

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 861

FINAL READING

Introduced by General Affairs Committee: Karpisek, 32, Chairperson; Coash, 27; Cook, 13; Dierks, 40; Dubas, 34; Krist, 10; Price, 3; Rogert, 16.

Read first time January 11, 2010

Committee: General Affairs

A BILL

1 FOR AN ACT relating to regulated activities; to amend sections
2 2-1201, 2-1219, 9-647, 9-823, 28-421, 53-123.12,
3 53-124.13, 53-124.14, 53-125, 53-130, 53-135, 53-138.01,
4 53-139, 53-149, 53-172, 53-179, 53-1,104, 60-4,152,
5 71-5730, and 79-267, Reissue Revised Statutes of
6 Nebraska, sections 48-1902, 53-122, 53-123.11, 53-123.13,
7 53-123.15, 53-124.11, 53-124.12, 53-129, 53-132, 53-133,
8 53-134, 53-164.01, 53-169.01, 53-403, and 60-4,119,
9 Revised Statutes Cumulative Supplement, 2008, and
10 sections 53-101, 53-103, 53-124, 53-131, and 53-177,
11 Revised Statutes Supplement, 2009; to change provisions
12 related to the State Racing Commission; to provide

1 authorization to change the hours for sales of alcoholic
2 liquor and for the conduct of lotteries under the
3 Nebraska County and City Lottery Act; to transfer
4 definitions and fee provisions in the Nebraska Liquor
5 Control Act; to provide for storage and warehouse
6 facilities for farm wineries; to change fee provisions,
7 licensure requirements, and excise tax provisions; to
8 change provisions relating to distribution of license
9 fees in accordance with the Constitution of Nebraska; to
10 eliminate unconstitutional provisions and a prohibition
11 on adding alcohol to beer; to harmonize provisions; to
12 repeal the original sections; and to outright repeal
13 section 53-174, Reissue Revised Statutes of Nebraska.

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

1 Section 1. Section 2-1201, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-1201 (1) There hereby is created a State Racing
4 Commission.

5 (2) Until the effective date of this act, the commission
6 shall consist ~~consisting~~ of three members who shall be appointed
7 by the Governor and subject to confirmation by a majority of the
8 members elected to the Legislature and may be for cause removed by
9 the Governor. One member shall be appointed each year for a term
10 of three years. The members shall serve until their successors are
11 appointed and qualified.

12 (3) On and after the effective date of this act, the
13 commission shall consist of five members who shall be appointed
14 by the Governor and subject to confirmation by a majority of the
15 members elected to the Legislature and may be for cause removed by
16 the Governor. One member of the commission shall be appointed from
17 each congressional district, as such districts existed on January
18 1, 2010, and two members of the commission shall be appointed at
19 large for terms as follows:

20 (a) The member representing the second congressional
21 district who is appointed on or after April 1, 2010, shall serve
22 until March 31, 2014, and until his or her successor is appointed
23 and qualified. Thereafter the term of the member representing such
24 district shall be four years and until his or her successor is
25 appointed and qualified;

1 (b) The member representing the third congressional
2 district who is appointed on or after April 1, 2011, shall serve
3 until March 31, 2015, and until his or her successor is appointed
4 and qualified. Thereafter the term of the member representing such
5 district shall be four years and until his or her successor is
6 appointed and qualified;

7 (c) The member representing the first congressional
8 district who is appointed on or after April 1, 2012, shall serve
9 until March 31, 2016, and until his or her successor is appointed
10 and qualified. Thereafter the term of the member representing such
11 district shall be four years and until his or her successor is
12 appointed and qualified;

13 (d) Not later than sixty days after the effective date
14 of this act, the Governor shall appoint one at-large member who
15 shall serve until March 31, 2013, and until his or her successor is
16 appointed and qualified. Thereafter the term of such member shall
17 be four years and until his or her successor is appointed and
18 qualified; and

19 (e) Not later than sixty days after the effective date
20 of this act, the Governor shall appoint one at-large member who
21 shall serve until March 31, 2014, and until his or her successor is
22 appointed and qualified. Thereafter the term of such member shall
23 be four years and until his or her successor is appointed and
24 qualified.

25 (4) Not more than ~~two~~ three members of the commission

1 shall belong to the same political party. No more than ~~7~~ ~~no~~ two of
2 the members shall reside, when appointed, in the same congressional
3 district. No more than ~~7~~ ~~and~~ ~~no~~ two of the members shall reside
4 in any one county. Any vacancy shall be filled by appointment
5 by the Governor for the unexpired term. The members shall serve
6 without compensation~~7~~ but shall be reimbursed for their actual
7 expenses incurred in the performance of their duties as provided in
8 sections 81-1174 to 81-1177. ~~for state employees.~~ The members of
9 the commission shall be bonded or insured as required by section
10 11-201.

11 Sec. 2. Section 2-1219, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 2-1219 (1) When any matter comes before the State Racing
14 Commission that may cause financial benefit or detriment to a
15 member of the commission, a member of his or her immediate family,
16 or a business with which the member is associated, which is
17 distinguishable from the effects of such matter on the public
18 generally or a broad segment of the public, such member shall
19 take the following actions as soon as he or she is aware of such
20 potential conflict or should reasonably be aware of such potential
21 conflict, whichever is sooner:

22 (a) Prepare a written statement describing the matter
23 requiring action or decision and the nature of the potential
24 conflict;

25 (b) Deliver a copy of the statement to the secretary of

1 the commission; and

2 (c) Recuse himself or herself from taking any action or
 3 making any decision relating to such matter in the discharge of his
 4 or her official duties as a member of the commission.

5 ~~(1)~~ (2) No horse in which any ~~member~~ employee of the
 6 State Racing Commission ~~or its employees~~ has any interest shall be
 7 raced at any meet under the jurisdiction of the commission.

8 ~~(2)~~ (3) No ~~member~~ employee of the State Racing
 9 Commission ~~or its employees~~ shall have a pecuniary interest or
 10 engage in any private employment in a profession or business which
 11 is regulated by or interferes or conflicts with the performance or
 12 proper discharge of the duties of the commission.

13 ~~(3)~~ (4) No ~~member~~ employee of the State Racing
 14 Commission ~~or its employees~~ shall wager or cause a wager to be
 15 placed on the outcome of any race at a race meeting which is under
 16 the jurisdiction and supervision of the commission.

17 ~~(4)~~ (5) No ~~member~~ employee of the State Racing
 18 Commission ~~or its employees~~ shall have a pecuniary interest or
 19 engage in any private employment in a business which does business
 20 with any racing association licensed by the commission or in any
 21 business issued a concession operator license by the commission.

22 ~~(5)~~ (6) Any commission ~~member or~~ employee violating this
 23 section shall forfeit his or her ~~office,~~ employment.

24 ~~(6)~~ (7) The commission shall include in its rules
 25 and regulations prohibitions against actual or potential specific

1 conflicts of interest on the part of racing officials and other
2 individuals licensed by the commission.

3 Sec. 3. Section 9-647, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 9-647 No lottery shall be conducted between the hours of
6 1 a.m. and 6 a.m., except that if alcoholic liquor is allowed to
7 be sold later than 1 a.m. pursuant to a vote under subdivision
8 (1)(b) of section 53-179, no lottery shall be conducted between the
9 hour established pursuant to such vote and 6 a.m. within the area
10 affected by the vote.

