

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 689

Introduced by Karpisek, 32; Nantkes, 46

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 sections 53-123, 53-124, 53-129, 53-131, 53-133, 53-134,
3 53-134.03, 53-169, 53-171, 53-188, and 53-1,115, Reissue
4 Revised Statutes of Nebraska, and sections 53-101,
5 53-103, 53-124.11, 53-124.12, 53-132, and 53-164.01,
6 Revised Statutes Cumulative Supplement, 2006; to provide
7 for a limited winery license; to define a term;
8 to harmonize provisions; and to repeal the original
9 sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-101, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 53-101 Sections 53-101 to 53-1,122 and section 4 of this
4 act shall be known and may be cited as the Nebraska Liquor Control
5 Act.

6 Sec. 2. Section 53-103, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 53-103 For purposes of the Nebraska Liquor Control Act,
9 unless the context otherwise requires:

10 (1) Alcohol means the product of distillation of any
11 fermented liquid, whether rectified or diluted, whatever the origin
12 thereof, and includes synthetic ethyl alcohol and alcohol processed
13 or sold in a gaseous form. Alcohol does not include denatured
14 alcohol or wood alcohol;

15 (2) Spirits means any beverage which contains alcohol
16 obtained by distillation, mixed with water or other substance
17 in solution, and includes brandy, rum, whiskey, gin, or other
18 spirituous liquors and such liquors when rectified, blended, or
19 otherwise mixed with alcohol or other substances;

20 (3) Wine means any alcoholic beverage obtained by the
21 fermentation of the natural contents of fruits or vegetables,
22 containing sugar, including such beverages when fortified by the
23 addition of alcohol or spirits;

24 (4) Beer means a beverage obtained by alcoholic
25 fermentation of an infusion or concoction of barley or other grain,

1 malt, and hops in water and includes, but is not limited to, beer,
2 ale, stout, lager beer, porter, and near beer;

3 (5) Alcoholic liquor includes alcohol, spirits, wine,
4 beer, and any liquid or solid, patented or not, containing alcohol,
5 spirits, wine, or beer and capable of being consumed as a beverage
6 by a human being. Alcoholic liquor also includes confections or
7 candy with alcohol content of more than one-half of one percent
8 alcohol. The act does not apply to (a) alcohol used in the
9 manufacture of denatured alcohol produced in accordance with acts
10 of Congress and regulations adopted and promulgated pursuant to
11 such acts, (b) flavoring extracts, syrups, medicinal, mechanical,
12 scientific, culinary, or toilet preparations, or food products
13 unfit for beverage purposes, but the act applies to alcoholic
14 liquor used in the manufacture, preparation, or compounding of such
15 products or confections or candy that contains more than one-half
16 of one percent alcohol, or (c) wine intended for use and used by
17 any church or religious organization for sacramental purposes;

18 (6) Near beer means beer containing less than one-half of
19 one percent of alcohol by volume;

20 (7) Original package means any bottle, flask, jug, can,
21 cask, barrel, keg, hogshead, or other receptacle or container
22 used, corked or capped, sealed, and labeled by the manufacturer of
23 alcoholic liquor to contain and to convey any alcoholic liquor;

24 (8) Manufacturer means every brewer, fermenter,
25 distiller, rectifier, winemaker, blender, processor, bottler,

1 or person who fills or refills an original package and others
2 engaged in brewing, fermenting, distilling, rectifying, or bottling
3 alcoholic liquor, including a wholly owned affiliate or duly
4 authorized agent for a manufacturer;

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

10 (10) Manufacture means to distill, rectify, ferment,
11 brew, make, mix, concoct, process, blend, bottle, or fill an
12 original package with any alcoholic liquor and includes blending
13 but does not include the mixing or other preparation of drinks for
14 serving by those persons authorized and permitted in the act to
15 serve drinks for consumption on the premises where sold;

16 (11) Wholesaler means a person importing or causing to be
17 imported into the state or purchasing or causing to be purchased
18 within the state alcoholic liquor for sale or resale to retailers
19 licensed under the act, whether the business of the wholesaler is
20 conducted under the terms of a franchise or any other form of an
21 agreement with a manufacturer or manufacturers, or who has caused
22 alcoholic liquor to be imported into the state or purchased in
23 the state from a manufacturer or manufacturers and was licensed
24 to conduct such a business by the commission on May 1, 1970, or
25 has been so licensed since that date. Wholesaler does not include

1 any retailer licensed to sell alcoholic liquor for consumption off
2 the premises who sells alcoholic liquor other than beer or wine
3 to another retailer pursuant to section 53-175, except that any
4 such retailer shall obtain the required federal wholesaler's basic
5 permit and federal wholesale liquor dealer's special tax stamp.

