchaser constitute a valid and properly completed registration and declaration receipt.

03.02 The keg registration label must be placed on the upper one-third of the keg.

10 ALCOHOLIC BEVERAGE PRODUCTS/PASS THROUGH WHOLESALE LICENSED PREMISE

10.01 In order to accurately collect the taxes imposed by Neb. Rev. Stat. 53-160 through 53-164.02 and facilitate compliance with Nebraska law, all alcoholic beverages manufactured out of this State that have been purchased for resale in this State shall prior to being resold at retail, physically come into the possession of a licensed wholesaler and be unloaded into and distributed from the licensed wholesaler's warehouse in this State.

11 BEER DELIVERY AND TAX COLLECTION

11.01 The excise tax imposed by Nebraska Revised Statute 53-160 shall be collected by and accounted to the Commission as set forth in 011.01A, 011.01B, and 011.01C.

011.01A For all beer produced by a manufacturer or craft brewery licensee and consumed or sold at retail on such licensee's licensed premises, the tax on beer shall be determined at the time of its removal for consumption or retail sale at the licensee's licensed premises, and shall be paid by the manufacturer or craft brewery.

011.01B For all beer produced by a manufacturer or craft brewery licensee located in Nebraska for intrastate retail sale in Nebraska off of such licensee's licensed premises or Satellite locations, such beer shall, prior to being resold at retail, be sold to, and come into the physical possession of a wholesale licensee and be unloaded into and distributed from either the licensed wholesaler's warehouse or vehicles in the State and the tax on such beer shall be determined at the time of its removal from the licensed premises and shall be paid by the manufacturer or craft brewery licensee. The transfer shall be documented by an executed bill of lading.

011.01C For all beer sold to a wholesale licensee from the holder of a shipper's license the tax is due upon the beers delivery to a license wholesaler, and such beer must come into the physical possession of a wholesale licensee and distributed from the wholesale licensee's warehouse. The transfer from the shipper's licensee to the wholesale licensee shall be documented by an executed bill of lading.

011.01D Any purchases, sales, practices, or transactions entered into between any manufacturer, craft brewery, wholesaler, or retailer, with the intent to circumvent or evade the provisions of this regulation shall be considered in violation thereof and shall be subject to citation and possible administrative sanction to include suspension, cancellation or revocation.

12 DOCK SALES

12.01 Any sale of alcoholic liquors from the dock or licensed premise of a manufacturer, distributor, or wholesaler shall include on the proper invoice the signature of the retailer or retailer's agent who receives delivery of the same at the time of the purchase. It shall be the responsibility of the manufacturer, distributor, or wholesaler to ensure that the retailer is properly licensed and that the retailer's agent is bona fide and acting solely on behalf of the authorizing retailer.

015 ACCEPTABLE FORMS OF PAYMENT

15 Acceptable forms or means of payment between retail licensee and wholesale licensee for purchases of alcoholic beverages (beer, wine, spirits).

15.01 Retailers business check (The check must carry the name of the business as so licensed with Commission. The name shall mean the current D.B.A. or corporate name. If licensed as a proprietorship or partnership, the name of the individual or partner or D.B.A.)

EXCEPTIONS:

015.01A A personal check of the licensee may be accepted by wholesaler if supported by a copy of the liquor license.

15.01 B If the business is under a temporary operating permit, the new operator shall submit a check with the name of the business. Same criteria as 015.01.

15.02 Coins

15.03 Currency

15.04 Debit cards (card must carry the name of the retail business as licensed with Commission and signed by licensee or authorized agent.)

15.05 Credit cards (card must carry the name of the retail business as licensed with Commission and signed by licensee or authorized agent.)

15.06 Cashier check (The remitter must be the licensee or authorized agent.)

15.07 Bank Money Order (The remitter must be the licensee or authorized agent.)

15.08 Certified Check (The remitter must be the licensee or authorized agent.)

15.09 Travelers Check (Must carry the signature of the licensee or authorized agent.)

15.10 Payment for beer from a licensed retailer to a licensed beer wholesaler must be completed by the end of the business day from time of the sale.

15.11 Any electronic transfer of funds from a retailer to a wholesaler with respect to beer must be completed within twenty-four hours of the sale and in the case of wine or spirits within thirty days of the sale.

16 TRADE PRACTICE POLICIES

A wholesale licensee, shipper licensee, manufacturer licensee, and craft brewery licensee, (collectively referred to as an "industry member") may furnish a retail licensee, with equipment, supplies, services, or other things of value, under conditions and within the limitations prescribed.

16.01 PRODUCT DISPLAYS

16.01A GENERAL

016.01A1 The act by industry member of giving or selling product displays to a retailer is allowed provided that the conditions and limitations prescribed in 016.01C of the rule are met.

016.01B DEFINITION

016.01B1 Product displays means any alcoholic liquor racks, bins, barrels, casks, shelving or similar items the primary function of which is to hold shelve or display consumer products.

016.01C CONDITIONS AND LIMITATIONS

016.01C1 The total value of all product displays given or sold by an industry member under 016 of this rule may not exceed $300 per brand at any one time in any one retail establishment. Industry members may not pool or combine dollar limitations in order to provide a retailer a product display valued in excess of $300 per brand. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded.

016.01C2 All product displays must bear conspicuous and substantial advertising matter on the product or the industry member which is

permanently inscribed or securely affixed. The name and address of the retailer may appear on the product displays.

16.01 C3 The giving or selling of such product displays may be conditioned upon the purchase of the distilled spirits, wine, or malt beverages advertised on those displays in a quantity necessary for the initial completion of such display. No other condition can be imposed by the industry member on the retailer in order for the retailer to receive or obtain the product display.

16.02 POINT OF SALE ADVERTISING MATERIALS AND CONSUMER ADVERTISING SPECIALTIES

016.02A GENERAL

016.02A1 The act by an industry member of giving or selling point of sale advertising materials and consumer advertising specialties to a retailer is allowed provided that the condition and limitations prescribed in 016.02C of this rule are met.

016.02B DEFINITIONS

016.02B1 Point of sale advertising materials are items designed to be used within a retail establishment to attract consumer attention to the products of the industry member. Such materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

016.02B2 Consumer advertising specialties are items that are designed to be carried away by the consumer, such as trading stamps, non-alcoholic mixers, pouring racks, ask trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, shirts, caps, and visors.

016.02C CONDITIONS AND LIMITATIONS

016.02C1 All point of sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials.

16.02 C2 The industry member may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental to their use.

16.03 EQUIPMENT AND SUPPLIES

016.03A GENERAL

016.03A1 The act by an industry member of selling equipment or supplies to a retailer is allowed if the equipment or supplies are sold at a price not less than the cost to the industry member who initially purchased them, and if the price is collected within 30 days of the date of the sale. The act by an industry member of installing dispensing accessories at the retailer establishment is allowed as long as the retailer bears the cost of initial installation. The act by an industry member of furnishing, giving, or selling coil cleaning service to a retailer of distilled spirits, wine, or malt beverages is allowed.

016.03B EQUIPMENT AND SUPPLIES

016.03B1 Equipment and supplies means glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. “Dispensing Accessories” include items such as standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves.

016.03C NEWSPAPER CUTS

016.03C1 Newspaper cuts, mats, or engraved blocks for use in retailer’s advertisements may be given or sold by an industry member to a retailer selling the industry members products.

016.03D COMBINATION PACKING

16.03 D1 The act by an industry member of packaging and distributing distilled spirits, wine, or malt beverages in combination with other (non-alcoholic) items for sale to consumers is allowed.

16.04 EDUCATIONAL SEMINARS

016.04A GENERAL

16.04 A1 An industry member may give or sponsor educational seminars for retailers and their employees. Examples would be seminars dealing

with use of a retailer's equipment, training seminars for employees of retailers, or tours of industry member's plant premises. This rule does not authorize an industry member to pay a retailer expenses in conjunction with an educational seminar (such as travel and lodging). This does not preclude providing nominal hospitality during the event.

16.05 STOCKING, ROTATION AND PRICING SERVICE

016.05A GENERAL

016.05A1 Industry members may, at a retail establishment, stock, rotate, and affix the price to distilled spirits, wine, or malt beverages which they sell, provided products of another industry member are not altered or disturbed.

016.05B SHELF PLAN AND SHELF SCHEMATICS

16.05 B1 The act of an industry member of providing a shelf plan or shelf schematic for distilled spirits, wine, or malt beverages is allowed. When requested by a retailer, an industry member may, pursuant to the plan or schematic, rearrange or reset all or part of a liquor store or liquor department.

16.06 PARTICIPATION IN RETAILER ASSOCIATION ACTIVITIES

016.06A GENERAL

016.06A1 The following acts by an industry member participating in retailers association activities is allowed.

016.06A1A Displaying its products at a convention or trade show.

016.06A1B Renting display booth space if the rental fee is the same or paid by all exhibitors at the event.

016.06A1C Providing its own hospitality which is independent from association sponsored activities.

016.06A1D Purchasing tickets to functions and paying registration fees if the payment or fees are the same as paid by all attendees, participants or exhibitors at the event.

16.06 A1E Making payments for advertisements in programs or brochures issued by a retailers associations at a convention or trade show.

16.07 PERMIT TO SOLICIT FOR FUTURE SALES

016.07A The Commission may issue a permit for wholesale sales for future delivery to retailers which authorizes the permittee to promote the sale of beer, wine, and spirits through methods such as solicitations, display, advertising and personal contact with licensed retailers and their agent, servants, and employees. A person holding the permit under this regulation may give samples of beer, wine, and spirits to retailers provided the alcoholic beverages first came to rest at a wholesale licensed premise and the state excise taxes paid. The permit under this section is only required of persons employed by a holder of a shipping license issued by the Commission and who reside in the State of Nebraska. Shipping license holders shall furnish the Commission with the names of all employees engaged in activities requiring a permit under the section and shall notify the Commission whenever an employee begins or terminates employment. Upon leaving employment, an employee shall submit his or her permit to the Commission for cancellation. Every person holding a permit under this section shall exhibit it upon request to any prospective purchaser or agent of the Commission or Nebraska State Patrol. A permit holder shall retain and preserve industry promotional cost records for Commission review for a period of three years. Every person holding a permit under this section shall be obligated to follow all Trade Practice Policies, Chapter 6,016 contained in Commission Rules and Regulations. Every permit holder, employee, or shipper is subject to citation for any violation of the Trade Practice Rules and Regulations. The application for the new permit shall be submitted upon such forms as the Commission may prescribe.