11 Sec. 4. Section 9-823, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 9-823 The Tax Commissioner shall adopt and promulgate
14 rules and regulations necessary to carry out the State Lottery Act.
15 The rules and regulations shall include provisions relating to the
16 following:

17 (1) The lottery games to be conducted subject to the
18 following conditions:

19 (a) No lottery game shall use the theme of dog racing or
20 horseracing;

21 (b) In any lottery game utilizing tickets, each ticket in
22 such game shall bear a unique number distinguishing it from every
23 other ticket in such lottery game;

24 (c) No name of an elected official shall appear on the
25 tickets of any lottery game; and

1 (d) In any instant-win game, the overall estimated odds
2 of winning some prize shall be printed on each ticket and shall
3 also be available at the office of the division at the time such
4 lottery game is offered for sale to the public;

5 (2) The retail sales price for lottery tickets;

6 (3) The types and manner of payment of prizes to be
7 awarded for winning tickets in lottery games;

8 (4) The method for determining winners, the frequency of
9 drawings, if any, or other selection of winning tickets subject to
10 the following conditions:

11 (a) No lottery game shall be based on the results of a
12 dog race, horserace, or other sports event;

13 (b) If the lottery game utilizes the drawing of winning
14 numbers, a drawing among entries, or a drawing among finalists

15 (i) the drawings shall be witnessed by an independent certified
16 public accountant, (ii) any equipment used in the drawings shall
17 be inspected by the independent certified public accountant and an
18 employee of the division or designated agent both before and after
19 the drawing, and (iii) the drawing shall be recorded on videotape
20 with an audio track; and

21 (c) Drawings in an instant-win game, other than grand
22 prize drawings or other runoff drawings, shall not be held more
23 often than weekly. Drawings or selections in an on-line game shall
24 not be held more often than daily;

25 (5) The validation and manner of payment of prizes to the

1 holders of winning tickets subject to the following conditions:

2 (a) The prize shall be given to the person who presents
3 a winning ticket, except that for awards in excess of five hundred
4 dollars, the winner shall also provide his or her social security
5 number or tax identification number;

6 (b) A prize may be given to only one person per winning
7 ticket, except that a prize shall be divided between the holders of
8 winning tickets if there is more than one winning ticket per prize;

9 (c) For the convenience of the public, the director may
10 authorize lottery game retailers to pay winners of up to five
11 hundred dollars after performing validation procedures on their
12 premises appropriate to the lottery game involved;

13 (d) No prize shall be paid to any person under nineteen
14 years of age, and any prize resulting from a lottery ticket held by
15 a person under nineteen years of age shall be awarded to the parent
16 or guardian or custodian of the person under the Nebraska Uniform
17 Transfers to Minors Act;

18 (e) No prize shall be paid for tickets that are stolen,
19 counterfeit, altered, fraudulent, unissued, produced or issued in
20 error, unreadable, not received or not recorded by the division by
21 acceptable deadlines, lacking in captions that confirm and agree
22 with the lottery play symbols as appropriate to the lottery game
23 involved, or not in compliance with additional specific rules and
24 regulations and public or confidential validation and security
25 tests appropriate to the particular lottery game involved;

1 (f) No particular prize in any lottery game shall be paid
2 more than once. In the event of a binding determination by the
3 director that more than one claimant is entitled to a particular
4 prize, the sole right of such claimants shall be the award to each
5 of them of an equal share in the prize; and

6 (g) After the expiration of the claim period for prizes
7 for each lottery game, the director shall make available a detailed
8 tabulation of the total number of tickets actually sold in the
9 lottery game and the total number of prizes of each prize
10 denomination that were actually claimed and paid;

11 (6) Requirements for eligibility for participation
12 in grand prize drawings or other runoff drawings, including
13 requirements for submission of evidence of eligibility;

14 (7) The locations at which tickets may be sold except
15 that no ticket may be sold at a retail liquor establishment
16 holding a license for the sale of alcoholic liquor at retail for
17 consumption on the licensed premises unless the establishment holds
18 a Class C liquor license with a sampling designation as provided in
19 ~~subdivision (5)~~ subsection (6) of section 53-124;

20 (8) The method to be used in selling tickets;

21 (9) The contracting with persons as lottery game
22 retailers to sell tickets and the manner and amount of compensation
23 to be paid to such retailers;

24 (10) The form and type of marketing of informational and
25 educational material;

1 (11) Any arrangements or methods to be used in providing
2 proper security in the storage and distribution of tickets or
3 lottery games; and

4 (12) All other matters necessary or desirable for the
5 efficient and economical operation and administration of lottery
6 games and for the convenience of the purchasers of tickets and the
7 holders of winning tickets.

8 Sec. 5. Section 28-421, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 28-421 The provisions of sections 28-419 to 28-424 shall
11 not apply to the use or sale of such substances, as defined in
12 sections 28-419 and 28-420, when such use or sale is administered
13 or prescribed for medical or dental purposes, nor shall the
14 provisions of sections 28-419 to 28-424 apply to the use or sale of
15 alcoholic liquors as defined by section ~~53-103~~. 10 of this act.

16 Sec. 6. Section 48-1902, Revised Statutes Cumulative
17 Supplement, 2008, is amended to read:

18 48-1902 For purposes of sections 48-1901 to 48-1910,
19 unless the context otherwise requires:

20 (1) Alcohol ~~shall mean~~ means any product of distillation
21 of any fermented liquid, whether rectified or diluted, whatever may
22 be the origin thereof, synthetic ethyl alcohol, the four varieties
23 of liquor, ~~defined in subdivisions (1) through (4) of section~~
24 ~~53-103~~, alcohol, spirits, wine, and beer, as defined in sections
25 9, 11, 46, and 50 of this act, every liquid or solid, patented

1 or not, containing alcohol, spirits, wine, or beer, and alcohol
2 used in the manufacture of denatured alcohol, flavoring extracts,
3 syrups, or medicinal, mechanical, scientific, culinary, and toilet
4 preparations;

5 (2) Breath-testing device ~~shall mean~~ means intoxilyzer
6 model 4011AS or other scientific testing equivalent as approved
7 by and operated in accordance with the department rules and
8 regulations;

9 (3) Breath-testing-device operator ~~shall mean~~ means a
10 person who has obtained or been issued a permit pursuant to the
11 department rules and regulations;

12 (4) Department ~~shall mean~~ means the Department of Health
13 and Human Services;

14 (5) Department rules and regulations ~~shall mean~~ means the
15 techniques and methods authorized pursuant to section 60-6,201;

16 (6) Drug ~~shall mean~~ means any substance, chemical, or
17 compound as described, defined, or delineated in sections 28-405
18 and 28-419 or any metabolite or conjugated form thereof, except
19 that any substance, chemical, or compound containing any product as
20 defined in subdivision (1) of this section may also be defined as
21 alcohol;

22 (7) Employee ~~shall mean~~ means any person who receives any
23 remuneration, commission, bonus, or other form of wages in return
24 for such person's actions which directly or indirectly benefit an
25 employer; and

1 (8) Employer ~~shall mean~~ means the State of Nebraska and
2 its political subdivisions, all other governmental entities, or any
3 individual, association, corporation, or other organization doing
4 business in the State of Nebraska unless it, he, or she employs a
5 total of less than six full-time and part-time employees at any one
6 time.