6 Wholesaler includes a distributor, distributorship, and jobber;

7 (12) Person means any natural person, trustee,
8 corporation, partnership, or limited liability company;

9 (13) Retailer means a person who sells or offers for sale
10 alcoholic liquor for use or consumption and not for resale in any
11 form except as provided in section 53-175;

12 (14) Sell at retail and sale at retail means sale for use
13 or consumption and not for resale in any form except as provided in
14 section 53-175;

15 (15) Commission means the Nebraska Liquor Control
16 Commission;

17 (16) Sale means any transfer, exchange, or barter in any
18 manner or by any means for a consideration and includes any sale
19 made by any person, whether principal, proprietor, agent, servant,
20 or employee;

21 (17) To sell means to solicit or receive an order for, to
22 keep or expose for sale, or to keep with intent to sell;

23 (18) Restaurant means any public place (a) which is kept,
24 used, maintained, advertised, and held out to the public as a place
25 where meals are served and where meals are actually and regularly

1 served, (b) which has no sleeping accommodations, and (c) which
2 has adequate and sanitary kitchen and dining room equipment and
3 capacity and a sufficient number and kind of employees to prepare,
4 cook, and serve suitable food for its guests;

5 (19) Club means a corporation (a) which is organized
6 under the laws of this state, not for pecuniary profit, solely
7 for the promotion of some common object other than the sale or
8 consumption of alcoholic liquor, (b) which is kept, used, and
9 maintained by its members through the payment of annual dues, (c)
10 which owns, hires, or leases a building or space in a building
11 suitable and adequate for the reasonable and comfortable use and
12 accommodation of its members and their guests, and (d) which
13 has suitable and adequate kitchen and dining room space and
14 equipment and a sufficient number of servants and employees for
15 cooking, preparing, and serving food and meals for its members
16 and their guests. The affairs and management of such club shall
17 be conducted by a board of directors, executive committee, or
18 similar body chosen by the members at their annual meeting, and
19 no member, officer, agent, or employee of the club shall be paid
20 or shall directly or indirectly receive, in the form of salary or
21 other compensation, any profits from the distribution or sale of
22 alcoholic liquor to the club or the members of the club or its
23 guests introduced by members other than any salary fixed and voted
24 at any annual meeting by the members or by the governing body of
25 the club out of the general revenue of the club;

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

13 (21) Nonprofit corporation means any corporation
14 organized under the laws of this state, not for profit, which has
15 been exempted from the payment of federal income taxes;

16 (22) Minor means any person, male or female, under
17 twenty-one years of age, regardless of marital status;

18 (23) Brand means alcoholic liquor identified as the
19 product of a specific manufacturer;

20 (24) Franchise or agreement, with reference to the
21 relationship between a manufacturer and wholesaler, includes one or
22 more of the following: (a) A commercial relationship of a definite
23 duration or continuing indefinite duration which is not required
24 to be in writing; (b) a relationship by which the wholesaler is
25 granted the right to offer and sell the manufacturer's brands by

1 the manufacturer; (c) a relationship by which the franchise, as an
2 independent business, constitutes a component of the manufacturer's
3 distribution system; (d) a relationship by which the operation
4 of the wholesaler's business is substantially associated with
5 the manufacturer's brand, advertising, or other commercial symbol
6 designating the manufacturer; and (e) a relationship by which the
7 operation of the wholesaler's business is substantially reliant on
8 the manufacturer for the continued supply of beer;

9 (25) Territory or sales territory means the wholesaler's
10 area of sales responsibility for the brand or brands of the
11 manufacturer;

12 (26) Suspend means to cause a temporary interruption of
13 all rights and privileges of a license;

14 (27) Cancel means to discontinue all rights and
15 privileges of a license;

16 (28) Revoke means to permanently void and recall all
17 rights and privileges of a license;

18 (29) Generic label means a label which is not protected
19 by a registered trademark, either in whole or in part, or to
20 which no person has acquired a right pursuant to state or federal
21 statutory or common law;

22 (30) Private label means a label which the purchasing
23 wholesaler or retailer has protected, in whole or in part, by
24 a trademark registration or which the purchasing wholesaler or
25 retailer has otherwise protected pursuant to state or federal

1 statutory or common law;

2 (31) Farm winery means any enterprise which produces and
3 sells wines produced from grapes, other fruit, or other suitable
4 agricultural products of which at least seventy-five percent of the
5 finished product is grown in this state;