17 EMPLOYMENT OF MINORS

17.01 Age 16 - Upon reaching 16 -

017.01A An employee may stock inventory, sack and carry out alcoholic liquor from licensed establishments, although she/he must be accompanied by a person 21 years of age or over. (Can be the purchaser.) (53-168.06)

017.01A1 A grocery pick-up lane is considered a carry-out function.

017.01B An employee may remove liquor containers as a waiter, waitress or busboy of a restaurant, hotel, etc. (53-168.06)

17.01 C An employee may not scan or accept payment regarding any sale of alcoholic liquor.

17.02 Age 19 - Upon reaching 19 -

017.02A An employee may serve (includes bartending) and sell alcoholic liquor. (53-168.06)

17.02 B An employee may place orders and accept deliveries in the normal course of business with licensed wholesalers.

17.03 Immediate underage family members are not exempt from the provisions of this rule.

18 CREDIT: WHOLESALER/RETAILER

18.01 Pursuant to the authority granted in the Liquor Control Act and to meet the requirements contained in Regulations No. 122 (originally issued as FFA Regulation No. 8) issued by the Bureau of Internal Revenue of the United States Treasury Department, the Nebraska Liquor Control Commission hereby adopts the following rule:

018.01A No person, partnership, firm or corporation holding a retailer's license under the Nebraska Liquor Control Act shall accept or receive credit from any manufacturer, distributor or wholesaler on purchases of beer and no retailer shall accept or receive credit from any manufacturer, distributor or wholesaler on purchases of alcoholic liquors, except beer, for a period exceeding 30 days from the date of delivery of any such merchandise.

018.01B No manufacturer, distributor or wholesaler shall extend credit to any such retailer on sales of beer and no manufacturer, distributor or wholesaler shall extend credit to any such retailer on sales of alcoholic liquors, excluding beer, for a period exceeding 30 days from the date of delivery of any such merchandise.

018.01C No retailer shall purchase, accept or receive any alcoholic liquors, including beer, from any manufacturer, distributor or wholesaler if such retailer is delinquent on any account for alcoholic liquors, including beer, to any manufacturer, distributor or wholesaler.

018.01D No manufacturer, distributor or wholesaler shall sell or otherwise furnish any such alcoholic liquor, including beer, to any retail licensee who is delinquent on any account to any other manufacturer, distributor or wholesaler, providing that such delinquency is known to such manufacturer, distributor or wholesaler.

018.01E Every manufacturer, distributor, wholesaler and retailer shall report to the Commission such information concerning the extending or receiving of credit on such forms as the Commission may hereafter prescribe and at such times as the Commission shall hereafter determine. Such reports shall be by affidavit and sworn to by all licensees.

018.01F Any purchases, sales, practices or transactions entered into between any manufacturer, distributor or wholesaler and any retailer, with the intent to

circumvent or evade the provisions of this regulation, shall be considered as a violation thereof.

018.01G Beer wholesalers shall be permitted to give retailers quantity discounts on volume purchases but such discounts shall be calculated on the basis of sales made to each licensee. Individual retail licensees or licensees holding more than one retail license shall not be permitted to combine purchases for purposes of obtaining such quantity discounts.

19 ILLEGAL CONDUCT: ALL LICENSEES

19.01 Persons, partnerships, and/or corporations holding licenses issued pursuant to the provisions of the Nebraska Liquor Control Act, Section 53-101, et seq., R.R.S. 1943, will be subject to citation and possible administrative sanction to include suspension or revocation for violation of the following:

019.01A Sale to Minor; Defense: No licensee or partners, principals, agents or employees of any licensee shall sell any alcoholic liquors to any person who is a minor as defined in Section 53-103(23) of the Nebraska Liquor Control Act except that proof of the following shall constitute an absolute defense:

019.01A1 The purchaser falsely represented in writing and supported with other documentary proof specifically; a Driver's License, Nebraska State Identification Card, Military Identification Card, Alien Registration Card or Passport that he was of legal age to purchase alcoholic liquor; and

019.01A2 That the appearance of such purchaser was such that an ordinary and prudent person would believe that such appearance conformed to any documentary description of appearance presented by the purchaser; and

019.01A3 The sale was made in good faith and in reliance upon the written representation, other documentary evidence, the appearance of the purchaser, and in the belief the purchaser was of legal age to make such purchase; or

019.01A4 The sale was made with the knowledge of and in cooperation with a duly authorized law enforcement officer or agent of the Nebraska Liquor Control Commission. (53-180, 53-180.07)

019.01B Minor In Possession Within Licensed Premise: No licensee or agent, principal, partner or employee of any licensee shall permit any person who is a minor as defined in Section 53-103(23) of the Nebraska Liquor Control Act to possess for the purpose of consumption any alcoholic liquor in any licensed premises. A licensee who has established the defense of (A) above shall be deemed to have not acted carelessly. (53-180.02)

019.01C Hours of Operation: No licensee or partner, principal, agent or employee shall permit the sale, dispensing or delivery of any alcoholic liquor in or from the licensed premises during hours not permitted by local ordinance or by the provisions of state law. (53-179)

019.01D Open Containers During Prohibited Hours: No licensee or partner, principal, agent or employee of any licensee shall permit any alcoholic liquor, in open containers to remain in the possession or control of any person for the purpose of consumption 15 minutes after the time set for concluding the sale of alcoholic liquor, by state law or by local ordinance whichever is earlier. (53-179(3))

019.01E Silent Partners; Profit Sharing: No licensee or partner, principal, agent or employee of any Retail Liquor License shall permit any other person not licensed or included as a partner, principal, or stockholder of any Retail Liquor License to participate in the sharing of profits or liabilities arising from any Retail Liquor License. (53-1,100)

019.01F Disturbance: No licensee or partner, principal, agent or employee of any licensee shall allow any unreasonable disturbance; as such term is defined hereunder, to continue without taking the steps, as set forth hereunder, within a licensed premise or in adjacent related outdoor areas.

019.01F1 A "Disturbance" as used in this section shall mean any brawl, fight, or other activity which may endanger the patrons, employees, law enforcement officers, or members of the general public within licensed premises or adjacent related outdoor area. Such term shall include incidents involving, but not necessarily limited to: drug dealing; intoxicated individuals; soliciting of prostitution; or any physical contact between the licensee's agents or employees and its customers, involving any kissing, or any touching of the breast, buttock or genital areas. Any brawl fight or other activity which results in serious injury to any patron, employee or members of the general public shall be reported to law enforcement. Serious injury means any gunshot wound, knife or other stab wound or any other injury requiring medical treatment onsite or transportation to a medical facility for treatment. Licensees and their employees shall not prohibit or interfere in any way with a patron who chooses to contact law enforcement in the event they are assaulted on the premises.

019.01F2 Unless there is reason to believe that a licensee or partner, principal, agent or employee of any licensee would endanger himself/herself or others, such person shall take such action as is reasonably necessary to terminate the disturbance.

Physical force should be exercised only in extreme circumstances and should be limited to the force reasonably required to terminate the disturbance and remove the individual from the licensed premise, without endangering any patron or other person.

019.01F3 In the event efforts taken in accordance with the preceding subparagraph are not successful or if there is reason to believe that the licensee, partner, principal, agent or employee of any licensee may create a danger to himself/herself or others, than in such event, such person shall immediately contact law enforcement personnel to assist in properly handling the disturbance. In the event law enforcement and/or medical personnel are summoned, the directions and/or orders given by such law enforcement or medical personnel shall be followed.

019.01F4 A licensee who has conformed with the procedure as set forth in this section shall be deemed to have not permitted a disturbance to occur and continue. Licensees who wish to document their compliance with this rule may maintain a log in which they document disturbances or other unusual occurrences.

019.01G Entry Into Premise by Law Enforcement Officer: No licensee or partner, principal, agent or employee of any licensee shall refuse to permit or unreasonably delay in permitting any law enforcement officers, duly appointed investigator, inspector, agent or auditor of the Nebraska Liquor Control Commission entry onto the licensed premises at any time demand for such entry is made by such law enforcement officer, investigator, inspector, agent or auditor of the Nebraska Liquor Control Commission.

019.01H Removal of Alcoholic Liquors From Premise: No licensee or partner, principal, agent or employee of any licensee shall allow any alcoholic liquor to be removed from a licensed premises except where a license is held permitting off-premises sales and then only in original unopened containers.

019.01I Sale For Resale: No licensee or partner, principal, agent or employee other than provided for in 53-175, shall engage, directly or indirectly, in any transaction including or conspiring as to the resale of any liquors owned by him as a licensee, nor permit the sale or delivery of any alcoholic liquor in such quantities that would place a reasonable-minded person on notice that such liquor might be intended for resale. A defense may be established by the licensee by obtaining from any such suspected purchaser a statement in writing that the purchase is not being made for the purpose of reselling the alcoholic liquors.

019.01J Refilling; Substitution: No licensee or partner, principal, agent or employee of any licensee shall fill or refill, in whole or in part, any original

package of alcoholic liquor, with the same or any other kind, quantity, quality or proof of alcoholic liquor and no licensee or partner, principal, agent or employee of any licensee shall have in his possession for sale at retail, any containers of any kind containing alcoholic liquor, except in original packages.(53-184)

019.01K Delinquent Credit: No licensee or partner, principal, agent or employee of any licensee shall fail to pay for upon delivery, any purchases of beer and shall not accept credit from any manufacturer, distributor or wholesaler of alcoholic liquors namely, spirits or wine, for a period of 30 days. Any purchases of alcoholic liquors for which payment has not been made in full within 30 days of the date of invoice shall constitute a delinquency and shall subject the licensee to citation (53-168).

019.01L Sale of License: No licensee or partner, principal, agent or employee of any licensee shall sell or offer to sell any interest in any liquor license to any other person. In any sale of a business possessing a liquor license, no value may be placed upon the existence of the license itself and the placing of any such value upon the license by the seller of any such business shall subject the seller-licensee to citation.