7 Sec. 7. Section 53-101, Revised Statutes Supplement,
8 2009, is amended to read:

9 53-101 Sections 53-101 to 53-1,122 and sections 9 to 50
10 and 57 of this act shall be known and may be cited as the Nebraska
11 Liquor Control Act.

12 Sec. 8. Section 53-103, Revised Statutes Supplement,
13 2009, is amended to read:

14 53-103 For purposes of the Nebraska Liquor Control Act,
15 the definitions found in sections 9 to 50 of this act apply unless
16 the context otherwise requires.

17 ~~(1) Alcohol means the product of distillation of any~~
18 ~~fermented liquid, whether rectified or diluted, whatever the origin~~
19 ~~thereof, and includes synthetic ethyl alcohol and alcohol processed~~
20 ~~or sold in a gaseous form. Alcohol does not include denatured~~
21 ~~alcohol or wood alcohol.~~

22 ~~(2) Spirits means any beverage which contains alcohol~~
23 ~~obtained by distillation, mixed with water or other substance~~
24 ~~in solution, and includes brandy, rum, whiskey, gin, or other~~
25 ~~spirituous liquors and such liquors when rectified, blended, or~~

1 otherwise mixed with alcohol or other substances;

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

6 (4) Beer means a beverage obtained by alcoholic
7 fermentation of an infusion or concoction of barley or other grain,
8 malt, and hops in water and includes, but is not limited to, beer,
9 ale, stout, lager beer, porter, and near beer;

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

25 (6) Near beer means beer containing less than one-half of

1 one percent of alcohol by volume;

2 ~~(7)~~ Original package means any bottle, flask, jug, can,
3 eask, barrel, keg, hogshead, or other receptacle or container
4 used, corked or capped, sealed, and labeled by the manufacturer of
5 alcoholic liquor to contain and to convey any alcoholic liquor;

6 ~~(8)~~ Manufacturer means every brewer, fermenter,
7 distiller, rectifier, winemaker, blender, processor, bottler,
8 or person who fills or refills an original package and others
9 engaged in brewing, fermenting, distilling, rectifying, or bottling
10 alcoholic liquor, including a wholly owned affiliate or duly
11 authorized agent for a manufacturer;

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

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

23 ~~(11)~~ Wholesaler means a person importing or causing to be
24 imported into the state or purchasing or causing to be purchased
25 within the state alcoholic liquor for sale or resale to retailers

1 licensed under the act, whether the business of the wholesaler is
2 conducted under the terms of a franchise or any other form of an
3 agreement with a manufacturer or manufacturers, or who has caused
4 alcoholic liquor to be imported into the state or purchased in
5 the state from a manufacturer or manufacturers and was licensed
6 to conduct such a business by the commission on May 1, 1970, or
7 has been so licensed since that date. Wholesaler does not include
8 any retailer licensed to sell alcoholic liquor for consumption off
9 the premises who sells alcoholic liquor other than beer or wine
10 to another retailer pursuant to section 53-175, except that any
11 such retailer shall obtain the required federal wholesaler's basic
12 permit and federal wholesale liquor dealer's special tax stamp.
13 Wholesaler includes a distributor, distributorship, and jobber;

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

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

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

22 (15) Commission means the Nebraska Liquor Control
23 Commission;

24 (16) Sale means any transfer, exchange, or barter in any
25 manner or by any means for a consideration and includes any sale

1 made by any person, whether principal, proprietor, agent, servant,
2 or employee;

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

5 (18) Restaurant means any public place (a) which is kept,
6 used, maintained, advertised, and held out to the public as a place
7 where meals are served and where meals are actually and regularly
8 served, (b) which has no sleeping accommodations, and (c) which
9 has adequate and sanitary kitchen and dining room equipment and
10 capacity and a sufficient number and kind of employees to prepare,
11 cook, and serve suitable food for its guests;

12 (19) Club means a corporation (a) which is organized
13 under the laws of this state, not for pecuniary profit, solely
14 for the promotion of some common object other than the sale or
15 consumption of alcoholic liquor, (b) which is kept, used, and
16 maintained by its members through the payment of annual dues, (c)
17 which owns, hires, or leases a building or space in a building
18 suitable and adequate for the reasonable and comfortable use and
19 accommodation of its members and their guests, and (d) which
20 has suitable and adequate kitchen and dining room space and
21 equipment and a sufficient number of servants and employees for
22 cooking, preparing, and serving food and meals for its members
23 and their guests. The affairs and management of such club shall
24 be conducted by a board of directors, executive committee, or
25 similar body chosen by the members at their annual meeting, and

1 no member, officer, agent, or employee of the club shall be paid
2 or shall directly or indirectly receive, in the form of salary or
3 other compensation, any profits from the distribution or sale of
4 alcoholic liquor to the club or the members of the club or its
5 guests introduced by members other than any salary fixed and voted
6 at any annual meeting by the members or by the governing body of
7 the club out of the general revenue of the club;

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

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

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

25 ~~(23)~~ Brand means alcoholic liquor identified as the

1 ~~product of a specific manufacturer;~~

2 ~~(24) Franchise or agreement, with reference to the~~
3 ~~relationship between a manufacturer and wholesaler, includes one or~~
4 ~~more of the following: (a) A commercial relationship of a definite~~
5 ~~duration or continuing indefinite duration which is not required~~
6 ~~to be in writing; (b) a relationship by which the wholesaler is~~
7 ~~granted the right to offer and sell the manufacturer's brands by~~
8 ~~the manufacturer; (c) a relationship by which the franchise, as an~~
9 ~~independent business, constitutes a component of the manufacturer's~~
10 ~~distribution system; (d) a relationship by which the operation~~
11 ~~of the wholesaler's business is substantially associated with~~
12 ~~the manufacturer's brand, advertising, or other commercial symbol~~
13 ~~designating the manufacturer; and (e) a relationship by which the~~
14 ~~operation of the wholesaler's business is substantially reliant on~~
15 ~~the manufacturer for the continued supply of beer;~~

16 ~~(25) Territory or sales territory means the wholesaler's~~
17 ~~area of sales responsibility for the brand or brands of the~~
18 ~~manufacturer;~~

19 ~~(26) Suspend means to cause a temporary interruption of~~
20 ~~all rights and privileges of a license;~~

21 ~~(27) Cancel means to discontinue all rights and~~
22 ~~privileges of a license;~~

23 ~~(28) Revoke means to permanently void and recall all~~
24 ~~rights and privileges of a license;~~

25 ~~(29) Generic label means a label which is not protected~~

1 by a registered trademark, either in whole or in part, or to
2 which no person has acquired a right pursuant to state or federal
3 statutory or common law;

4 ~~(30) Private label means a label which the purchasing~~
5 ~~wholesaler or retailer has protected, in whole or in part, by~~
6 ~~a trademark registration or which the purchasing wholesaler or~~
7 ~~retailer has otherwise protected pursuant to state or federal~~
8 ~~statutory or common law;~~

9 ~~(31) Farm winery means any enterprise which produces and~~
10 ~~sells wines produced from grapes, other fruit, or other suitable~~
11 ~~agricultural products of which at least seventy-five percent of~~
12 ~~the finished product is grown in this state or which meets the~~
13 ~~requirements of section 53-123.13;~~

14 ~~(32) Campus, as it pertains to the southern boundary of~~
15 ~~the main campus of the University of Nebraska-Lincoln, means the~~
16 ~~south right-of-way line of R Street and abandoned R Street from~~
17 ~~10th to 17th streets and, as it pertains to the western boundary~~
18 ~~of the main campus of the University of Nebraska-Lincoln, means the~~
19 ~~east right-of-way line of 10th Street from R Street to Holdrege~~
20 ~~Street (Salt Creek Roadway);~~