6 (32) Campus, as it pertains to the southern boundary of
7 the main campus of the University of Nebraska-Lincoln, means the
8 south right-of-way line of R Street and abandoned R Street from
9 10th to 17th streets;

10 (33) Brewpub means any restaurant or hotel which produces
11 on its premises a maximum of ten thousand barrels of beer per year;

12 (34) Manager means a person appointed by a corporation to
13 oversee the daily operation of the business licensed in Nebraska. A
14 manager shall meet all the requirements of the act as though he or
15 she were the applicant, except for residency and citizenship;

16 (35) Shipping license means a license granted pursuant to
17 section 53-123.15;

18 (36) Sampling means consumption on the premises of a
19 retail licensee of not more than five samples of one fluid ounce or
20 less of alcoholic liquor by the same person in a twenty-four-hour
21 period;

22 (37) Microbrewery means any small brewery producing a
23 maximum of ten thousand barrels of beer per year;

24 (38) Craft brewery means a brewpub or a microbrewery;

25 (39) Local governing body means (a) the city council or

1 village board of trustees of a city or village within which the
2 licensed premises are located or (b) if the licensed premises are
3 not within the corporate limits of a city or village, the county
4 board of the county within which the licensed premises are located;
5 and

6 (40) Consume means knowingly and intentionally drinking
7 or otherwise ingesting alcoholic liquor; and -

8 (41) Limited winery means an enterprise in which a
9 customer creates his or her own wine using grape products and
10 premises provided by the holder of a limited winery license, by
11 (a) selecting the grape products to be used, (b) beginning the
12 fermentation process, (c) leaving the product at the limited winery
13 for a forty-five day fermentation process and bottling by the
14 licensee after fermentation is complete, and (d) returning to the
15 limited winery when bottling is complete to cork and label the
16 bottle or bottles of the customer's wine.

17 Sec. 3. Section 53-123, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 53-123 Licenses issued by the commission shall be of the
20 following types: (1) Manufacturer's license; (2) alcoholic liquor
21 wholesale license, except beer; (3) beer wholesale license; (4)
22 retail license; (5) railroad license; (6) airline license; (7) boat
23 license; (8) nonbeverage user's license; (9) farm winery license;
24 (10) craft brewery license; (11) shipping license; (12) special
25 designated license; and (13) catering license; and (14) limited

1 winery license.

2 Sec. 4. Any person who operates a limited winery shall
3 obtain a license pursuant to the Nebraska Liquor Control Act.
4 A license to operate a limited winery shall permit a winery to
5 produce on the limited winery premises a maximum of thirty thousand
6 gallons per year. A limited winery may also sell to alcoholic
7 liquor wholesalers for sale and distribution to licensed retailers.
8 A limited winery license issued pursuant to this section shall be
9 the only license required by the act for the manufacture and retail
10 sale of wine for consumption on or off the licensed premises,
11 except that the sale of any wine other than wine manufactured by
12 the limited winery licensee, beer, or alcoholic liquor by the drink
13 for consumption on the limited winery premises shall require the
14 appropriate retail license. Any license held by the operator of a
15 limited winery shall be subject to the act. A holder of a limited
16 winery license may obtain an annual catering license pursuant
17 to section 53-124.12 or a special designated license pursuant to
18 section 53-124.11, and may allow sampling of the wine on the
19 limited winery premises in reasonable amounts.

20 Sec. 5. Section 53-124, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 53-124 At the time application is made to the commission
23 for a license of any type, the applicant shall pay the fee provided
24 in this section and, if the applicant is an individual, provide the
25 applicant's social security number. The fees for annual licenses

1 finally issued by the commission shall be as follows:

2 (1) For a license to manufacture alcohol and
3 spirits.....\$1,000.00;

4 (2) For a license to manufacture beer and wine or to
5 operate a farm winery, ~~or~~ craft brewery, or limited winery:

6 (a) Manufacture of beer, excluding beer produced by a
7 craft brewery:

8 (i) 1 to 100 barrel daily capacity, or any part
9 thereof.....\$100.00

10 (ii) 100 to 150 barrel daily capacity.....200.00

11 (iii) 150 to 200 barrel daily capacity.....350.00

12 (iv) 200 to 300 barrel daily capacity.....500.00

13 (v) 300 to 400 barrel daily capacity.....650.00

14 (vi) 400 to 500 barrel daily capacity.....700.00

15 (vii) 500 barrel daily capacity, or more.....800.00;

16 (b) Operation of a craft brewery.....\$250.00;

17 (c) Manufacture of wines.....\$250.00;

18 (d) Operation of a farm winery.....\$250.00; ~~—~~

19 (e) Operation of a limited winery \$250.

