

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 441

Introduced by McDonald, 41; Dierks, 40; Heidemann, 1; Hudkins, 21;
Rogert, 16; Wightman, 36;

Read first time January 16, 2007

Committee: General Affairs

A BILL

1 FOR AN ACT relating to alcoholic liquor; to amend sections
2 53-123.15 and 53-304, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to shippers'
4 license fees; to harmonize provisions; and to repeal the
5 original sections.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-123.15, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 53-123.15 (1) No person shall order or receive alcoholic
4 liquor in this state which has been shipped directly to him or her
5 from outside this state by any person other than a holder of a
6 shipping license issued by the commission, except that a licensed
7 wholesaler may receive not more than three gallons of wine in any
8 calendar year from any person who is not a holder of a shipping
9 license.

10 (2) The commission may issue a shipping license to
11 a manufacturer. Such license shall allow the licensee to ship
12 alcoholic liquor only to a licensed wholesaler, except that a
13 licensed wholesaler may, without a shipping license and for the
14 purposes of subdivision (2) of section 53-161, receive beer in
15 this state which has been shipped from outside the state by a
16 manufacturer in accordance with the Nebraska Liquor Control Act to
17 the wholesaler, then transported by the wholesaler to another state
18 for retail distribution, and then returned by the retailer to such
19 wholesaler.

20 (3) The commission may issue a shipping license to
21 any person who deals with vintage wines, which shipping license
22 shall allow the licensee to distribute such wines to a licensed
23 wholesaler in the state. For purposes of distributing vintage
24 wines, a licensed shipper must utilize a designated wholesaler if
25 the manufacturer has a designated wholesaler. For purposes of this

1 section, vintage wine shall mean a wine verified to be ten years
2 of age or older and not available from a primary American source
3 of supply.

4 (4) The commission may issue a shipping license to any
5 person who sells and ships alcoholic liquor from another state
6 directly to a consumer in this state. A person who receives a
7 license pursuant to this subsection shall pay the fee required in
8 subdivision (11) of section 53-124. Such fee shall be collected by
9 the commission and remitted to the State Treasurer for credit to
10 the Winery and Grape Producers Promotional Fund.

11 (5) The application for a shipping license shall be
12 in such form as the commission prescribes. The application shall
13 contain all provisions the commission deems proper and necessary to
14 effectuate the purpose of any section of the act and the rules and
15 regulations of the commission that apply to manufacturers and shall
16 include, but not be limited to, provisions that the applicant, in
17 consideration of the issuance of such shipping license, agrees:

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

21 (b) To permit and be subject to all of the powers granted
22 by section 53-164.01 to the commission or its duly authorized
23 employees or agents for inspection and examination of the
24 applicant's premises and records and to pay the actual expenses,
25 excluding salary, reasonably attributable to such inspections and

1 examinations made by duly authorized employees of the commission
2 if within the United States; and

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

8 Sec. 2. Section 53-304, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 53-304 Each Nebraska winery shall pay to the Nebraska
11 Liquor Control Commission twenty dollars for every one hundred
12 sixty gallons of juice produced or received by its facility. Gifts,
13 grants, or bequests may be received for the support of the Nebraska
14 Grape and Winery Board. Funds paid pursuant to the charge imposed
15 by this section and funds received pursuant to subsection (4)
16 of section 53-123.15 and from gifts, grants, or bequests shall
17 be remitted to the State Treasurer for credit to the Winery
18 and Grape Producers Promotional Fund which is hereby created.
19 For administrative purposes, the fund shall be located in the
20 Department of Agriculture. All revenue credited to the fund shall
21 be used by the department, at the direction of and in cooperation
22 with the board, to develop and maintain programs for the research
23 and advancement of the growing, selling, marketing, and promotion
24 of grapes, fruits, berries, honey, and other agricultural products
25 and their byproducts grown and produced in Nebraska for use in

1 the wine industry. Such expenditures may include, but are not
2 limited to, all necessary funding for the employment of experts
3 in the fields of viticulture and enology, as deemed necessary
4 by the board, and programs aimed at improving the promotion of
5 all varieties of wines, grapes, fruits, berries, honey, and other
6 agricultural products and their byproducts grown and produced in
7 Nebraska for use in the wine industry.

8 Funds credited to the fund shall be used for no other
9 purposes than those stated in this section. Any funds not expended
10 during a fiscal year may be maintained in the fund for distribution
11 or expenditure during subsequent fiscal years. Any money in the
12 fund available for investment shall be invested by the state
13 investment officer pursuant to the Nebraska Capital Expansion Act
14 and the Nebraska State Funds Investment Act.

15 Sec. 3. Original sections 53-123.15 and 53-304, Reissue
16 Revised Statutes of Nebraska, are repealed.