019.01M Sell on Credit to Consumer: No licensee or partner, principal, agent or employee of any licensee not exempted by the provisions of Section 53-183, shall sell or furnish alcoholic liquor at retail to any person on credit, except that a major credit card may be used in the purchase of alcoholic liquors. The term "major" credit card shall mean any nationally recognized credit card, excluding any card, distributed by an entity that holds a retail license issued by Nebraska. (53-183)

019.01N Sell to Visibly Intoxicated Person/Mentally Incapacitated Person/Person Incapacitated by Drugs: No licensee or partner, principal, agent or employee of any licensee shall sell, serve, or furnish alcoholic beverages or allow possession of alcoholic beverages on the licensed premise to any person who is or has become intoxicated and/or incapacitated by the consumption of alcoholic beverages and/or other drugs or who is mentally incapacitated. Intoxication means an impairment of a person's mental or physical faculties as a result of his or her use of alcoholic liquor or drugs so as to diminish the person's ability to think and act in the manner of an ordinary prudent and cautious person in full possession of his or her faculties using reasonable care under like circumstances. A person shall be deemed to be intoxicated when it can be plainly determined by appearance, conduct, and/or demeanor. A change in demeanor and/or behavior as time passes is also an indicator of intoxication. Other indicators include, but are not limited to:

019.01N1 Problems with balance, inability to maintain balance, i.e., stumbling, staggering gait, bumping into furniture while walking, falling against bar or off stool, head on bar;

019.01N2 Ineffective muscular coordination, i.e., spilling and/or knocking over drinks, unable to pick up change, clumsy, uncoordinated movements;

019.01N3 Strong smell of alcohol;

019.01N4 Slurred speech, i.e., thick tongue, uncontrollable voice pitch, muttering, argumentative, aggressive or belligerent, making inappropriate comments, crude behavior.

019.01N5 Bloodshot and/or glassy eyes, i.e., flushed face;

019.01N6 Condition of clothes and hair, i.e., disheveled appearance, messy hair, unzipped clothing;

019.01N7 Careless with money, urging other people to have another drink, annoying other guests and servers, complaining about drink prices, complaining about drink strength or preparation.

019.01N8 Unusual behavior, i.e., vomiting, profanity, fighting, loud, boisterous, obnoxious behavior.

019.01N9 A concentration of eight hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood, a concentration of eight hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, or a concentration of eight hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her urine. This indicator may only be used in conjunction with at least one other indicator that demonstrates visible intoxication.

019.01O Notices: Every licensee shall cause his license or licenses to be framed and hung in plain view in a conspicuous place on the licensed premises (53-148). The warning to minors and adults sign and the pregnancy poster must also be on display in a prominent place (53-180.04 and 53-103.04).

019.01P No retail licensee may deliver alcoholic liquor to a consumer, except:

019.01P1 A holder of a special designated license or a caterer's license used in conjunction with a special designated license may deliver to the licensed location or to a location expressly authorized by the Commission in writing pursuant to Chapter 4 of the Rules and Regulations of the Commission.

019.01P2 A retail licensee or a holder of a shipping license may deliver or cause to be delivered by its agent, delivery service or common carrier to a consumer alcoholic beverages provided that the consumer has paid the licensee for the alcoholic liquors prior to delivery by cash, credit or debit card, and that the licensee has verified that the sale has not been made to a minor, nor that delivery will be made to a minor. Any package to be delivered by a delivery service or common carrier for the holder of a shipping license shall have a label stating "adult signature required" measuring at least three by five inches in size placed on the package by the licensee

019.01P3 The retail licensee or holder of a shipping license is responsible for any violations of the Nebraska Liquor Control Act and/or the Rules and Regulations of the Nebraska Liquor Control Commission which occur as a result of the delivery of alcoholic liquors, including, but not limited to, sales to minors.

019.01P4 The driver for the agent must be 21 years of age.

019.01Q Illegal Activities: The Commission finds that certain illegal activities may induce individuals to enter licensed premises and that the Commission has an interest in insuring that licensees do not use illegal means to promote the sale and consumption of alcohol. The Commission also believes the consumption of alcohol could impair judgment and could lessen inhibitions, causing some consumers to engage in illegal activities or to be victims of illegal activities on or about licensed premises, endangering the health, safety and welfare of individuals. The Commission, therefore, finds there is a nexus between the consumption of alcohol and certain illegal activities that occur within licensed premises or in adjacent related outdoor areas.

Such activities are: drug-related offenses, prostitution or pandering, assaults, sexual assaults, homicide, gambling, vandalism, weapons-related offenses, theft, disturbing the peace, violations of statutes or local ordinances relating to entertainment, acceptance of food stamps for the sale of alcohol or otherwise in violation of federal laws or regulations, and any offense referred to in Section 53-125 (4) or (5), whether or not there has been a plea of guilty or a conviction in criminal court.

If the Commission finds by a preponderance of the evidence that a licensee or employee or agent of a licensee has committed any of the foregoing illegal activities or has knowingly allowed such offense to be committed by others on the licensed premises or adjacent related outdoor areas, the Commission may suspend, cancel or revoke such license.

019.01R Penalties: Upon a determination by the Nebraska Liquor Control Commission that any licensee licensed by it has violated any of the provisions of the Nebraska Liquor Control Act (53-101 through 53-1,200) or the rules and regulations of the Nebraska Liquor Control Commission that license may be subjected to revocation or suspension or other administrative sanction such as the Commission may order.

019.01S SANITATION

019.01S1 Sanitary conditions, conducive to public health and welfare, must be maintained at all times, in, on or about licensed premises, by meeting minimum sanitary standards as set forth in the Nebraska Food Service Code. The minimum standards shall require at least two restrooms for establishments that provide on-premise consumption of alcoholic beverages.

019.01T QUANTITATIVE SALES

019.01T1 All licensees shall maintain on their licensed premises records presently required by federal regulation concerning sales of alcoholic liquor, in an amount of twenty wine gallons or more (27 CFR 194). Such records shall include a record of the name and driver's license number or other identification of the person making the purchase. All licensees shall make such records available to any Nebraska Liquor Control personnel or any other law enforcement officer at any time demand for such is made.

019.01U DRINKING PROMOTIONS

019.01U1 No licensee shall sell, or serve for on-premises consumption, an unlimited quantity of beer, wine, or spirits at a specific price.

019.01U2 No licensee shall sell or serve two or more drinks containing beer, wine, or spirits to a person for that person's consumption on the licensed premises for one price. A pitcher or bucket of beer shall not be considered a drink; however, no licensee shall sell two or more pitchers or buckets of beer for one price.

019.01U3 Nothing in this rule shall limit, or in any way restrict, the price which may be charged by any licensee for a single drink containing beer, wine, or spirits to be consumed on the licensed premises.

019.01U4 No licensee shall mix or pour alcoholic beverages directly into a patron's mouth. The so-called upside-down drinks are prohibited.

019.01W SPECIAL DESIGNATED PERMIT/DELIVERY AND RETURN OF ALCOHOLIC BEVERAGES

019.01W1 Delivery and return of alcoholic beverages must be made within seven (7) working days prior and subsequent to the date of the event.

019.01W2 If storage is to be off the licensed premises, written request must be made to and written approval received from the Commission covering the location and dates of the storage.

019.01W3 After the completion of the event for which a special designated permit is obtained, the permittee may remove open containers of alcoholic liquor from the premise. A licensee with a catering permit may store open containers of alcoholic liquor used for catered events provided the alcoholic liquor is stored in a separate and secure area of the licensed premise.

019.01X ADULT ENTERTAINMENT

019.01X1 No licensee or partner, principal, agent or employee of any licensee shall employ or permit any person under the age of nineteen to provide sexually explicit entertainment within a licensed premises; nor shall any person under the age of nineteen be employed or permitted within a licensed premises while unclothed in any sexually explicit manner.

20 CANCELLATION/DENIAL OF LICENSES

20.01 Where approval or authorization for issuance of any liquor license has been made by the Commission subject to any condition and that condition is not met the applicant will be subject at all times during this period of non-issuance to an Order of the Commission to show cause why the approval should not be cancelled and the application denied for failure to meet the conditions for issuance.

20.02 Where a license has been approved by the Commission and forwarded to the city, village or county clerk, as the case may be, for the collection of the appropriate fees and issuance and the applicant does not complete the licensing process by paying such appropriate fees and obtaining such license within twenty-one calendar days from the receipt by the city clerk, village or county clerk, as the case may be, for the license, the clerk shall immediately return the license to the Commission and the applicant shall be

subject to an Order of the Commission directing the applicant to show cause why the approval of the license should not be cancelled and the application denied.

20.03 Where a license has been issued and the licensee for any reason during the license year fails to operate the license for a total of thirty continuous days or sixty total days the licensee shall be subject to an Order of the Commission directing that the licensee show cause why the license should not be cancelled for non-use.

20.04 Where a license has been issued and the licensee finds that the licensee will not be able to maintain continuous operation during the license year as a result of fire, tornado, flood, loss of lease or some other reason constituting a hardship the licensee shall apply to the Commission within thirty days of the occurrence constituting hardship for permission to voluntarily cease operations and maintain the licensee's license for a period of time not to exceed the end of the licensed year for which the license was issued. Any such status afforded shall be reviewable by the Commission within sixty days of the end of any license year in which such status has been afforded. Failure to afford such status or the revision of such status shall subject the licensee to an Order of the Commission to show cause why the licensee's license should not be cancelled.

20.05 Failure on the part of the licensee to show good cause for either (A) the licensee's non-compliance with conditions of issuance, (B) the licensee's non-completion of the licensing process by the paying of the appropriate fees and obtaining the license from local officials, (C) the licensee's non-use or (D) the licensee's non-operation due to hardship shall result in the license being cancelled or the previous preliminary approval being rescinded and the application denied.

20.06 Licenses that have been suspended, cancelled or revoked by the Commission, but are operating under a judicial stay may be renewed according to the renewal statutes. However, any license renewed while suspended, cancelled or revoked but operating under judicial stay shall be subject to the same suspension, cancellation, or revocation that was attached to the original license once the judicial stay is dissolved.

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CHAPTER 7 PERMITTEES/REPORTS

01 Permittee Reports

01.01 All licensees and permittees, including Nebraska Breweries, who are required to file reports and pay taxes which may become due upon beer by operation of Sec. 53-161, Neb. R.S., as amended, who shall fail to submit reports required by said Sec. 53-161, Neb. R.S., as amended, and pay taxes due thereunder at the time and in the manner therein required, shall be subject to immediate suspension by written order of the Nebraska Liquor Control Commission of all permits, licenses and authority to do business in the State of Nebraska, as provided in the Nebraska Liquor Control Act, in the event said reports and taxes are not paid within ten (10) days after the date set forth in said Sec. 53-161, as amended.

01.02 The Commission may issue such a suspension order without written prior notice or formal public hearing, such suspension shall become effective upon the date notice of same is received in writing by certified or registered mail, and, provided further, that in the event such licensee or permittee shall later comply with the requirements of the Nebraska Liquor Control Act, the Commission may remove such order of suspension without prior notice or formal public hearing, said removal shall become effective by the same manner as the original order.

02 Record Retention

02.01 All licensees and or holders of shipper's permits shall retain and preserve true books of accounts and records of all business receipts, disbursements and funds used in connection with the licensed business for a period of three years.

