

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 645

Introduced by Heidemann, 1

Read first time January 17, 2007

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 section 53-132, Revised Statutes Cumulative Supplement,
3 2006; to proscribe the imposition of an occupation tax on
4 a bed and breakfast establishment; to define a term; to
5 harmonize provisions; and to repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-132, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 53-132 (1) If no hearing is required pursuant to
4 subdivision (1)(a) or (b) of section 53-133 and the commission
5 has no objections pursuant to subdivision (1)(c) of such section,
6 the commission may waive the forty-five-day objection period and,
7 if not otherwise prohibited by law, cause a retail license or craft
8 brewery license to be signed by its chairperson, attested by its
9 executive director over the seal of the commission, and issued in
10 the manner provided in subsection (4) of this section as a matter
11 of course.

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

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

3 (a) The recommendation of the local governing body;

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

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

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

10 (e) The existence or absence of other retail licenses
11 or craft brewery licenses with similar privileges within the
12 neighborhood or community of the location of the proposed licensed
13 premises and whether, as evidenced by substantive, corroborative
14 documentation, the issuance of such license would result in or
15 add to an undue concentration of licenses with similar privileges
16 and, as a result, require the use of additional law enforcement
17 resources;

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

20 (g) The adequacy of existing law enforcement;

21 (h) Zoning restrictions;

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

24 (j) Whether the type of business or activity proposed to
25 be operated in conjunction with the proposed license is and will be

1 consistent with the public interest.

2 (4) Retail licenses or craft brewery licenses issued or
3 renewed by the commission shall be mailed or delivered to the clerk
4 of the city, village, or county who shall deliver the same to the
5 licensee upon receipt from the licensee of proof of payment of
6 (a) the license fee if by the terms of subdivision (5) of section
7 53-124 the fee is payable to the treasurer of such city, village,
8 or county, (b) any fee for publication of notice of hearing before
9 the local governing body upon the application for the license, (c)
10 the fee for publication of notice of renewal as provided in section
11 53-135.01, and (d) occupation taxes, if any, imposed by such city,
12 village, or county.

13 (5) Notwithstanding any ordinance or charter power to the
14 contrary, no city, village, or county shall impose an occupation
15 tax on: the

16 (a) The business of any person, firm, or corporation
17 licensed under the act and doing business within the corporate
18 limits of such city or village or within the boundaries of such
19 county in any sum which exceeds two times the amount of the license
20 fee required to be paid under the act to obtain such license; or -

21 (b) A bed and breakfast establishment. For purposes of
22 this subsection, a bed and breakfast establishment means any place
23 of lodging that provides rented rooms to ten or fewer people, that
24 is the personal residence of the owner, that is occupied by the
25 owner at the time of check-in, and in which the only meal served to

1 renters is breakfast.

2 ~~(5)~~ (6) Each license shall designate the name of the
3 licensee, the place of business licensed, and the type of license
4 issued.

5 Sec. 2. Original section 53-132, Revised Statutes
6 Cumulative Supplement, 2006, is repealed.