20 For purposes of subdivision (2) (a) of this section, daily
21 capacity shall mean the average daily barrel production for the
22 previous twelve months of manufacturing operation. If no such
23 basis for comparison exists, the manufacturing licensee shall pay
24 in advance for the first year's operation a fee of five hundred
25 dollars;

1 (3) Alcoholic liquor wholesale license, for the first and
2 each additional wholesale place of business operated in this state
3 by the same licensee and wholesaling alcoholic liquor, except beer
4 and wines produced from farm wineries.....\$750.00;

5 (4) Beer wholesale license, for the first and each
6 additional wholesale place of business operated in this state by
7 the same licensee and wholesaling beer only.....\$500.00;

8 (5) For a retail license:

9 (a) Class A: Beer only except for craft breweries, for
10 consumption on the premises, the sum of one hundred dollars;

11 (b) Class B: Beer only except for craft breweries, for
12 consumption off the premises, sales in the original packages only,
13 the sum of one hundred dollars;

14 (c) Class C: Alcoholic liquor, for consumption on the
15 premises and off the premises, sales in original packages only,
16 the sum of three hundred dollars, except for farm winery or craft
17 brewery sales outlets. If a Class C license is held by a nonprofit
18 corporation, it shall be restricted to consumption on the premises
19 only. A Class C license may have a sampling designation restricting
20 consumption on the premises to sampling, but such designation
21 shall not affect sales for consumption off the premises under such
22 license;

23 (d) Class D: Alcoholic liquor, including beer, for
24 consumption off the premises, sales in the original packages
25 only, except as provided in subsection (2) of section 53-123.04,

1 the sum of two hundred dollars, except for farm winery or craft
2 brewery sales outlets; and

3 (e) Class I: Alcoholic liquor, for consumption on the
4 premises, the sum of two hundred fifty dollars, except for farm
5 winery, limited winery, or craft brewery sales outlets.

6 All applicable license fees shall be paid by the
7 applicant or licensee directly to the city or village treasurer in
8 the case of premises located inside the corporate limits of a city
9 or village and directly to the county treasurer in the case of
10 premises located outside the corporate limits of a city or village;

11 (6) For a railroad license.....\$100.00 and \$1.00 for each
12 duplicate;

13 (7) For a boat license.....\$50.00;

14 (8) For a nonbeverage user's license:

15 Class 1.....\$5.00

16 Class 2.....25.00

17 Class 3.....50.00

18 Class 4.....100.00

19 Class 5.....250.00;

20 (9) For an airline license.....\$100.00 and \$1.00 for each
21 duplicate;

22 (10) For a shipping license, except a shipping license
23 issued pursuant to subsection (4) of section 53-123.15.....\$200.00;

24 and

25 (11) For a shipping license issued pursuant to subsection

1 (4) of section 53-123.15.....\$500.00.

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

15 Sec. 6. Section 53-124.11, Revised Statutes Cumulative
 16 Supplement, 2006, is amended to read:

17 53-124.11 (1) The commission may issue a special
 18 designated license for sale or consumption of alcoholic liquor
 19 at a designated location to a retail licensee, a craft brewery
 20 licensee, a farm winery licensee, a limited winery license, a
 21 municipal corporation, a fine arts museum incorporated as a
 22 nonprofit corporation, a religious nonprofit corporation which
 23 has been exempted from the payment of federal income taxes, a
 24 political organization which has been exempted from the payment
 25 of federal income taxes, or any other nonprofit corporation the

1 purpose of which is fraternal, charitable, or public service and
2 which has been exempted from the payment of federal income taxes,
3 under conditions specified in this section. The applicant shall
4 demonstrate meeting the requirements of this subsection.

5 (2) No retail licensee, craft brewery licensee,
6 farm winery licensee, limited winery license, organization, or
7 corporation enumerated in subsection (1) of this section may be
8 issued a special designated license under this section for more
9 than six calendar days in any one calendar year. Only one special
10 designated license shall be required for any application for two
11 or more consecutive days. This subsection shall not apply to any
12 holder of a catering license.