02.02 All retailers shall keep invoices and records involving the purchase of alcoholic liquors for the previous twelve months, and make them available for inspection upon demand to the Commission or its agents.

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CHAPTER 8 - STATE INSTITUTIONS

001 Alcohol to State Institutions

001.01 By reason of Section 2 of Article VIII of the Constitution of Nebraska, State Institutions under the jurisdiction of the Board of Control of the State of Nebraska or other Departments of the State, may purchase alcohol from manufacturers and/or distributors duly licensed in this state, and possess and use the same for non-beverage purposes only in such institutions, without having first obtained a non-beverage user's license or any other license or permit; and that sale and delivery of alcohol direct to such state institutions, created by Statute, may be made by such manufacturers and/or distributors, provided they keep such records and accounts thereof as are provided by law in the case of sale or delivery of alcohol to licensed non-beverage users.

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01 Waiver of 75%/25%

01.01 The Commission may grant an exemption under 53-123.13 for a natural disaster only.

01.02 Agricultural product under 53-103(32) shall mean any grapes, fruit, berries or honey whether in whole cluster, whole berry, crushed, uncrushed or pressed to juice form, liquid or frozen, as long as the product has not been altered or added to in any way (other than skin removal). "Agricultural product" shall not mean any product that already contains alcohol, produced from outside this state.

01.03 The 75% limitation will be calculated based on the number of gallons of finished wine produced from Agricultural Products grown in this state. The remaining 25% will be based on the number of gallons of finished wine produced from Agricultural Products imported from outside the state. The licensee may import an agriculture product from outside the state of Nebraska during a calendar year in an amount needed to produce a quantity of finished wine not exceeding 25% of the finished wine produced by the licensee from the same Nebraska-grown agricultural product during the prior calendar year.

02 Signs, Advertising

02.01 Any bottle(s) containing more than twenty-five percent of products from outside the state shall not be labeled to imply the product is a Nebraska product.

03 Record Keeping/Documentation

03.01 Production records/documentation shall be kept on each product to include the amounts and type of raw material used, source of raw materials and amount produced. These records shall be maintained for a period of not less than three years and open to audit/inspection by any agent or employee of the Nebraska Liquor Control Commission.

04 Branch Outlet/Sampling

04.01 A farm winery desiring the branch outlet allowed for sampling in 53-123.11(d) need not apply for a separate license but shall seek prior approval of the location from the Commission and the local governing body.

05 Distribution

05.01 Farm wineries may wholesale to licensed retailers on and off site.

05.02 Farm wineries may ship wines by common carrier to licensed wholesalers. Farm wineries with annual production not exceeding 30,000 gallons in the prior calendar year may also ship wines by common carrier to licensed retailers, and to consumers.

06 Place of Fermentation

06.01 The fermentation of Agricultural Products shall take place on the licensed premises. This does not include any natural fermentation of product being shipped into the farm winery under 001.03.

07 Farm Winery Off – Site Storage Facility

07.01 A farm winery licensee desiring an off-site storage facility shall seek prior approval from the Commission. The farm winery written request must include but not limited to the following:

a) Address of the proposed facility;
b) Dimensions of the facility;
c) Security measures in place.

07.02 Off-site storage facility requirements:

a) Copy of farm winery license;
b) Perpetual inventory record of finished wine products;
c) No consumption or tasting allowed on or about the facility:
d) No Alcoholic beverages other than products classified as wine can be stored in the facility.

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CHAPTER 14 MINIMUM STANDARDS FOR ALCOHOL SERVER TRAINING PROGRAMS

01 Minimum Standards for Alcohol Server Training Programs

Certified alcohol server training courses, regardless of delivery format, shall incorporate the following content:

01.01 Legal Information

001.01A Responsibilities of licensees and their employees as they pertain to selling alcohol

001.01B Penalties and consequences associated with irresponsible alcohol sale or service

001.01C Delineation of what constitutes reasonable efforts to ensure responsible alcohol sales, including 3rd party sales

001.01D Proper ID Checking Techniques including but not limited to acceptable forms of ID, what to check on an ID, and underage warning signs

001.01E Documentary proof of age book and its correct use

01.01 F Nebraska specific information such as age to consume, legal BAC limit, legal hours of sale, illegal activities, liability laws and penalties

01.02 Alcohol Information

001.02A How alcohol affects people including but not limited to physiological effects of alcohol, visible signs of intoxication, factors influencing rate of intoxication, blood alcohol content, and tolerance.

01.02 B Types and quantities of alcohol including but not limited to measured drinks, alcohol purity/concentration, and drink equivalencies.

01.03 Intervention Information

01.03 A Guidelines for ensuring responsible alcohol sales including, but not limited to, safe customer service, prevention of confrontation and avoiding the escalation of a situation.

01.04 Delivery Standards of Program

001.04A The course must adhere to standard, accepted instructional design techniques and methodology, including presentation, application and feedback. Presentations may include, use of interactive computer programs, video, live training and role playing. A minimum of two hours is required for training.

001.04B The program must administer a comprehensive exam to test the participant's understanding and retention of the content. A passing grade shall not be less than 70%, testing shall be done in the presence of the certified trainer. Trainees shall not have access to any written or video material nor have any discussions with another person during the exam, unless the instructor authorizes the use of an interpreter. Questions by a student to clarify test content are permitted.

001.04C Exam records must be verified by an independent third party to prevent falsification of records.

001.04D Written documentation of program attendance by/for each attendee must be provided.

01.04 E If presented by trainers, those individuals must meet minimum standards for qualifications as presented in the application for certification.

01.05 Program Trainers

Any program utilizing a trainer shall submit their requirement for training at the time it applies to be a certified program. Such requirement shall be reviewed by the Commission prior to becoming a certified program. Such requirements shall include minimum initial and ongoing training criteria and methods to update the course materials.

02 MANAGEMENT TRAINING PROGRAM

02.01 Programs intended to be training for management and supervisory staff in shall contain the same content as a server training program and in addition shall contain:

002.01A Methods for conducting a risk assessment of their establishment

002.01B Developing policies and practices for responsible beverage service

002.01C Procedures specifying when to contact law enforcement

002.01D Recommendations for establishment of ongoing training for staff

03 APPLICATION TO BE A CERTIFIED PROGRAM

03.01 Any program wishing to become certified shall submit to the Nebraska Liquor Control Commission the following:

a) A copy of all training materials to be used in the course.
b) A listing of all approved trainers of that program located within Nebraska.
c) An explanation of updating the program in a timely manner
d) The methods used to become/removed as a trainer of the program.
e) Certificate of Completion that is issued for successful completion of the course.

Such applications shall be reviewed by the Commission's Executive Director or his designee and the Nebraska State Patrol Coordinator for Alcohol Compliance. If necessary, a hearing before the Executive Director may be ordered to allow any questions or concerns of the Commission to be addressed by the applicant.

If the course is found to be insufficient after review, the applicant shall be informed of any deficiencies and allowed to revise its proposal to comply.

If the application meets the minimum requirements of the Commission the applicant shall be notified in writing by the Commission.

04 TERM OF CERTIFICATION

04.01 Certification of servers/managers shall be valid for a maximum of three years. Recertification shall consist of the same elements of any other program approved by the Commission.

Certified trainers shall provide to the Commission for each individual wishing to be documented as a certified server/manger the following:

004.01A Documentation of the date of the trainee's attendance

004.01B Documentation of a satisfactory test score

004.01C A fee of fifteen dollars ($15.00) per trainee. This fee shall be used to maintain a list of certified servers and managers and to support the Commission's own online program.

CHAPTER 15-REQUIREMENTS FOR CIGAR SHOP CERTIFICATION
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SUBJECT	STATUTORY AUTHORITY	CODE SECTION
Application for Cigar Shop	53-103.08	002
Cigar Bar, Defined	53.103.08	001
Enforcement	28-1422	003

Chapter 15 – Requirements for Cigar Shop Certification

001 Cigar Shop

001.01 Cigar shop means an establishment operated by a holder of a Class C liquor license which:

001.01A Does not sell food.

001.01B Annually receives ten percent or more of its gross revenues from the sale of cigars and other tobacco products and tobacco-related products.

001.01B1 Cigar is defined as any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco, other than any roll of tobacco which is a cigarette as defined in Neb. Rev. Stat. § 69-2702.

001.01B2 Other tobacco products shall include, any Tobacco, other than cigarettes, intended for Consumption by smoking, chewing, or snuff.

001.01B3 Tobacco related products shall include, lighters, and lighter supplies (fluid, flints, wicks, etc.) cigar humidors, cigar cutters, cigar punches, tobacco pipes, tobacco jars, tobacco pouches, ashtrays, and other non-cigarette related smoking paraphernalia.

001.01C Has a walk-in humidor on the licensed premise. A walk-in humidor shall mean a separate room or enclosure with a door that has the necessary mechanical devices to maintain the humidity and temperature at the appropriate level to store and display cigars. The room shall be large enough to allow two or more adults the ability to enter the humidor and to retail display the cigars and other tobacco products.

001.01D Does not permit the smoking of cigarettes.

001.01E A sign shall be posted on all entrances to the business, on the outside of each door, in a conspicuous location slightly above or next to the door with the following statement: "SMOKING OF CIGARS AND PIPES IS ALLOWED INSIDE THIS BUSINESS. SMOKING OF CIGARETTES IS NOT ALLOWED."

02 Application for Cigar Shop Certification

02.01 Any one desiring a cigar shop certification shall file an application for such on a form adopted by the Commission.

02.02 Such applicant shall either be a current holder of a Class C Liquor License or have an application for a Class C Liquor License on file with the Commission.

03 Enforcement

03.01 The holder of a cigar shop certification shall file quarterly reports with the Commission showing revenue received from the sale of cigars or other tobacco related products other than cigarettes on forms approved by the Commission. Such reporting dates shall be January 31st, April 30th, July 31st, and October 31st. Tax reports must be filed within 30 days from the reporting date.

03.02 After at least one complete year of successful filings, the reports shall be filed on an annual basis. Said annual reports must be filed on or before October 31st.

03.03 The holder of a cigar shop certification shall be subject to unannounced audits and or inspections by the Commission and failure to comply with said audit or inspection may result in suspension, cancellation or revocation of the liquor license as well as termination of the cigar shop certification.

03.04 Failure to comply with any provisions of these rules or falsificationof any of the required documents may result in the suspension, cancellation or revocation of the liquor license of the certification holder. The Certification may also be terminated.