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

23 ~~(34) Manager means a person appointed by a corporation to~~
24 ~~oversee the daily operation of the business licensed in Nebraska. A~~
25 ~~manager shall meet all the requirements of the act as though he or~~

1 she were the applicant, except for residency and citizenship,

2 ~~(35) Shipping license means a license granted pursuant to~~
3 ~~section 53-123.15,~~

4 ~~(36) Sampling means consumption on the premises of a~~
5 ~~retail licensee of not more than five samples of one fluid ounce or~~
6 ~~less of alcoholic liquor by the same person in a twenty-four-hour~~
7 ~~period,~~

8 ~~(37) Microbrewery means any small brewery producing a~~
9 ~~maximum of ten thousand barrels of beer per year,~~

10 ~~(38) Craft brewery means a brewpub or a microbrewery,~~

11 ~~(39) Local governing body means (a) the city council or~~
12 ~~village board of trustees of a city or village within which the~~
13 ~~licensed premises are located or (b) if the licensed premises are~~
14 ~~not within the corporate limits of a city or village, the county~~
15 ~~board of the county within which the licensed premises are located,~~

16 ~~(40) Consume means knowingly and intentionally drinking~~
17 ~~or otherwise ingesting alcoholic liquor,~~

18 ~~(41) Microdistillery means a distillery located in~~
19 ~~Nebraska that is licensed to distill liquor on the premises of the~~
20 ~~distillery licensee and produces ten thousand or fewer gallons of~~
21 ~~liquor annually, and~~

22 ~~(42) Cigar bar means an establishment operated by a~~
23 ~~holder of a Class C liquor license which:~~

24 ~~(a) Does not sell food,~~

25 ~~(b) In addition to selling alcohol, annually receives ten~~

1 percent or more of its gross revenue from the sale of cigars and
2 other tobacco products and tobacco-related products, except from
3 the sale of cigarettes as defined in section 69-2702. A cigar bar
4 shall not discount alcohol if sold in combination with cigars or
5 other tobacco products and tobacco-related products;

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

7 (d) Does not permit the smoking of cigarettes.

8 Sec. 9. Alcohol means the product of distillation of any
9 fermented liquid, whether rectified or diluted, whatever the origin
10 thereof, and includes synthetic ethyl alcohol and alcohol processed
11 or sold in a gaseous form. Alcohol does not include denatured
12 alcohol or wood alcohol.

13 Sec. 10. (1) Alcoholic liquor includes alcohol, spirits,
14 wine, beer, and any liquid or solid, patented or not, containing
15 alcohol, spirits, wine, or beer and capable of being consumed
16 as a beverage by a human being. Alcoholic liquor also includes
17 confections or candy that contains more than one-half of one
18 percent alcohol.

19 (2) The Nebraska Liquor Control Act does not apply
20 to (a) alcohol used in the manufacture of denatured alcohol
21 produced in accordance with acts of Congress and regulations
22 adopted and promulgated pursuant to such acts, (b) flavoring
23 extracts, syrups, medicinal, mechanical, scientific, culinary, or
24 toilet preparations, or food products unfit for beverage purposes,
25 but the act applies to alcoholic liquor used in the manufacture,

1 preparation, or compounding of such products or confections or
2 candy that contains more than one-half of one percent alcohol, or
3 (c) wine intended for use and used by any church or religious
4 organization for sacramental purposes.

5 Sec. 11. Beer means a beverage obtained by alcoholic
6 fermentation of an infusion or concoction of barley or other grain,
7 malt, and hops in water and includes, but is not limited to, beer,
8 ale, stout, lager beer, porter, and near beer.

9 Sec. 12. Brand means alcoholic liquor identified as the
10 product of a specific manufacturer.

11 Sec. 13. Brewpub means any restaurant or hotel which
12 produces on its premises a maximum of ten thousand barrels of beer
13 per year.

14 Sec. 14. Campus, as it pertains to the southern boundary
15 of the main campus of the University of Nebraska-Lincoln, means the
16 south right-of-way line of R Street and abandoned R Street from
17 10th to 17th streets and, as it pertains to the western boundary
18 of the main campus of the University of Nebraska-Lincoln, means the
19 east right-of-way line of 10th Street from R Street to Holdrege
20 Street (Salt Creek Roadway).

21 Sec. 15. Cancel means to discontinue all rights and
22 privileges of a license.

23 Sec. 16. Cigar bar means an establishment operated by a
24 holder of a Class C liquor license which:

25 (1) Does not sell food;

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

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

8 (4) Does not permit the smoking of cigarettes.

9 Sec. 17. (1) Club means a corporation (a) which is
10 organized under the laws of this state, not for pecuniary profit,
11 solely for the promotion of some common object other than the sale
12 or consumption of alcoholic liquor, (b) which is kept, used, and
13 maintained by its members through the payment of annual dues, (c)
14 which owns, hires, or leases a building or space in a building
15 suitable and adequate for the reasonable and comfortable use and
16 accommodation of its members and their guests, and (d) which has
17 suitable and adequate kitchen and dining room space and equipment
18 and a sufficient number of servants and employees for cooking,
19 preparing, and serving food and meals for its members and their
20 guests.

21 (2) The affairs and management of such club shall be
22 conducted by a board of directors, executive committee, or similar
23 body chosen by the members at their annual meeting, and no
24 member, officer, agent, or employee of the club shall be paid or
25 shall directly or indirectly receive, in the form of salary or

1 other compensation, any profits from the distribution or sale of
2 alcoholic liquor to the club or the members of the club or its
3 guests introduced by members other than any salary fixed and voted
4 at any annual meeting by the members or by the governing body of
5 the club out of the general revenue of the club.

6 Sec. 18. Commission means the Nebraska Liquor Control
7 Commission.

8 Sec. 19. Consume means knowingly and intentionally
9 drinking or otherwise ingesting alcoholic liquor.

10 Sec. 20. Craft brewery means a brewpub or a microbrewery.

11 Sec. 21. Farm winery means any enterprise which produces
12 and sells wines produced from grapes, other fruit, or other
13 suitable agricultural products of which at least seventy-five
14 percent of the finished product is grown in this state or which
15 meets the requirements of section 53-123.13.

16 Sec. 22. Franchise or agreement, with reference to the
17 relationship between a manufacturer and wholesaler, includes one or
18 more of the following:

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

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

25 (3) A relationship by which the franchise, as an

1 independent business, constitutes a component of the manufacturer's
2 distribution system;

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

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

10 Sec. 23. Generic label means a label which is not
11 protected by a registered trademark, either in whole or in part,
12 or to which no person has acquired a right pursuant to state or
13 federal statutory or common law.

14 Sec. 24. Hotel means any building or other structure
15 (1) which is kept, used, maintained, advertised, and held out
16 to the public to be a place where food is actually served and
17 consumed and sleeping accommodations are offered for adequate
18 pay to travelers and guests, whether transient, permanent, or
19 residential, (2) in which twenty-five or more rooms are used for
20 the sleeping accommodations of such guests, and (3) which has one
21 or more public dining rooms where meals are served to such guests,
22 such sleeping accommodations and dining rooms being conducted in
23 the same buildings in connection therewith and such building or
24 buildings or structure or structures being provided with adequate
25 and sanitary kitchen and dining room equipment and capacity.