13 (3) Except for any special designated license issued to
14 a holder of a catering license, there shall be a fee of forty
15 dollars for each day identified in the special designated license.
16 Such fee shall be submitted with the application for the special
17 designated license, collected by the commission, and remitted to
18 the State Treasurer for credit to the General Fund. The applicant
19 shall be exempt from the provisions of the Nebraska Liquor Control
20 Act requiring a registration fee and the provisions of the act
21 requiring the expiration of forty-five days from the time the
22 application is received by the commission prior to the issuance
23 of a license, if granted by the commission. The retail licensees,
24 craft brewery licensees, farm winery licensees, limited winery
25 licensees, municipal corporations, organizations, and nonprofit

1 corporations enumerated in subsection (1) of this section seeking
2 a special designated license shall file an application on such
3 forms as the commission may prescribe. Such forms shall contain,
4 along with other information as required by the commission, (a)
5 the name of the applicant, (b) the premises for which a special
6 designated license is requested, identified by street and number
7 if practicable and, if not, by some other appropriate description
8 which definitely locates the premises, (c) the name of the owner or
9 lessee of the premises for which the special designated license is
10 requested, (d) sufficient evidence that the holder of the special
11 designated license, if issued, will carry on the activities and
12 business authorized by the license for himself, herself, or itself
13 and not as the agent of any other person, group, organization,
14 or corporation, for profit or not for profit, (e) a statement
15 of the type of activity to be carried on during the time period
16 for which a special designated license is requested, and (f)
17 sufficient evidence that the activity will be supervised by persons
18 or managers who are agents of and directly responsible to the
19 holder of the special designated license.

20 (4) No special designated license provided for by this
21 section shall be issued by the commission without the approval of
22 the local governing body. The local governing body may establish
23 criteria for approving or denying a special designated license. The
24 local governing body may designate an agent to determine whether a
25 special designated license is to be approved or denied. Such agent

1 shall follow criteria established by the local governing body in
2 making his or her determination. The determination of the agent
3 shall be considered the determination of the local governing body
4 unless otherwise provided by the local governing body. For purposes
5 of this section, the local governing body shall be the city or
6 village within which the premises for which the special designated
7 license is requested are located or, if such premises are not
8 within the corporate limits of a city or village, then the local
9 governing body shall be the county within which the premises for
10 which the special designated license is requested are located.

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

24 (6) A special designated license issued by the commission
25 shall be mailed or delivered to the city, village, or county clerk

1 who shall deliver such license to the licensee upon receipt of any
2 fee or tax imposed by such city, village, or county.

3 Sec. 7. Section 53-124.12, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 53-124.12 (1) The holder of a license to sell alcoholic
6 liquor at retail issued under subdivision (5) of section 53-124,
7 a craft brewery license, ~~or a farm winery license,~~ or a limited
8 winery license may obtain an annual catering license as prescribed
9 in this section. The catering license shall be issued for the same
10 period and may be renewed in the same manner as the retail license,
11 craft brewery license, ~~or farm winery license,~~ or limited winery
12 license.

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

15 (a) An application in triplicate original upon such forms
16 as the commission prescribes; and

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

20 (3) When an application for a catering license is filed,
21 the commission shall notify, by registered or certified mail,
22 return receipt requested with postage prepaid, (a) the clerk of the
23 city or incorporated village in which such applicant is located or
24 (b) if the applicant is not located within a city or incorporated
25 village, the county clerk of the county in which such applicant is

1 located, of the receipt of the application. The commission shall
2 enclose with such notice one copy of the application. The local
3 governing body and the commission shall process the application in
4 the same manner as provided in section 53-132.

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

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

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

22 Sec. 8. Section 53-129, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 53-129 Retail, limited winery, and craft brewery licenses
25 issued under the Nebraska Liquor Control Act apply only to that

1 part of the premises described in the application approved by the
2 commission and in the license issued on the application, and only
3 one location shall be described in each license. After such license
4 has been granted for particular premises, the commission, with the
5 approval of the local governing body and upon proper showing, may
6 endorse upon the license permission to add to, delete from, or
7 abandon the premises described in such license and, if applicable,
8 to move from the premises to other premises approved by it, but in
9 order to obtain such approval the retail or craft brewery licensee
10 shall file with the local governing body a request in writing and
11 a statement under oath which shows that the premises as added to
12 or deleted from or to which such move is to be made comply in
13 all respects with the requirements of the act. No such addition,
14 deletion, or move shall be made by any such licensee until his
15 or her license has been endorsed to that effect in writing by
16 the local governing body and by the commission and the licensee
17 furnishes proof of payment of the state registration fee prescribed
18 in section 53-131.

19 Sec. 9. Section 53-131, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 53-131 (1) Any person desiring to obtain a new license
22 to sell alcoholic liquor at retail, a limited winery license, or a
23 craft brewery license shall file with the commission:

24 (a) An application in triplicate original upon forms the
25 commission prescribes;

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

4 (c) The state registration fee in the sum of forty-five
5 dollars.