CHAPTER 16-REQUIREMENTS FOR WHOLESALERS AND SHIPPERS
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SUBJECT	STATUTORY AUTHORITY	CODE SECTION
Mandatory ACH Rule	53-160 53-164	001 001

CHAPTER 16 REQUIREMENTS FOR WHOLESALERS AND SHIPPERS

001 Mandatory ACH Rule

001.01 All industry members or licensees other than a holder of a S1 (Direct Shipper) License under the Nebraska Liquor Control Act required to submit state excise taxes levied on alcoholic beverages as set forth in statutes 53-160 & 53-164 shall remit by means of automated clearinghouse (ACH) credit. The Commission will provide all necessary forms and information to licensees to enable the process. Under any unforeseen circumstances, the Commission reserves the right to make any exceptions to the ACH requirements.

PENDING RULES THAT HAVE NOT BEEN FINALIZED.

DRAFT

CHAPTER 6 LICENSEE OPERATIONS

001 SIGNS

001.01 The Nebraska Liquor Control Act, Chapter 53, Section 118, establishes in the Commission, the power to promulgate a Rule or Regulation establishing standards of honest advertising and representation.

001.02 Signs, ~~and~~ advertisements and electronic media ~~shall~~ will not contain:

001.02A Any statement, illustration, design, device or representation that is false or misleading;

001.02B Any statement, illustration, design, device or representation which is obscene or indecent or which is obnoxious or offensive to the commonly and generally accepted standards of fitness and good taste;

001.02C Any statement of, or reference to, a price of an alcoholic liquor which is deceptive or misleading or tends to deceive or mislead;

001.02D Any illustration which is not dignified, modest and in good taste;

001.02E Any scene which promotes the sale of alcoholic liquors, including beer, to minors in which is portrayed a child or objects suggestive of the presence of a child or in any manner portrays the likeness of a child or contains the use of figures or symbols which are traditionally associated with children;

001.02F Any statement, design, device or representation relating to any refund, exchange, or money-back guarantee, irrespective of truth or falsity;

001.02G Any reference by name or other identification to any other licensed retailers; or

001.02H Any statement, design, device, or representation which the Nebraska Liquor Control Commission finds to be likely to mislead the consumer.

002 SAMPLING/TASTING

~~**002.01 Sampling**~~

~~**002.01A** Retailers and their employees may sample limited quantities of beer, wine or spirits furnished or dispensed by a manufacturer or wholesaler whether the license permits consumption on or off the licensed premises. (53-123.02)~~

002.01~~B~~ Conditions

~~**002.01B1** sampling may also be done on the premises of a licensed wholesaler by a licensed retailer (53-123.02, 53-123.03),~~

~~**002.01B2** consumption shall will not exceed more than five samples of one fluid ounce or less of alcoholic liquor by the same person in a twenty-four hour period (53-103(37)),~~

002.01A~~B3~~ no samples may be given unless all taxes, including the Nebraska Excise Tax, have been paid,

002.01B~~B4~~ no samples should be shipped or brought into the State of Nebraska except directly to the Nebraska Wholesalers.

002.02 Tasting

002.02A Representatives of manufacturers, wholesalers, brewpubs, ~~and~~ farm wineries, and craft distillers may dispense limited quantities of beer, wine or spirits (that has been invoiced to retailers) to customers on a retail premises licensed for on premises consumption.

002.02B Conditions

002.02B1 representatives of manufacturers, wholesalers, brewpubs, ~~and~~ farm wineries and craft distillers ~~shall~~ will not sell beer, wine or spirits directly to a consumer,

002.02B2 tastings samples ~~shall~~ are allowed ~~be~~ for the express purpose of allowing customers to determine the grade, type and quality of alcoholic beverages,

002.02B3 tastings ~~shall~~ are ~~be~~ exempt from the multiple drinks rule (6-019.01U).

003 KEG REGISTRATION REQUIREMENTS

003.01 Where the purchaser obtains more than one keg for off-premises consumption at the same location and on the same date, only one keg registration declaration and receipt form must contain all required information. All other keg registration declaration and receipt forms for that particular transaction must contain the registration number from the fully completed form as a reference and be signed by the purchaser. Such keg registration declaration and receipt forms which contain the reference number of a fully completed form and have been signed by the purchaser constitute a valid and properly completed registration and declaration receipt.

003.02 The keg registration label must be placed on the upper one-third of the keg.

010 ALCOHOLIC BEVERAGE PRODUCTS/PASS THROUGH WHOLESALE LICENSED PREMISE

010.01 In order to accurately collect the taxes imposed by Neb. Rev. Stat. 53-160 through 53-164.02 and facilitate compliance with Nebraska law, all alcoholic beverages manufactured out of this State that have been purchased for resale in this State ~~shall~~ will prior to being resold at retail, physically come into the possession of a licensed wholesaler and be unloaded into and distributed from the licensed wholesaler's warehouse in this State.

011 BEER DELIVERY AND TAX COLLECTION

011.01 The excise tax imposed by Nebraska Revised Statute 53-160 ~~shall~~ will be collected by and accounted to the Commission as set forth in 011.01A, 011.01B, and 011.01C.

~~**011.01A** For all beer produced by a manufacturer or craft brewery licensee and consumed or sold at retail on such licensee's licensed premises, the tax on beer shall will be determined at the time of its removal for consumption or retail sale at the licensee's licensed premises, and shall will be paid by the manufacturer or craft brewery.~~

011.01A The tax on all beer produced by a manufacturer or craft brewery licensee and consumed or sold at retail on the licensee's licensed premises is determined at the time of its removal for consumption or retail sale and is to be paid by the manufacturer or craft brewery.

011.01B For all beer produced by a manufacturer or craft brewery licensee located in Nebraska for intrastate retail sale in Nebraska off of such licensee's licensed premises or Satellite locations, such beer ~~shall~~ will prior to being resold at retail, be sold to, and come into the physical possession of a wholesale licensee and be unloaded into and distributed from either the licensed wholesaler's warehouse or vehicles in the State and the tax on such beer ~~shall~~ will be determined at the time of its removal from the licensed premises and ~~shall~~ will be paid by the manufacturer or

craft brewery licensee. The transfer ~~shall~~ must be documented by an executed bill of lading.

011.01C For all beer sold to a wholesale licensee from the holder of a shipper's license the tax is due upon the beers delivery to a license wholesaler, and such beer must come into the physical possession of a wholesale licensee and distributed from the wholesale licensee's warehouse. The transfer from the shipper's licensee to the wholesale licensee ~~shall~~ must be documented by an executed bill of lading.

011.01D Any purchases, sales, practices, or transactions entered into between any manufacturer, craft brewery, wholesaler, or retailer, with the intent to circumvent or evade the provisions of this regulation ~~shall~~ will be considered in violation ~~thereof~~ and ~~shall~~ will be subject to citation and possible administrative sanction to include suspension, cancellation or revocation.

012 DOCK SALES

012.01 Any sale of alcoholic liquors from the dock or licensed premise of a manufacturer, distributor, or wholesaler ~~shall~~ will include on the proper invoice the signature of the retailer or retailer's agent who receives delivery of the same at the time of the purchase. It ~~shall~~ will be the responsibility of the manufacturer, distributor, or wholesaler to ensure that the retailer is properly licensed and that the retailer's agent is bona fide and acting solely on behalf of the authorizing retailer.

015 ACCEPTABLE FORMS OF PAYMENT

015 Acceptable forms or means of payment between retail licensee and wholesale licensee for purchases of alcoholic beverages (beer, wine, spirits).

015.01 Retailers business check (The check must carry the name of the business as so licensed with Commission. The name ~~shall~~ will mean the current D.B.A. or corporate name. If licensed as a proprietorship or partnership, the name of the individual or partner or D.B.A.)

EXCEPTIONS:

015.01A A personal check of the licensee or holder of a temporary operating permit may be accepted by wholesaler if supported by a copy of the liquor license.

~~**015.01B** If the business is under a temporary operating permit, the new operator shall will submit a check with the name of the business. Same criteria as 015.01.~~

015.02 Coins

015.03 Currency

015.04 Debit and Credit cards (card must carry the name of the retail business as licensed with Commission and signed by licensee or authorized agent.)

~~**015.05** Credit cards (card must carry the name of the retail business as licensed with Commission and signed by licensee or authorized agent.)~~

015.06~~5~~ Cashier check, Bank Money Order, or Certified Check
(The remitter must be the licensee or authorized agent.)

~~**015.07** Bank Money Order (The remitter must be the licensee or authorized agent.)~~

~~**015.08** Certified Check (The remitter must be the licensee or authorized agent.)~~

~~**015.09** Travelers Check (Must carry the signature of the licensee or authorized agent.)~~

015.~~10~~06 Payment for beer from a licensed retailer to a licensed beer wholesaler must be completed by the end of the business day from time of the sale.

015.~~11~~07 Any electronic transfer of funds from a retailer to a wholesaler with respect to beer must be completed within twenty-four hours of the sale and in the case of wine or spirits within thirty days of the sale.

0016 TRADE PRACTICE POLICIES

~~A~~ No wholesale licensee, shipper licensee, manufacturer licensee, ~~and~~ craft brewery licensee, farm wineries, and craft distillers, (collectively referred to as an "industry member") ~~may furnish a retail licensee, with equipment, supplies, services, or other things of value, under conditions and within the limitations prescribed.~~ will, directly or indirectly, give any premium, gift, free goods, or other things of value in connection with the sale, distribution, or sale and distribution of alcoholic liquor and no retail licensee shall directly or indirectly receive any premium, gift, free goods, or other things of value from an industry member, except under the conditions and within the limitations prescribed.

016.01 PRODUCT DISPLAYS

016.01A GENERAL

016.01A1 The act by industry member of giving or selling product displays to a retailer is allowed provided that the conditions and limitations prescribed in 016.01C of this rule are met.

016.01B DEFINITION

016.01B1 Product displays means any alcoholic liquor racks, bins, barrels, casks, shelving or similar items the primary function of which is to hold shelve or display consumer products.

016.01C CONDITIONS AND LIMITATIONS

016.01C1 The total value of all product displays given or sold by an industry member under 016 of this rule may not exceed $300 per brand at any one time in any one retail establishment. Industry members may not pool or combine dollar limitations in order to provide a retailer a product display valued in excess of $300 per brand. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded.

016.01C2 All product displays must bear conspicuous and substantial advertising matter on the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the product displays.

016.01C3 The giving or selling of such product displays may be conditioned upon the purchase of the distilled spirits, wine, or malt beverages advertised on those displays in a quantity necessary for the initial completion of such display. No other condition can be imposed by the industry member on the retailer in order for the retailer to receive or obtain the product display.

016.02 POINT OF SALE ADVERTISING MATERIALS AND CONSUMER ADVERTISING SPECIALTIES

016.02A GENERAL

016.02A1 The act by an industry member of giving or selling point of sale advertising materials and consumer advertising specialties to a retailer is allowed provided that the condition and limitations prescribed in 016.02C of this rule are met.