1 Sec. 25. Local governing body means (1) the city council
2 or village board of trustees of a city or village within which the
3 licensed premises are located or (2) if the licensed premises are
4 not within the corporate limits of a city or village, the county
5 board of the county within which the licensed premises are located.

6 Sec. 26. Manager means a person appointed by a
7 corporation or limited liability company to oversee the daily
8 operation of the business licensed in Nebraska. A manager shall
9 meet all the requirements of the Nebraska Liquor Control Act as
10 though he or she were the applicant, including residency and
11 citizenship.

12 Sec. 27. Manufacture means to distill, rectify, ferment,
13 brew, make, mix, concoct, process, blend, bottle, or fill an
14 original package with any alcoholic liquor and includes blending
15 but does not include the mixing or other preparation of drinks for
16 selling by those persons authorized and permitted in the Nebraska
17 Liquor Control Act to serve drinks for consumption on the premises
18 where sold.

19 Sec. 28. Manufacturer means every brewer, fermenter,
20 distiller, rectifier, winemaker, blender, processor, bottler, or
21 person who fills or refills an original package and others
22 engaged in brewing, fermenting, distilling, rectifying, or bottling
23 alcoholic liquor, including a wholly owned affiliate or duly
24 authorized agent for a manufacturer.

25 Sec. 29. Microbrewery means any small brewery producing a

1 maximum of ten thousand barrels of beer per year.

2 Sec. 30. Microdistillery means a distillery located in
3 Nebraska that is licensed to distill liquor on the premises of the
4 distillery licensee and produces ten thousand or fewer gallons of
5 liquor annually.

6 Sec. 31. Minor means any person, male or female, under
7 twenty-one years of age, regardless of marital status.

8 Sec. 32. Near beer means beer containing less than
9 one-half of one percent of alcohol by volume.

10 Sec. 33. Nonbeverage user means every manufacturer of
11 any of the products set forth and described in subsection (4) of
12 section 53-160, when such product contains alcoholic liquor, and
13 all laboratories, hospitals, and sanatoria using alcoholic liquor
14 for nonbeverage purposes.

15 Sec. 34. Nonprofit corporation means any corporation
16 organized under the laws of this state, not for profit, which has
17 been exempted from the payment of federal income taxes.

18 Sec. 35. Original package means any bottle, flask, jug,
19 can, cask, barrel, keg, hogshead, or other receptacle or container
20 used, corked or capped, sealed, and labeled by the manufacturer of
21 alcoholic liquor to contain and to convey any alcoholic liquor.

22 Sec. 36. Person means any natural person, trustee,
23 corporation, partnership, or limited liability company.

24 Sec. 37. Private label means a label which the purchasing
25 wholesaler or retailer has protected, in whole or in part, by

1 a trademark registration or which the purchasing wholesaler or
2 retailer has otherwise protected pursuant to state or federal
3 statutory or common law.

4 Sec. 38. Restaurant means any public place (1) which is
5 kept, used, maintained, advertised, and held out to the public as
6 a place where meals are served and where meals are actually and
7 regularly served, (2) which has no sleeping accommodations, and (3)
8 which has adequate and sanitary kitchen and dining room equipment
9 and capacity and a sufficient number and kind of employees to
10 prepare, cook, and serve suitable food for its guests.

11 Sec. 39. Retailer means a person who sells or offers for
12 sale alcoholic liquor for use or consumption and not for resale in
13 any form except as provided in section 53-175.

14 Sec. 40. Revoke means to permanently void and recall all
15 rights and privileges of a license.

16 Sec. 41. Sale means any transfer, exchange, or barter
17 in any manner or by any means for a consideration and includes
18 any sale made by any person, whether principal, proprietor, agent,
19 servant, or employee.

20 Sec. 42. Sampling means consumption on the premises of a
21 retail licensee of not more than five samples of one fluid ounce or
22 less of alcoholic liquor by the same person in a twenty-four-hour
23 period.

24 Sec. 43. Sell means to solicit or receive an order for,
25 to keep or expose for sale, or to keep with intent to sell.

1 Sec. 44. Sell at retail and sale at retail means sale
2 for use or consumption and not for resale in any form except as
3 provided in section 53-175.

4 Sec. 45. Shipping license means a license granted
5 pursuant to section 53-123.15.

6 Sec. 46. Spirits means any beverage which contains
7 alcohol obtained by distillation, mixed with water or other
8 substance in solution, and includes brandy, rum, whiskey, gin,
9 or other spirituous liquors and such liquors when rectified,
10 blended, or otherwise mixed with alcohol or other substances.

11 Sec. 47. Suspend means to cause a temporary interruption
12 of all rights and privileges of a license.

13 Sec. 48. Territory or sales territory means the
14 wholesaler's area of sales responsibility for the brand or brands
15 of the manufacturer.

16 Sec. 49. Wholesaler means a person importing or causing
17 to be imported into the state or purchasing or causing to be
18 purchased within the state alcoholic liquor for sale or resale to
19 retailers licensed under the Nebraska Liquor Control Act, whether
20 the business of the wholesaler is conducted under the terms of a
21 franchise or any other form of an agreement with a manufacturer or
22 manufacturers, or who has caused alcoholic liquor to be imported
23 into the state or purchased in the state from a manufacturer or
24 manufacturers and was licensed to conduct such a business by the
25 commission on May 1, 1970, or has been so licensed since that date.

1 Wholesaler does not include any retailer licensed to
 2 sell alcoholic liquor for consumption off the premises who sells
 3 alcoholic liquor other than beer or wine to another retailer
 4 pursuant to section 53-175, except that any such retailer shall
 5 obtain the required federal wholesaler's basic permit and federal
 6 wholesale liquor dealer's special tax stamp. Wholesaler includes a
 7 distributor, distributorship, and jobber.

8 Sec. 50. Wine means any alcoholic beverage obtained by
 9 the fermentation of the natural contents of fruits or vegetables,
 10 containing sugar, including such beverages when fortified by the
 11 addition of alcohol or spirits.

12 Sec. 51. Section 53-122, Revised Statutes Cumulative
 13 Supplement, 2008, is amended to read:

14 53-122 (1) The commission may issue licenses for the sale
 15 of alcoholic liquor, except beer, by the drink subject to all the
 16 terms and conditions of the Nebraska Liquor Control Act in all
 17 cities and villages in this state, except in those cases when it
 18 affirmatively appears that the issuance will render null and void
 19 prior conveyances of land to such city or village for public uses
 20 and purposes by purchase, gift, or devise, under the conditions and
 21 in the manner provided in this section.

22 (2) If (a) a sufficient petition is signed by the
 23 registered voters of any such city or village of such number
 24 as equals twenty percent of the votes cast at the last general
 25 election held in such city or village, which petition requests

1 that the question of licensing the sale of alcoholic liquor, except
2 beer, by the drink in the city or village be submitted to the
3 registered voters of the city or village at a special election
4 to be called for that purpose and (b) such petition is presented
5 to the clerk of the city or village, the clerk shall cause to
6 be published one time in a legal newspaper published in or of
7 general circulation in the city or village a notice of a special
8 election to be held not less than ten days nor more than twenty
9 days after the date of such publication. The notice shall state the
10 proposition to be submitted at such special election.