6 (2) The commission shall notify, by registered or
7 certified mail, return receipt requested with postage prepaid, (a)
8 the clerk of the city or village in which such license is sought or
9 (b) if the license sought is not sought within a city or village,
10 the county clerk of the county in which such license is sought, of
11 the receipt of the application and shall enclose one copy of the
12 application with the notice. No such license shall be issued or
13 denied by the commission until the expiration of the time allowed
14 for the receipt of a recommendation of denial or an objection
15 requiring a hearing under subdivision (1)(a) or (b) of section
16 53-133. During the period of forty-five days after the date of
17 receiving such application from the commission, the local governing
18 body of such city, village, or county may make and submit to the
19 commission recommendations relative to the granting or refusal to
20 grant such license to the applicant.

21 Sec. 10. Section 53-132, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 53-132 (1) If no hearing is required pursuant to
24 subdivision (1)(a) or (b) of section 53-133 and the commission
25 has no objections pursuant to subdivision (1)(c) of such section,

1 the commission may waive the forty-five-day objection period and,
2 if not otherwise prohibited by law, cause a retail license, limited
3 winery license, or craft brewery license to be signed by its
4 chairperson, attested by its executive director over the seal of
5 the commission, and issued in the manner provided in subsection (4)
6 of this section as a matter of course.

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

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

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

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

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

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

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

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

15 (g) The adequacy of existing law enforcement;

16 (h) Zoning restrictions;

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

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

22 (4) Retail licenses, limited winery licenses, or craft
23 brewery licenses issued or renewed by the commission shall be
24 mailed or delivered to the clerk of the city, village, or county
25 who shall deliver the same to the licensee upon receipt from the

1 licensee of proof of payment of (a) the license fee if by the
2 terms of subdivision (5) of section 53-124 the fee is payable to
3 the treasurer of such city, village, or county, (b) any fee for
4 publication of notice of hearing before the local governing body
5 upon the application for the license, (c) the fee for publication
6 of notice of renewal as provided in section 53-135.01, and (d)
7 occupation taxes, if any, imposed by such city, village, or county.
8 Notwithstanding any ordinance or charter power to the contrary, no
9 city, village, or county shall impose an occupation tax on the
10 business of any person, firm, or corporation licensed under the
11 act and doing business within the corporate limits of such city or
12 village or within the boundaries of such county in any sum which
13 exceeds two times the amount of the license fee required to be paid
14 under the act to obtain such license.

15 (5) Each license shall designate the name of the
16 licensee, the place of business licensed, and the type of license
17 issued.

18 Sec. 11. Section 53-133, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 53-133 (1) The commission shall set for hearing before it
21 any application for a retail license, limited winery license, or
22 craft brewery license relative to which it has received:

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

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

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

15 (2) Hearings upon such applications shall be in the
16 following manner: Notice indicating the time and place of such
17 hearing shall be mailed to the applicant, the local governing
18 body, and each individual protesting a license pursuant to
19 subdivision (1)(b) of this section, by certified mail, return
20 receipt requested, at least fifteen days prior to such hearing.
21 The notice shall state that the commission will receive evidence
22 for the purpose of determining whether to approve or deny the
23 application. Mailing to the attorney of record of a party shall be
24 deemed to fulfill the purposes of this section. The commission may
25 receive evidence, including testimony and documentary evidence, and

1 may hear and question witnesses concerning the application.

2 Sec. 12. Section 53-134, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 53-134 The local governing body of any city or village
5 with respect to licenses within its corporate limits and the local
6 governing body of any county with respect to licenses not within
7 the corporate limits of any city or village but within the county
8 shall have the following powers, functions, and duties with respect
9 to retail, limited winery, and craft brewery licenses:

10 (1) To cancel or revoke for cause retail, limited winery,
11 or craft brewery licenses to sell or dispense alcoholic liquor
12 issued to persons for premises within its jurisdiction, subject to
13 the right of appeal to the commission;

14 (2) To enter or to authorize any law enforcement officer
15 to enter at any time upon any premises licensed under the Nebraska
16 Liquor Control Act to determine whether any provision of the act,
17 any rule or regulation adopted and promulgated pursuant to the act,
18 or any ordinance, resolution, rule, or regulation adopted by the
19 local governing body has been or is being violated and at such
20 time examine the premises of such licensee in connection with such
21 determination;

22 (3) To receive a signed complaint from any citizen within
23 its jurisdiction that any provision of the act, any rule or
24 regulation adopted and promulgated pursuant to the act, or any
25 ordinance, resolution, rule, or regulation relating to alcoholic