016.02B DEFINITIONS

016.02B1 Point of sale advertising materials are items designed to be used within a retail establishment to attract consumer attention to the products of the industry member. Such materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

016.02B2 Consumer advertising specialties are items that are designed to be carried away by the consumer, such as trading stamps, non-alcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, shirts, caps, and visors.

016.02C CONDITIONS AND LIMITATIONS

016.02C1 All point of sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials.

016.02C2 The industry member may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental to their use.

016.03 EQUIPMENT AND SUPPLIES

016.03A GENERAL

016.03A1 The act by an industry member of selling equipment or supplies to a retailer is allowed if the equipment or supplies are sold at a price not less than the cost to the industry member who initially purchased them, and if the price is collected within 30 days of the date of the sale. The act by an industry member of installing dispensing accessories at the retailer establishment is allowed as long as the retailer bears the cost of initial installation. The act by an industry member of furnishing, giving, or selling coil cleaning service to a retailer of distilled spirits, wine, or malt beverages is allowed.

016.03B EQUIPMENT AND SUPPLIES

016.03B1 Equipment and supplies means glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. "Dispensing Accessories" include items such as standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves.

016.03C NEWSPAPER CUTS

016.03C1 Newspaper cuts, mats, or engraved blocks for use in retailers advertisements may be given or sold by an industry member to a retailer selling the industry members products.

016.03D COMBINATION PACKING

016.03D1 The act by an industry member of packaging and distributing distilled spirits, wine, or malt beverages in combination with other (non-alcoholic) items for sale to consumers is allowed.

016.04 EDUCATIONAL SEMINARS

016.04A GENERAL

016.04A1 An industry member may give or sponsor educational seminars for retailers and their employees. Examples would be seminars dealing with use of a retailers equipment, training seminars for employees of retailers, or tours of industry members plant premises. This rule does not authorize an industry member to pay a retailer expenses in conjunction with an educational seminar (such as travel and lodging). This does not preclude providing nominal hospitality during the event.

016.05 STOCKING, ROTATION AND PRICING SERVICE

016.05A GENERAL

016.05A1 Industry members may, at a retail establishment, stock~~,~~ and rotate ~~and affix the price to~~ the distilled spirits, wine, or malt beverages which they sell, provided products of another industry members are not altered or disturbed.

016.05B SHELF PLAN AND SHELF SCHEMATICS

016.05B1 The act of an industry member of providing a shelf plan or shelf schematic for distilled spirits, wine, or malt beverages is allowed. When requested by a retailer, an industry member may, pursuant to the plan or schematic, rearrange or reset all or part of a liquor store or liquor department.

016.06 PARTICIPATION IN RETAILER ASSOCIATION ACTIVITIES

016.06A GENERAL

016.06A1 The following acts by an industry member participating in retailers association activities is allowed.

016.06A1A Display~~ing it's~~ their products at a convention or trade show.

016.06A1B Renting display booth space if the rental fee is the same or paid by all exhibitors at the event.

016.06A1C Providing its own hospitality which is independent from association sponsored activities.

016.06A1D Purchasing tickets to functions and paying registration fees if the payment or fees are the same as paid by all attendees, participants or exhibitors at the event.

016.06A1E Making payments for advertisements in programs or brochures issued by retailers associations at a convention or trade show. If payment or fees are the same as paid by all other patrons or exhibitors.

016.07 PERMIT TO SOLICIT FOR FUTURE SALES

016.07A The Commission may issue a permit for wholesale sales for future delivery to retailers which authorizes the permittee to promote the sale of beer, wine, and spirits through methods such as solicitations, display, advertising and personal contact with licensed retailers and their agent, servants, and employees. A person holding the permit under this regulation may give samples of beer, wine, and spirits to retailers provided the alcoholic beverages first came to rest at a wholesale licensed premise and the state excise taxes paid. The permit under this section is only required of persons employed by a holder of a shipping license issued by the Commission and who reside in the State of Nebraska. Shipping license holders ~~shall~~ will furnish the Commission with the names of all employees engaged in activities requiring a permit under this section and ~~shall~~ will notify the Commission whenever an employee begins or terminates employment. Upon leaving employment, an employee ~~shall~~ will submit his or her permit to the Commission for cancellation. Every person holding a permit under this section ~~shall~~ will exhibit it upon request to any prospective purchaser or agent of the Commission or Nebraska State Patrol. A permit holder ~~shall~~ will retain and preserve industry promotional cost records for Commission review for a period of three years. Every person holding a permit under this section ~~shall~~ will be obligated to follow all Trade Practice Policies, Chapter 6, 016 contained in Commission Rules and Regulations. Every permit holder, employer, or shipper is subject to citation for any violation of the Trade Practice Rules and Regulations. The application for the new permit ~~shall~~ will be submitted upon such forms as the Commission may prescribe.

017 EMPLOYMENT OF MINORS

017.01 Age 16 - Upon reaching 16 -

~~**017.01A** An employee may stock inventory, sack and carry out alcoholic liquor from licensed establishments, although she/he must be accompanied by a person 21 years of age or over. (Can be the purchaser.) (53-168.06)~~

017.01A An employee may handle alcoholic liquor in the course of their employment.

017.01A1 A grocery pick-up lane is considered a carry-out function.

~~**017.01B** An employee may remove liquor containers as a waiter, waitress or busboy~~ support staff ~~of a restaurant, hotel, etc. (53-168.06)~~

017.01B An employee may remove and dispose of alcoholic liquor containers for the convenience of his or her employer and customers in the course of his or her employment;

~~**017.01C** An employee may not scan or accept payment regarding any sale of alcoholic liquor~~.

017.01C An employee may complete a transaction for the sale of alcoholic liquor in the course of his or her employment if he or she is not handling or serving alcoholic liquor.

017.02 Age 19 - Upon reaching 19 –

A person may serve or sell alcoholic liquor in the course of his or her employment.

~~**017.02A** An employee may serve (includes bartending) and sell alcoholic liquor. (53-168.06)~~

~~**017.02B** An employee may place orders and accept deliveries in the normal course of business with licensed wholesalers.~~

017.03 Immediate underage family members are not exempt from the provisions of this rule.

018 CREDIT: WHOLESALER/RETAILER

018.01 Pursuant to the authority granted in the Liquor Control Act and to meet the requirements contained in Regulations No. 122 (originally issued as FFA Regulation No. 8) issued by the Bureau of Internal Revenue of the United States Treasury Department, the Nebraska Liquor Control Commission hereby adopts the following rule:

018.01A No person, partnership, firm or corporation holding a retailer's license under the Nebraska Liquor Control Act will accept or receive credit from any manufacturer, distributor or wholesaler on purchases of beer and no retailer ~~shall~~ will accept or receive credit from any manufacturer, distributor or wholesaler on purchases of alcoholic liquors, except beer, for a period exceeding 30 days from the date of delivery of any such merchandise.

018.01B No manufacturer, distributor or wholesaler ~~shall~~ will extend credit to any such retailer on sales of beer and no manufacturer, distributor or wholesaler ~~shall~~ will extend credit to any such retailer on sales of alcoholic liquors, excluding beer, for a period exceeding 30 days from the date of delivery of any such merchandise.

018.01C No retailer ~~shall~~ will purchase, accept or receive any alcoholic liquors, including beer, from any manufacturer, distributor or wholesaler if such retailer is delinquent on any account for alcoholic liquors, including beer, to any manufacturer, distributor or wholesaler.

018.01D No manufacturer, distributor or wholesaler ~~shall~~ will sell or otherwise furnish any such alcoholic liquor, including beer, to any retail licensee who is delinquent on any account to any other manufacturer, distributor or wholesaler, providing that such delinquency is known to such manufacturer, distributor or wholesaler.

018.01E Every manufacturer, distributor, wholesaler and retailer ~~shall~~ will report to the Commission such information concerning the extending or receiving of credit on such forms as the Commission may hereafter prescribe and at such times as the Commission ~~shall~~ will hereafter determine. Such reports ~~shall~~ will be by affidavit and sworn to by all licensees.

018.01F Any purchases, sales, practices or transactions entered into between any manufacturer, distributor or wholesaler and any retailer, with the intent to circumvent or evade the provisions of this regulation, ~~shall~~ will be considered as a violation thereof.

018.01G ~~Beer~~ Wholesalers ~~shall~~ will be permitted to give retailers quantity discounts on volume purchases but such discounts ~~shall~~ will be calculated on the basis of sales made to each licensee at the time of the sale and not result in any accrued accumulated at retroactive discount. Individual retail licensees, groups of licensees, or licensees holding more than one retail license ~~shall~~ will not be permitted to combine purchases for purposes of obtaining such quantity discounts.

018.01G1 Quantity Discount defined: A Quantity discount is a change to the purchase price based upon the quantity purchased. The regular price of the alcoholic liquor sold and any quantity discount must be stated on the invoice as well as the basis for the discount. It does not include the exchange of free goods or other products.

018.01G2 Any quantity discount must be made available to all similarly situated licensees for alcoholic liquors bearing the same brand or trade name and of like age and quality. A Wholesaler or Farm Winery licensee may create a quantity discount offer and place reasonable conditions to accept the offer, but the effort of such conditions cannot be designed to be, or result in the quantity discount offer only being available to specific licensees.

018.01G3 Return of product: The State of Nebraska will follow the applicable Federal regulations on the return of alcoholic product.