11 (3) The question of licensing the sale of alcoholic
12 liquor either by the drink or in the original package, or both
13 by the drink and in the original package, may also be submitted
14 at any general municipal election, except as otherwise provided in
15 section 53-121, in any city or village in this state subject to the
16 following:

17 (a) Upon the filing with the clerk of the city or village
18 of a petition signed by registered voters of the city or village
19 in a number equal to twenty percent of the votes cast at the last
20 general election held in the city or village, such proposition or
21 propositions shall be submitted;

22 (b) Each petition shall conform to the requirements of
23 section 32-628;

24 (c) At the top of each sheet shall be stated the
25 proposition or propositions to be submitted and the date of the

1 general municipal election at which it is proposed to be submitted;

2 (d) No signature on the petition shall be valid unless
3 appended to the petition within the last ninety days prior to the
4 date of filing the petition with the clerk of the city or village;
5 and

6 (e) The petition shall be filed thirty days prior to the
7 day of the general municipal election at which the proposition is
8 to be submitted, and during such thirty-day period no signature
9 shall be withdrawn and no signature shall be added.

10 (4) Any person who signs any proposal or petition
11 contemplated under this section knowing that he or she is not
12 a registered voter in the place where such proposal or petition is
13 made, who signs any name other than his or her own to such proposal
14 or petition, or who aids or abets any other person in doing any of
15 the acts mentioned is guilty of a Class I misdemeanor. Any person
16 who bribes or gives or pays any money or thing of value to any
17 person directly or indirectly to induce him or her to sign such
18 proposal or petition, who accepts money for signing such proposal
19 or petition, or who aids or abets any other person in doing any of
20 such acts is guilty of a Class IV felony.

21 (5) Upon the ballot either at the special election or
22 at any general municipal election, the proposition or propositions
23 shall be stated as follows:

24 Shall the sale of alcoholic liquor, except beer, by the
25 drink be licensed in (here insert the name of the city or village)?

1 For license to sell by drink.

2 Against license to sell by drink.

3 Shall the sale of alcoholic liquor, except beer, by the
4 package be licensed in (here insert the name of the city or
5 village)?

6 For license to sell by the package.

7 Against license to sell by the package.

8 The provisions of the Election Act relating to election
9 officers, voting places, election apparatus and blanks, preparation
10 and form of ballots, information to voters, delivery of ballots,
11 calling of elections, conduct of elections, manner of voting,
12 counting of votes, records and certificates of elections, and
13 recounts of votes, so far as applicable, shall apply to voting on
14 the proposition or propositions under the Nebraska Liquor Control
15 Act, and a majority vote of those voting on the question shall be
16 mandatory upon the commission.

17 (6) If the question is to be submitted at a statewide
18 primary or general election, the petitions shall be filed with the
19 clerk of the city or village not less than sixty days prior to
20 the election. The provisions for the required number of signers and
21 the form of petition shall be the same as for a special election.
22 The clerk of the city or village shall verify the signatures on
23 the petitions with the voter registration records in the office
24 of the county clerk or election commissioner. During the ten-day
25 period while the petitions are being checked, no signatures shall

1 be withdrawn and no signatures shall be added.

2 If the clerk of the city or village finds the petitions
3 to be valid, he or she shall, not less than fifty days prior to
4 the statewide primary or general election, give notice in writing
5 to the county clerk or election commissioner that the question is
6 to be submitted at the time of the statewide primary or general
7 election. The election notices, issuing of the official ballots on
8 election day, issuing of the ballots for early voting, and counting
9 and canvassing of the ballots shall be conducted by the county
10 clerk or election commissioner as provided in the Election Act and
11 the official results certified to the clerk of the city or village.

12 (7) An election may not be held in the same city or
13 village under this section more often than once every twenty-three
14 months. ~~Subdivision (5)(e)~~ A Class I retail license under
15 subdivision (6)(a)(v) of section 53-124 is not subject to this
16 section.

17 Sec. 52. Section 53-123.11, Revised Statutes Cumulative
18 Supplement, 2008, is amended to read:

19 53-123.11 (1) A farm winery license shall entitle the
20 holder to:

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

24 (b) Sell wines produced at the farm winery at retail for
25 consumption on the premises;

1 (c) (i) Permit a customer to remove one unsealed bottle of
2 wine for consumption off the premises. The licensee or his or her
3 agent shall (A) securely reseal such bottle and place the bottle
4 in a bag designed so that it is visibly apparent that the resealed
5 bottle of wine has not been opened or tampered with and (B) provide
6 a dated receipt to the customer and attach to such bag a copy of
7 the dated receipt for the resealed bottle of wine.

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

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

23 (e) Allow sampling of the wine at the farm winery and at
24 one branch outlet in the state in reasonable amounts;

25 (f) Sell wines produced at the farm winery to other

1 Nebraska farm winery licensees, in bulk, bottled, labeled, or
2 unlabeled, in accordance with 27 C.F.R. 24.308, 27 C.F.R. 24.309,
3 and 27 C.F.R. 24.314, as such regulations existed on January 1,
4 2008; ~~and~~

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

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

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

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

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

23 Sec. 53. Section 53-123.12, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 53-123.12 (1) Any person desiring to obtain a new license

1 to operate a farm winery shall:

2 ~~(1)~~ (a) File an application with the commission in
3 triplicate original upon such forms as the commission from time to
4 time prescribes;

5 ~~(2)~~ (b) Pay the license fee to the commission under
6 ~~subdivision (2) of section 53-124 and section 57 of this act,~~
7 which fee shall be returned to the applicant if the application is
8 denied; and

9 ~~(3)~~ (c) Pay the state registration nonrefundable
10 application fee to the commission in the sum of ~~forty-five~~ four
11 hundred dollars.

12 (2) To renew a farm winery license, a farm winery
13 licensee shall file an application with the commission, pay the
14 license fee under section 53-124 and section 57 of this act, and
15 pay the renewal fee of forty-five dollars.

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

21 (4) For a new license, the ~~The~~ commission shall then
22 notify, by registered or certified mail marked return receipt
23 requested with postage prepaid, the municipal clerk of the city
24 or incorporated village where such license is sought or, if the
25 license is not sought within a city or incorporated village, the

1 county clerk of the county where such license is sought of the
2 receipt of the application and shall enclose with such notice one
3 copy of the application. No such license shall then be issued by
4 the commission until the expiration of at least forty-five days
5 from the date of mailing such application by the commission. Within
6 thirty-five days from the date of receipt of such application
7 from the commission, the local governing bodies of nearby cities
8 or villages or the county may make and submit to the commission
9 recommendations relative to the granting of or refusal to grant
10 such license to the applicant.

11 Sec. 54. Section 53-123.13, Revised Statutes Cumulative
12 Supplement, 2008, is amended to read:

13 53-123.13 (1) If the operator of a farm winery is
14 unable to produce or purchase seventy-five percent of the grapes,
15 fruit, or other suitable agricultural products used in the farm
16 winery from within the state due to natural disaster which
17 causes substantial loss to the Nebraska-grown crop, such operator
18 may petition the commission to waive the seventy-five-percent
19 requirement prescribed in ~~subdivision (31) of section 53-103~~
20 section 21 of this act for one year.

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

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

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

13 Sec. 55. Section 53-123.15, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 53-123.15 (1) No person shall order or receive alcoholic
16 liquor in this state which has been shipped directly to him or her
17 from outside this state by any person other than a holder of a
18 shipping license issued by the commission, except that a licensed
19 wholesaler may receive not more than three gallons of wine in any
20 calendar year from any person who is not a holder of a shipping
21 license.