1 liquor has been or is being violated and to act upon such
2 complaints in the manner provided in the act;

3 (4) To receive retail license fees, limited winery
4 license fees, and craft brewery license fees as provided in section
5 53-124 and pay the same, after the license has been delivered to
6 the applicant, to the city, village, or county treasurer;

7 (5) To examine or cause to be examined any applicant
8 or any retail licensee, limited winery licensee, or craft brewery
9 licensee upon whom notice of cancellation or revocation has been
10 served as provided in the act, to examine or cause to be examined
11 the books and records of any applicant or licensee, and to hear
12 testimony and to take proof for its information in the performance
13 of its duties. For purposes of obtaining any of the information
14 desired, the local governing body may authorize its agent or
15 attorney to act on its behalf;

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

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

25 Sec. 13. Section 53-134.03, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 53-134.03 The governing bodies of cities and villages
3 are authorized to regulate by ordinance, not inconsistent with the
4 Nebraska Liquor Control Act, the business of all retail, limited
5 winery, or craft brewery licensees carried on within the corporate
6 limits of the city or village.

7 Sec. 14. Section 53-164.01, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 53-164.01 Payment of the tax provided for in section
10 53-160 on alcoholic liquor shall be paid by the manufacturer or
11 wholesaler as follows:

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

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

1 preceding calendar month to such wholesaler;

2 (c) Farm winery producers shall, on or before the
3 twenty-fifth day of each calendar month following the month in
4 which wine was packaged or bottled for sale, submit a report to the
5 commission upon forms furnished by the commission showing the total
6 amount of wine in gallons or fractional parts thereof packaged or
7 bottled by such producer during the preceding calendar month;

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

14 (e) A limited winery shall, on or before the twenty-fifth
15 day of each calendar month following the month in which wine was
16 packaged or bottled for sale, submit a report to the commission
17 upon forms furnished by the commission showing the total amount of
18 wine in gallons or fractional parts thereof packaged or bottled by
19 such producer during the preceding calendar month; and

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

25 (2) The wholesaler or farm winery producer shall at the

1 time of the filing of the report pay to the commission the tax
2 due on alcoholic liquor, except beer, shipped to licensed retailers
3 inside this state at the rate fixed in accordance with section
4 53-160. The tax due on beer shall be paid by the wholesaler on beer
5 shipped from all manufacturers;

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

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

24 (5) No tax shall be levied or collected on alcoholic
25 liquor manufactured inside this state and shipped or transported

1 outside this state for sale and consumption outside this state;

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

19 (7) When a manufacturer or wholesaler sells and delivers
20 alcoholic liquor upon which the tax has been paid to any
21 instrumentality of the armed forces of the United States engaged
22 in resale activities as provided in section 53-160.01, the
23 manufacturer or wholesaler shall be entitled to a credit in
24 the amount of the tax paid in the event no tax is due on such
25 alcoholic liquor as provided in such section. The amount of the

1 credit, if any, shall be deducted from the tax due on the following
2 monthly report and subsequent reports until liquidated.

3 Sec. 15. Section 53-169, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 53-169 (1) No manufacturer or wholesaler shall directly
6 or indirectly: (a) Pay for any license to sell alcoholic liquor
7 at retail or advance, furnish, lend, or give money for payment
8 of such license; (b) purchase or become the owner of any note,
9 mortgage, or other evidence of indebtedness of such licensee or
10 any form of security therefor; (c) be interested in the ownership,
11 conduct, or operation of the business of any licensee authorized to
12 sell alcoholic liquor at retail; or (d) be interested directly or
13 indirectly or as owner, part owner, lessee, or lessor thereof in
14 any premises upon which alcoholic liquor is sold at retail.

15 (2) This section shall not apply to the holder of a farm
16 winery license or a limited winery license. The holder of a craft
17 brewery license shall have the privileges and duties listed in
18 section 53-123.14 with respect to the manufacture, distribution,
19 and retail sale of beer, and the Nebraska Liquor Control Act shall
20 not be construed to permit the holder of a craft brewery license
21 to engage in the wholesale distribution of beer. The holder of
22 a limited winery license shall have the privileges and duties
23 listed in section 4 of this act with respect to the manufacture,
24 distribution, and retail sale of wine, and the Nebraska Liquor
25 Control Act shall not be construed to permit the holder of a

1 limited winery license to engage in the wholesale distribution of
2 wine.