019 ILLEGAL CONDUCT: ALL LICENSEES

019.01 Persons, partnerships, and/or corporations holding licenses issued pursuant to the provisions of the Nebraska Liquor Control Act, Section 53-101, et seq., R.R.S. 1943, will be subject to citation and possible administrative sanction to include suspension or revocation for violation of the following:

019.01A Sale to Minor; Defense: No licensee or partners, principals, agents or employees of any licensee shall sell any alcoholic liquors to any person who is a minor as defined in Section 53-103(23) of the Nebraska Liquor Control Act except that proof of the following shall constitute an absolute defense:

019.01A1 The purchaser falsely represented in writing and supported with other documentary proof specifically; a Driver's License, Nebraska State Identification Card, Military Identification Card, Alien Registration Card or Passport that he was of legal age to purchase alcoholic liquor; and

019.01A2 That the appearance of such purchaser was such that an ordinary and prudent person would believe that such appearance conformed to any documentary description of appearance presented by the purchaser; and

019.01A3 The sale was made in good faith and in reliance upon the written representation, other documentary evidence, the appearance of the purchaser, and in the belief the purchaser was of legal age to make such purchase; or

019.01A4 The sale was made with the knowledge of and in cooperation with a duly authorized law enforcement officer or agent of the Nebraska Liquor Control Commission. (53-180, 53-180.07)

019.01B Minor in Possession Within Licensed Premise: No licensee or agent, principal, partner or employee of any licensee ~~shall~~ will permit any person who is a minor as defined in Section 53-103(23) of the Nebraska Liquor Control Act to possess for the purpose of consumption any alcoholic liquor in any licensed premises. A licensee who has established the defense of (A) above ~~shall~~ will be deemed to have not acted carelessly. (53-180.02)

019.01C Hours of Operation: No licensee or partner, principal, agent or employee ~~shall~~ will permit the sale, dispensing or delivery of any alcoholic liquor in or from the licensed premises during hours not permitted by local ordinance or by the provisions of state law. (53-179)

019.01D Open Containers During Prohibited Hours: No licensee or partner, principal, agent or employee of any licensee ~~shall~~ will permit any alcoholic liquor, in open containers to remain in the possession or control of any person for the purpose of consumption 15 minutes after the time set for concluding the sale of alcoholic liquor, by state law or by local ordinance whichever is earlier. (53-179(3))

019.01E Silent Partners; Profit Sharing: No licensee or partner, principal, agent or employee of any Retail Liquor License ~~shall~~ will permit any other person not licensed or included as a partner, principal, or stockholder of any Retail Liquor License to participate in the sharing of profits or liabilities arising from any Retail Liquor License. ~~(53-1,100)~~(53-149 and 53-131.01)

019.01F Disturbance: No licensee or partner, principal, agent or employee of any licensee ~~shall~~ will allow any unreasonable disturbance, as such term is defined below, to continue without taking the steps, as set forth below, within a licensed premise or in adjacent related outdoor areas.

019.01F1 A “Disturbance" as used in this section ~~shall~~ will mean any brawl, fight, or other activity which may endanger the patrons, employees, law enforcement officers, or members of the general public within licensed premises or adjacent related outdoor area. Such term ~~shall~~ will include incidents involving, but not necessarily limited to: drug dealing; intoxicated individuals; soliciting of prostitution; or any physical contact between the licensee's agents or employees and its customers, involving any kissing, or any touching of the breast, buttock or genital areas. Any brawl fight or other activity which results in serious injury to any patron, employee or members of the general public ~~shall~~ will be reported to law enforcement. Serious injury means any gunshot wound, knife or other stab wound or any other injury requiring medical treatment onsite or transportation to a medical facility for treatment. Licensees and their employees ~~shall~~ will not prohibit or interfere in any way with a patron who chooses to contact law enforcement in the event they are assaulted on the premises. A Licensee will also not create through its action or inaction a situation where a disturbance had reasonable foreseeability of occurring.

019.01F2 Unless there is reason to believe that a licensee or partner, principal, agent or employee of any licensee would endanger himself/herself or others, such person ~~shall~~ will take such action as is reasonably necessary to terminate the disturbance. Physical force should be exercised only in extreme circumstances and should be limited to the force reasonably required to terminate the disturbance and remove the individual from the licensed premise, without endangering any patron or other person.

019.01F3 In the event efforts taken in accordance with the preceding subparagraph are not successful or if there is reason to believe that the licensee, partner, principal, agent or employee of any licensee may create a danger to himself/herself or others, than in such event, such person ~~shall~~ will immediately contact law enforcement personnel to assist in properly handling the disturbance. In the event law enforcement and/or medical personnel are summoned, the directions and/or orders given by such law enforcement or medical personnel ~~shall~~ will be followed.

019.01F4 A licensee who has conformed with the procedure as set forth in this section ~~shall~~ will be deemed to have not permitted a disturbance to occur and continue. Licensees who wish to document their compliance with this rule may maintain a log in which they document disturbances or other unusual occurrences.

019.01F5 A Licensee is guilty of allowing a disturbance to occur if, by its inaction or action, created or contributed to the circumstances which gave rise to the disturbance, such actions or inactions may include, but are not limited to security, entertainment, third party contracts such as promoters, and/or rejecting advice of law enforcement or the Commission in regards to the conduct.

019.01G Entry Into Premise by Law Enforcement Officer: No licensee or partner, principal, agent or employee of any licensee ~~shall~~ will refuse to permit or unreasonably delay in permitting any law enforcement officers, duly appointed investigator, inspector, agent or auditor of the Nebraska Liquor Control Commission entry onto the licensed premises at any time ~~demand for such entry is made by such law enforcement officer, investigator, inspector, agent or auditor of the Nebraska Liquor Control Commission.~~

019.01H Removal of Alcoholic Liquors From Premise: No licensee or partner, principal, agent or employee of any licensee ~~shall~~ will allow any alcoholic liquor to be removed from a licensed premises except where a license is held permitting off-premises sales and then only in original unopened containers.

019.01I Sale For Resale: No licensee or partner, principal, agent or employee other than provided for in 53-175, ~~shall~~ will engage, directly or indirectly, in any transaction including or conspiring as to the resale of any liquors owned by him as a licensee, nor permit the sale or delivery of any alcoholic liquor in such quantities that would place a reasonable-minded person on notice that such liquor might be intended for resale. A defense may be established by the licensee by obtaining from any such suspected purchaser a statement in writing that the purchase is not being made for the purpose of reselling the alcoholic liquors.

019.01J Refilling; Substitution: No licensee or partner, principal, agent or employee of any licensee ~~shall~~ will fill or refill, in whole or in part, any original package of alcoholic liquor, with the same or any other kind, quantity, quality or proof of alcoholic liquor and no licensee or partner, principal, agent or employee of any licensee ~~shall~~ will have in his possession for sale at retail, any containers of any kind containing alcoholic liquor, except in original packages. (53-184)

019.01K Delinquent Credit: No licensee or partner, principal, agent or employee of any licensee ~~shall~~ will fail to pay for upon delivery, any purchases of beer and ~~shall~~ will not accept credit from any manufacturer, distributor or wholesaler of alcoholic liquors namely, spirits or wine, for a period of 30 days. Any purchases of alcoholic liquors for which payment has not been made in full within 30 days of the date of invoice ~~shall~~ will constitute a delinquency and ~~shall~~ will subject the licensee to citation (53-168).

019.01L Sale of License: No licensee or partner, principal, agent or employee of any licensee ~~shall~~ will sell or offer to sell any interest in any liquor license to any other person. In any sale of a business possessing a liquor license, no value may be placed upon the existence of the license itself and the placing of any such value upon the license by the seller of any such business ~~shall~~ will subject the seller-licensee to citation.

019.01M Sell on Credit to Consumer: No licensee or partner, principal, agent or employee of any licensee not exempted by the provisions of Section 53-183, ~~shall~~ will sell or furnish alcoholic liquor at retail to any person on credit, except that a major credit card may be used in the purchase of alcoholic liquors. The term "major" credit card ~~shall~~ will mean any nationally recognized credit card, excluding any card, distributed by an entity that holds a retail license issued by Nebraska. (53-183)

019.01N Sell to Visibly Intoxicated Person/Mentally Incapacitated Person/Person Incapacitated by Drugs. No licensee or partner, principal, agent or employee of any licensee shall sell, serve, or furnish alcoholic beverages or allow possession of alcoholic beverages on the licensed premise to any person who is or has become intoxicated and/or incapacitated by the consumption of alcoholic beverages and/or other drugs or who is mentally incapacitated. Intoxication means an impairment of a person's mental or physical faculties as a result of his or her use of alcoholic liquor or drugs so as to diminish the person's ability to think and act in the manner of an ordinary prudent and cautious person in full possession of his or her faculties using reasonable care under like circumstances. A person ~~shall~~ will be deemed to be intoxicated when it can be plainly determined by appearance, conduct, and/or demeanor. A change in demeanor and/or behavior as time passes is also an indicator of intoxication. Other indicators include, but are not limited to:

> **019.01N1** Problems with balance, inability to maintain balance, i.e., stumbling, staggering gait, bumping into furniture while walking, falling against bar or off stool, head on bar;
>
> **019.01N2** Ineffective muscular coordination, i.e., spilling and/or knocking over drinks, unable to pick up change, clumsy, uncoordinated movements;
>
> **019.01N3** Strong smell of alcohol;
>
> **019.01N4** Slurred speech, i.e., thick tongue, uncontrollable voice pitch, muttering, argumentative, aggressive or belligerent, making inappropriate comments, crude behavior.

019.01N5 Bloodshot and/or glassy eyes, i.e., flushed face;

019.01N6 Condition of clothes and hair, i.e., disheveled appearance, messy hair, unzipped clothing;

019.01N7 Careless with money, urging other people to have another drink, annoying other guests and servers, complaining about drink prices, complaining about drink strength or preparation.

019.01N8 Unusual behavior, i.e., vomiting, profanity, hiccups, fighting, loud, boisterous, obnoxious behavior.

019.01N9 A concentration of eight hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood, a concentration of eight hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, or a concentration of eight hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her urine. This indicator may only be used in conjunction with at least one other indicator that demonstrates visible intoxication.

019.01O Notices: Every licensee ~~shall~~ will cause his license or licenses to be framed and hung in plain view in a conspicuous place on the licensed premises. (53-148) The warning to minor and adults sign and the pregnancy poster must also be on display in a prominent place. (53-180.04)

019.01P No retail licensee may deliver alcoholic liquor to a consumer, except:

> **019.01P1** Holder of a special designated license or a caterer's license used in conjunction with a special designated license may deliver to the licensed location or to a location expressly authorized by the Commission in writing pursuant to Chapter 4 of the Rules and Regulations of the Commission.
>
> **019.01P2** A retail licensee ~~and~~ or holder of a shipping license, may deliver or cause to be delivered by its agent, delivery service or common carrier to a consumer alcoholic beverages provided that the consumer has paid the licensee for the alcoholic liquors prior to delivery by cash, credit or debit card, and that the licensee has verified that the sale has not been made to a minor, nor that delivery will be made to a minor. Any package to be delivered by a delivery service or common carrier for the holder of a shipping license ~~shall~~ will have a label stating "adult signature required"

measuring at least three by five inches in size placed on the package by the licensee.

019.01P3 The retail licensee or holder of a shipping license is responsible for any violations of the Nebraska Liquor Control Act and/or the Rules and Regulations of the Nebraska Liquor Control Commission which occur as a result of the delivery of alcoholic liquors, including, but not limited to, sales to minors.

019.01P4 The driver for the agent must be 21 years of age.