22 (2) The commission may issue a shipping license to
23 a manufacturer. Such license shall allow the licensee to ship
24 alcoholic liquor only to a licensed wholesaler, except that a
25 licensed wholesaler may, without a shipping license and for the

1 purposes of subdivision (2) of section 53-161, receive beer in
2 this state which has been shipped from outside the state by a
3 manufacturer in accordance with the Nebraska Liquor Control Act to
4 the wholesaler, then transported by the wholesaler to another state
5 for retail distribution, and then returned by the retailer to such
6 wholesaler.

7 (3) The commission may issue a shipping license to
8 any person who deals with vintage wines, which shipping license
9 shall allow the licensee to distribute such wines to a licensed
10 wholesaler in the state. For purposes of distributing vintage
11 wines, a licensed shipper must utilize a designated wholesaler if
12 the manufacturer has a designated wholesaler. For purposes of this
13 section, vintage wine shall mean a wine verified to be ten years
14 of age or older and not available from a primary American source
15 of supply.

16 (4) The commission may issue a shipping license to any
17 person who sells and ships alcoholic liquor from another state
18 directly to a consumer in this state. A person who receives a
19 license pursuant to this subsection shall pay the fee required in
20 ~~subdivision (11) of section 53-124 and section 57 of this act for a~~
21 direct sales shipping license. Until April 30, 2012, such fee shall
22 be collected by the commission and remitted to the State Treasurer
23 for credit to the Winery and Grape Producers Promotional Fund.

24 (5) The application for a shipping license shall be
25 in such form as the commission prescribes. The application shall

1 contain all provisions the commission deems proper and necessary to
2 effectuate the purpose of any section of the act and the rules and
3 regulations of the commission that apply to manufacturers and shall
4 include, but not be limited to, provisions that the applicant, in
5 consideration of the issuance of such shipping license, agrees:

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

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

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

21 Sec. 56. Section 53-124, Revised Statutes Supplement,
22 2009, is amended to read:

23 53-124 (1) At the time application is made to the
24 commission for a license of any type, the applicant shall pay the
25 fee provided in ~~this~~ section 57 of this act and, if the applicant

1 is an individual, provide the applicant's social security number.
 2 ~~The fees for annual licenses finally issued by the commission shall~~
 3 ~~be as follows:~~ The commission shall issue the types of licenses
 4 described in this section.

5 (2) There shall be an airline license, a boat license,
 6 and a railroad license. The commission shall charge one dollar for
 7 each duplicate of an airline license or a railroad license.

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

12 ~~(1)(a) For a license to manufacture alcohol and~~
 13 ~~spirits.....\$1,000.00;~~

14 ~~(b) For a license to operate a~~
 15 ~~microdistillery.....\$250.00;~~

16 ~~(2) For a license to manufacture beer and wine or to~~
 17 ~~operate a farm winery or craft brewery:~~

18 ~~(a) Manufacture of beer, excluding beer produced by a~~
 19 ~~craft brewery:~~

20 ~~(i) 1 to 100 barrel daily capacity, or any part thereof,~~
 21 ~~tier one;.....\$100.00~~

22 ~~(ii) 100 to 150 barrel daily capacity, tier~~
 23 ~~two;.....200.00~~

24 ~~(iii) 150 to 200 barrel daily capacity, tier~~
 25 ~~three;.....350.00~~

1 (iv) 200 to 300 barrel daily capacity, tier

2 four;.....500.00

3 (v) 300 to 400 barrel daily capacity, tier

4 five;.....650.00

5 (vi) 400 to 500 barrel daily capacity, tier

6 six;.....700.00

7 (vii) 500 barrel daily capacity, or more, tier

8 seven.....800.00

9 ~~(b) Operation of a craft brewery.....\$250.00~~

10 ~~(c) Manufacture of wines.....\$250.00~~

11 ~~(d) Operation of a farm winery.....\$250.00~~

12 (b) For purposes of subdivision (2)(a) of this section,

13 this subsection, daily capacity shall mean means the average

14 daily barrel production for the previous twelve months of

15 manufacturing operation. If no such basis for comparison exists,

16 the manufacturing licensee shall pay in advance for the first

17 year's operation a fee of five hundred dollars.

18 ~~(3) Alcoholic liquor wholesale license, for the first and~~

19 ~~each additional wholesale place of business operated in this state~~

20 ~~by the same licensee and wholesaling alcoholic liquor, except beer~~

21 ~~and wines produced from farm wineries.....\$750.00~~

22 ~~(4) Beer wholesale license, for the first and each~~

23 ~~additional wholesale place of business operated in this state by~~

24 ~~the same licensee and wholesaling beer only.....\$500.00~~

25 ~~(5) For a retail license~~

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

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

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

7 ~~(a) (i) Class A: Beer only, except for craft breweries,~~
8 ~~for consumption on the premises; the sum of one hundred dollars;~~

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

12 ~~(c) (iii) Class C: Alcoholic liquor, for consumption on~~
13 ~~the premises and off the premises, sales in original packages~~
14 ~~only. the sum of three hundred dollars, except for farm winery,~~
15 ~~microdistillery, or craft brewery sales outlets. If the applicant~~
16 ~~is making application to operate a cigar bar, the initial,~~
17 ~~nonrefundable application fee shall be one thousand dollars, the~~
18 ~~annual fee thereafter shall be as specified in this subdivision,~~
19 ~~and the application shall meet the requirements of section 53-131.~~

20 ~~If a Class C license is held by a nonprofit corporation, it shall~~
21 ~~be restricted to consumption on the premises only. A Class C~~
22 ~~license may have a sampling designation restricting consumption on~~
23 ~~the premises to sampling, but such designation shall not affect~~
24 ~~sales for consumption off the premises under such license;~~

25 ~~(d) (iv) Class D: Alcoholic liquor, including beer,~~

1 for consumption off the premises, sales in the original packages
 2 only, except as provided in subsection (2) of section 53-123.04;
 3 ~~and the sum of two hundred dollars, except for farm winery,~~
 4 ~~microdistillery, or craft brewery sales outlets, and~~

5 ~~(e) (v) Class I: Alcoholic liquor, for consumption on the~~
 6 ~~premises, the sum of two hundred fifty dollars, except for farm~~
 7 ~~winery, microdistillery, or craft brewery sales outlets.~~

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

14 ~~(6) For a railroad license.....\$100.00 and \$1.00 for each~~
 15 ~~duplicate.~~

16 ~~(7) For a boat license.....\$50.00.~~

17 ~~(8) For a nonbeverage user's license:~~

18 ~~Class 1.....\$5.00~~

19 ~~Class 2.....25.00~~

20 ~~Class 3.....50.00~~

21 ~~Class 4.....100.00~~

22 ~~Class 5.....250.00.~~

23 ~~(9) For an airline license.....\$100.00 and \$1.00 for each~~
 24 ~~duplicate.~~

25 ~~(10) For a shipping license, except a shipping license~~

1 issued pursuant to subsection ~~(4)~~ of section ~~53-123.15.....\$200.00,~~
2 and

3 ~~(11) For a shipping license issued pursuant to subsection~~
4 ~~(4) of section 53-123.15.....\$500.00.~~

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

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

13 (9) The license year, unless otherwise provided in the
14 Nebraska Liquor Control Act, shall commence on May 1 of each year
15 and shall end on the following April 30, except that the license
16 year for a Class C license shall commence on November 1 of each
17 year and shall end on the following October 31. During the license
18 year, no license shall be issued for a sum less than the amount
19 of the annual license fee as fixed in ~~this section,~~ section 57
20 of this act, regardless of the time when the application for such
21 license has been made, except that (a) when there is a purchase
22 of an existing licensed business and a new license of the same
23 class is issued or (b) upon the issuance of a new license for a
24 location which has not been previously licensed, the license fee
25 and occupation taxes shall be prorated on a quarterly basis as of

1 the date of issuance.