3 Sec. 16. Section 53-171, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 53-171 No person licensed as a manufacturer or wholesaler
6 of alcoholic liquor shall be permitted to receive any retail
7 license at the same time. No person licensed as a retailer of
8 alcoholic liquor shall be permitted to receive any manufacturer's
9 or wholesale license at the same time. This section shall not
10 apply to the holder of a farm winery license or a limited winery
11 license. The holder of a craft brewery license shall have the
12 privileges and duties listed in section 53-123.14 with respect
13 to the manufacture, distribution, and retail sale of beer, and
14 the Nebraska Liquor Control Act shall not be construed to permit
15 the holder of a craft brewery license to engage in the wholesale
16 distribution of beer. The holder of a limited winery license shall
17 have the privileges and duties listed in section 4 of this act
18 with respect to the manufacture, distribution, and retail sale of
19 wine, and the Nebraska Liquor Control Act shall not be construed
20 to permit the holder of a limited winery license to engage in the
21 wholesale distribution of wine.

22 Sec. 17. Section 53-188, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 53-188 No person shall operate a craft brewery or limited
25 winery or sell alcoholic liquor at retail, and the commission shall

1 not grant, issue, or cause to be granted or issued any license
2 to operate a craft brewery or limited winery or to sell alcoholic
3 liquor at retail, within the limits of any governmental subdivision
4 of this state while a prohibition against such sales arising under
5 sections 53-121 and 53-122 or otherwise as provided in the Nebraska
6 Liquor Control Act is in effect, and any such license granted or
7 issued in violation thereof shall be void. This section shall not
8 prohibit the issuance of a manufacturer's or wholesale license in
9 accordance with law by the commission in such prohibited territory.

10 Sec. 18. Section 53-1,115, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 53-1,115 (1) A copy of the rule, regulation, order, or
13 decision of the commission denying an application or suspending,
14 canceling, or revoking a license or of any notice required by any
15 proceeding before it, certified under the seal of the commission,
16 shall be served upon each party of record to the proceeding before
17 the commission. Service upon any attorney of record for any such
18 party shall be deemed to be service upon such party. Each party
19 appearing before the commission shall enter his or her appearance
20 and indicate to the commission his or her address for such service.
21 The mailing of a copy of any rule, regulation, order, or decision
22 of the commission or of any notice by the commission, in the
23 proceeding, to such party at such address shall be deemed to be
24 service upon such party.

25 (2) Within thirty days after the service of any rule,

1 regulation, order, or decision of the commission suspending,
2 canceling, or revoking any license upon any party to the
3 proceeding, as provided for by subsection (1) of this section,
4 such party may apply for a rehearing with respect to any matters
5 determined by the commission. The commission shall receive and
6 consider such application for a rehearing within thirty days after
7 its filing with the executive director of the commission. If such
8 application for rehearing is granted, the commission shall proceed
9 as promptly as possible to consider the matters presented by such
10 application. No appeal shall be allowed from any decision of the
11 commission except as provided in section 53-1,116.

12 (3) Upon final disposition of any proceeding, costs shall
13 be paid by the party or parties against whom a final decision
14 is rendered. Costs may be taxed or retaxed to local governing
15 bodies as well as individuals. Only one rehearing referred to in
16 subsection (2) of this section shall be granted by the commission
17 on application of any one party.

18 (4) For purposes of this section, party of record means:

19 (a) In the case of an administrative proceeding before
20 the commission on the application for a retail, limited winery, or
21 craft brewery license:

22 (i) The applicant;

23 (ii) Each individual protesting the issuance of such
24 license pursuant to subdivision (1)(b) of section 53-133;

25 (iii) The local governing body if it is entering an

1 appearance to protest the issuance of the license or if it is
2 requesting a hearing pursuant to subdivision (1)(c) of section
3 53-133; and

4 (iv) The commission;

5 (b) In the case of an administrative proceeding before a
6 local governing body to cancel or revoke a retail, limited winery,
7 or craft brewery license:

8 (i) The licensee; and

9 (ii) The local governing body; and

10 (c) In the case of an administrative proceeding before
11 the commission to suspend, cancel, or revoke a retail, limited
12 winery, or craft brewery license:

13 (i) The licensee; and

14 (ii) The commission.

15 Sec. 19. Original sections 53-123, 53-124, 53-129,
16 53-131, 53-133, 53-134, 53-134.03, 53-169, 53-171, 53-188, and
17 53-1,115, Reissue Revised Statutes of Nebraska, and sections
18 53-101, 53-103, 53-124.11, 53-124.12, 53-132, and 53-164.01,
19 Revised Statutes Cumulative Supplement, 2006, are repealed.