019.01Q Other Illegal Activities: The Commission finds that certain illegal activities may induce individuals to enter licensed premises and that the Commission has an interest in insuring that licensees do not use illegal means to promote the sale and consumption of alcohol. The Commission also believes the consumption of alcohol could impair judgement and could lessen inhibitions, causing some consumers to engage in illegal activities or to be victims of illegal activities on or about licensed premises, endangering the health, safety and welfare of individuals. The Commission, therefore, finds there is a nexus between the consumption of alcohol and certain illegal activities that occur within licensed premises or in adjacent related outdoor areas.

Such activities are: drug-related offenses, prostitution or pandering, assaults, sexual assaults, homicide, gambling, vandalism, weapons-related offenses, theft, disturbing the peace, violations of statutes or local ordinances relating to entertainment, acceptance of food stamps for the sale of alcohol or otherwise in violation of federal laws or regulations, and any offense referred to in Section 53-125 (4) or (5), whether or not there has been a plea of guilty or a conviction in criminal court.

If the Commission finds by a preponderance of the evidence that a licensee or employee or agent of a licensee has committed any of the foregoing illegal activities or has knowingly allowed such offense to be committed by others on the licensed premises or adjacent related outdoor areas, the Commission may suspend, cancel or revoke such license.

019.01R Penalties: Upon a determination by the Nebraska Liquor Control Commission that any licensee licensed by it has violated any of the provisions of the Nebraska Liquor Control Act (53-101 through 53-1,200) or the Rules and Regulations of the Nebraska Liquor Control Commission that license may be subjected to cancellation, revocation or suspension or other administrative sanction such as the Commission may order.

019.01S SANITATION

019.01S1 Sanitary conditions, conducive to public health and welfare, must be maintained at all times, in, on or about licensed premises, by meeting minimum sanitary standards as set forth in the Nebraska Food Service Code. The minimum standards ~~shall~~ will require at least two restrooms for establishments that provide on premise consumption of alcoholic beverages. The licensee may request an exemption and if it is found by the Commission that such waiver does not create an issue to the public, health, safety, or welfare it will be granted.

019.01T QUANTITATIVE SALES

019.01T1 All licensees ~~shall~~ will maintain ~~or~~ on their licensed premises records presently required by federal regulation concerning sales of alcoholic liquor, in an amount of twenty wine gallons or more (27 CFR 194) Such records ~~shall~~ will include a record of the name and driver's license number or other identification of the person making the purchase. All licensees ~~shall~~ will make such records available to any Nebraska Liquor Control personnel or any other law enforcement officer at any time demand for such is made.

019.01U DRINKING PROMOTIONS

019.01U1 No licensee ~~shall~~ will sell, or serve for on-premises consumption, an unlimited quantity of beer, wine, or spirits at a specific price.

019.01U2 No licensee ~~shall~~ will sell or serve two or more drinks containing beer, wine, or spirits to a person for that person's consumption on the licensed premises for one price. A pitcher or bucket of beer ~~shall~~ will not be considered a drink, however, no licensee ~~shall~~ will sell two or more pitchers or buckets of beer for one price.

019.01U3 Nothing in this rule shall will limit, or in any way restrict, the price which may be charged by any licensee for a single drink containing beer, wine, or spirits to be consumed on the licensed premises.

019.01U4 No licensee ~~shall~~ will mix or pour alcoholic beverages directly into a patron's mouth. The so-called upside-down drinks are prohibited.

019.01W SPECIAL DESIGNATED PERMIT/DELIVERY AND RETURN OF ALCOHOLIC BEVERAGES

019.01W1 Delivery and return of alcoholic beverages must be made within seven (7) days prior and subsequent to the date of the event.

019.01W2 If storage is to be off the licensed premises, written request must be made to and written approval received from the Commission covering the location and dates of the storage.

019.01W3 After the completion of the event for which a special designated permit is obtained, the permittee may remove open containers of alcoholic liquor from the premise. A licensee with a catering permit may store open containers of alcoholic liquor used for catered events provided the alcoholic liquor is stored in a separate and secure area of the licensed premise.

019.01X ADULT ENTERTAINMENT

019.01X1 No licensee or partner, principal, agent or employee of any licensee ~~shall~~ will employ or permit any person under the age of nineteen to provide sexually explicit entertainment within a licensed premises; nor ~~shall~~ will any person under the age of nineteen be employed or permitted within a licensed premises while unclothed in any sexually explicit manner.

020 CANCELLATION/DENIAL OF LICENSES

020.01 Where approval or authorization for issuance of any liquor license has been made by the Commission subject to any condition and that condition is not met the applicant ~~shall~~ will be subject at all times during this period of non-issuance to an Order of the Commission to show cause why the approval should not be cancelled and the application denied for failure to meet the conditions for issuance.

020.02 Where a license has been approved by the Commission and forwarded to the city, village or county clerk, as the case may be, for the collection of the appropriate fees and issuance and the applicant does not complete the licensing process by paying such appropriate fees and obtaining such license within twenty-one calendar days from the receipt by the city clerk, village or county clerk, as the case may be, for the license, the clerk ~~shall~~ will immediately return the license to the Commission and the applicant ~~shall~~ will be subject to an Order of the Commission directing the applicant to show cause why the approval of the license should not be cancelled and the application denied.

020.03 Where a license has been issued and the licensee for any reason during the license year fails to operate the license for a total of thirty continuous days or sixty total days the licensee ~~shall~~ will be subject to an Order of the Commission directing that the licensee show cause why the license should not be cancelled for non-use.

020.04 Where a license has been issued and the licensee finds that the licensee ~~shall~~ will not be able to maintain continuous operation during the license year as a result of fire, tornado, flood, loss of lease or some other reason constituting a hardship the licensee ~~shall~~ will apply to the Commission within thirty days of the occurrence constituting hardship for permission to voluntarily cease operations and maintain the licensee's license for a period of time not to exceed the end of the licensed year for which the license was issued. Any such status afforded ~~shall~~ will be reviewable by the Commission within sixty days of the end of any license year in which such status has been afforded. Failure to afford such status or the revision of such status ~~shall~~ will subject the licensee to an Order of the Commission to show cause why the licensee's license should not be cancelled.

020.05 Failure on the part of the licensee to show good cause for either (A) the licensee's non-compliance with conditions of issuance, (B) the licensee's non-completion of the licensing process by the paying of the appropriate fees and obtaining the license from local officials, (C) the licensee's non-use or (D) the licensee's non- operation due to hardship ~~shall~~ will result in the license being cancelled or the previous preliminary approval being rescinded and the application denied.

020.06 Licenses that have been suspended, cancelled or revoked by the Commission, but are operating under a judicial stay may be renewed according to the renewal statutes. However, any license renewed while suspended, cancelled or revoked but operating under judicial stay ~~shall~~ will be subject to the same suspension, cancellation, or revocation that was attached to the original license once the judicial stay is dissolved.

021 COMMON CARRIER AND ALCOHOL SHIPMENTS

"Common Carrier" means a company that transports goods, on reasonable request, on regular routes and at set rates.

A Common Carrier that carries or transports alcoholic liquor into this State to a consumer in this State will complete an application on a form prescribed by the Commission and will submit quarterly reports to the Commission. A report required under this section must include all of the following about each delivery to a consumer in this State during the preceding calendar quarter:

A) The name and business address of the person that ships alcoholic liquor
B) The name and address of the recipient of alcoholic liquor
C) The weight of alcoholic liquor delivered to the consignee
D) The date of the delivery
E) If no shipments are made during the quarter. Notification of such is required.
F) Shipment Tracking Number

Said reports will be filed by the 15th of months following the quarter, i.e. (January-March submit by April 15; April- June submit by July 15, July-September submit by October 15; October- December submit by January 15).

CHAPTER 7 PERMITTEES REPORTS/RECORD RETENTION

002: RECORD RETENTION

~~002.01 All licensees and or holders of shipper's permits shall retain and preserve true books of accounts and records of all business receipts, disbursements and funds used in connection with the licensed business for a period of three years.~~

002.01 All licensees will keep complete, accurate and separate records for a period of three years. The records will be available for inspection and copies of such can be requested by NLCC and auditors. Licensees may use storage technologies for the storage of their records, and may store them off site, provided the records so stored are readily subject to retrieval and made available for viewing on a screen or in hard copy by NLCC, enforcement or auditors during reasonable hours. At any other time of day, if the licensee's records are not available for inspection, the licensee will provide the records within 24 hours after a request is made to inspect the records. "Reasonable hours" will be deemed to include all business hours of operation and any other time at which there exists any indication of activity upon the licensed premises.

~~002.02 All retailers shall keep invoices and records involving the purchase of alcoholic liquors for the previous twelve months, and make them available for inspection upon demand to the Commission or its agents.~~

002.02 All licensed manufacturers, bottlers or wholesalers of alcoholic beverages will keep a complete, accurate and separate record of all alcoholic beverages manufactured, bottled, purchased, sold or shipped by them. Such records will show the quantities of all such alcoholic beverages manufactured, bottled, purchased, sold or shipped by them; the dates of all sales, purchases, deliveries or shipments, the names and addresses of all persons to or from whom such sales, purchases, deliveries or shipments are made; the quantities and kinds of alcoholic beverages sold and delivered or shipped and the prices charged therefore and the taxes applicable thereto, if any. Every manufacturer and wholesaler, at the time of delivering alcoholic beverages to any person, will also prepare a duplicate invoice showing date of delivery, the quantity and value of each delivery and the name of the purchaser to whom the delivery is made. Bills of lading, properly executed with signatures, proving quantity are required for any shipments of alcoholic beverages being made out of the state and into the state of Nebraska.

002.03 Every retail licensee will keep complete, accurate and separate records, including invoices, of the purchases and sales of alcoholic beverages, food and other merchandise. The records of alcoholic beverages will be kept separate and apart from other records and will include all purchases thereof, the dates of such purchases, the

kinds and quantities of alcoholic beverages purchased, the prices charged therefore and the names and addresses of the persons from whom purchased. Additionally, each retail licensee will keep accurate accounts of daily sales, and sales tax records, showing quantities of alcoholic beverages, food, and other merchandising sold and the prices charged therefore.

002.04 If a licensee has rights as a manufacturer, wholesaler, and retailer then the appropriate record retention shall be based on the type of business activity.

002.05 The terms "sale" and "sell" will include exchange, barter or traffic, or delivery made otherwise that gratuitously, by any means whatsoever, of mixed beverages and other alcoholic beverages, and of meals or food.

002.06 Federal forms that are required to be submitted and kept on file must be available to state and NLCC Auditors upon request. Federal forms that are required whether submitted or required to be kept on file must be available to enforcement officials and NLCC staff and auditors upon request and are subject to the record retention as above.