2 Sec. 57. (1) The fees for annual licenses finally issued
3 by the commission shall be as provided in this section and section
4 53-124.

5 (2) Airline license ... \$100

6 (3) Boat license ... \$50

7 (4) Manufacturer's license:

<u>Class</u>	<u>Fee - In Dollars</u>
8 <u>Alcohol and spirits</u>	<u>1,000</u>
10 <u>Beer - tier one</u>	<u>100</u>
11 <u>Beer - tier two</u>	<u>200</u>
12 <u>Beer - tier three</u>	<u>350</u>
13 <u>Beer - tier four</u>	<u>500</u>
14 <u>Beer - tier five</u>	<u>650</u>
15 <u>Beer - tier six</u>	<u>700</u>
16 <u>Beer - tier seven</u>	<u>800</u>
17 <u>Wine</u>	<u>250</u>

18 (5) Nonbeverage user's license:

<u>Class</u>	<u>Fee - In Dollars</u>
19 <u>Class 1</u>	<u>5</u>
21 <u>Class 2</u>	<u>25</u>
22 <u>Class 3</u>	<u>50</u>
23 <u>Class 4</u>	<u>100</u>
24 <u>Class 5</u>	<u>250</u>

25 (6) Operator's license:

1	<u>Class</u>	<u>Fee - In Dollars</u>
2	<u>Craft brewery</u>	<u>250</u>
3	<u>Farm winery</u>	<u>250</u>
4	<u>Microdistillery</u>	<u>250</u>
5	<u>(7) Railroad license ... \$100</u>	
6	<u>(8) Retail license:</u>	
7	<u>Class</u>	<u>Fee - In Dollars</u>
8	<u>Class A</u>	<u>100</u>
9	<u>Class B</u>	<u>100</u>
10	<u>Class C</u>	<u>300</u>
11	<u>Class D</u>	<u>200</u>
12	<u>Class I</u>	<u>250</u>
13	<u>(9) Shipping license:</u>	
14	<u>Class</u>	<u>Fee - In Dollars</u>
15	<u>Manufacturer</u>	<u>200</u>
16	<u>Vintage wines</u>	<u>200</u>
17	<u>Direct sales</u>	<u>500</u>
18	<u>(10) Wholesale license:</u>	
19	<u>Class</u>	<u>Fee - In Dollars</u>
20	<u>Alcoholic liquor</u>	<u>750</u>
21	<u>Beer</u>	<u>500</u>
22	Sec. 58. Section 53-124.11, Revised Statutes Cumulative	
23	Supplement, 2008, is amended to read:	
24	53-124.11 (1) The commission may issue a special	

1 designated license for sale or consumption of alcoholic liquor
2 at a designated location to a retail licensee, a craft brewery
3 licensee, a microdistillery licensee, a farm winery licensee,
4 a municipal corporation, a fine arts museum incorporated as a
5 nonprofit corporation, a religious nonprofit corporation which
6 has been exempted from the payment of federal income taxes, a
7 political organization which has been exempted from the payment
8 of federal income taxes, or any other nonprofit corporation the
9 purpose of which is fraternal, charitable, or public service and
10 which has been exempted from the payment of federal income taxes,
11 under conditions specified in this section. The applicant shall
12 demonstrate meeting the requirements of this subsection.

13 (2) No retail licensee, craft brewery licensee,
14 microdistillery licensee, farm winery licensee, organization, or
15 corporation enumerated in subsection (1) of this section may be
16 issued a special designated license under this section for more
17 than six calendar days in any one calendar year. Only one special
18 designated license shall be required for any application for two
19 or more consecutive days. This subsection shall not apply to any
20 holder of a catering license.

21 (3) Except for any special designated license issued
22 to a holder of a catering license, there shall be a fee of
23 forty dollars for each day identified in the special designated
24 license. Such fee shall be submitted with the application for
25 the special designated license, collected by the commission,

1 and remitted to the State Treasurer for credit to the General
2 Fund. The applicant shall be exempt from the provisions of the
3 Nebraska Liquor Control Act requiring a ~~registration~~ an application
4 or renewal fee and the provisions of the act requiring the
5 expiration of forty-five days from the time the application
6 is received by the commission prior to the issuance of a
7 license, if granted by the commission. The retail licensees,
8 craft brewery licensees, microdistillery licensees, farm winery
9 licensees, municipal corporations, organizations, and nonprofit
10 corporations enumerated in subsection (1) of this section seeking
11 a special designated license shall file an application on such
12 forms as the commission may prescribe. Such forms shall contain,
13 along with other information as required by the commission, (a)
14 the name of the applicant, (b) the premises for which a special
15 designated license is requested, identified by street and number
16 if practicable and, if not, by some other appropriate description
17 which definitely locates the premises, (c) the name of the owner or
18 lessee of the premises for which the special designated license is
19 requested, (d) sufficient evidence that the holder of the special
20 designated license, if issued, will carry on the activities and
21 business authorized by the license for himself, herself, or itself
22 and not as the agent of any other person, group, organization,
23 or corporation, for profit or not for profit, (e) a statement
24 of the type of activity to be carried on during the time period
25 for which a special designated license is requested, and (f)

1 sufficient evidence that the activity will be supervised by persons
2 or managers who are agents of and directly responsible to the
3 holder of the special designated license.

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

20 (5) If the applicant meets the requirements of this
21 section, a special designated license shall be granted and issued
22 by the commission for use by the holder of the special designated
23 license. All statutory provisions and rules and regulations of the
24 commission that apply to a retail licensee shall apply to the
25 holder of a special designated license with the exception of such

1 statutory provisions and rules and regulations of the commission
2 so designated by the commission and stated upon the issued special
3 designated license, except that the commission may not designate
4 exemption of sections 53-180 to 53-180.07. The decision of the
5 commission shall be final. If the applicant does not qualify for a
6 special designated license, the application shall be denied by the
7 commission.

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

12 Sec. 59. Section 53-124.12, Revised Statutes Cumulative
13 Supplement, 2008, is amended to read:

14 53-124.12 (1) The holder of a license to sell alcoholic
15 liquor at retail issued under ~~subdivision (5)~~ subsection (6) of
16 section 53-124, a craft brewery license, a microdistillery license,
17 or a farm winery license may obtain an annual catering license as
18 prescribed in this section. The catering license shall be issued
19 for the same period and may be renewed in the same manner as the
20 retail license, craft brewery license, microdistillery license, or
21 farm winery license.

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

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

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

4 (3) When an application for a catering license is filed,
5 the commission shall notify, by registered or certified mail,
6 return receipt requested with postage prepaid, (a) the clerk of the
7 city or incorporated village in which such applicant is located or
8 (b) if the applicant is not located within a city or incorporated
9 village, the county clerk of the county in which such applicant is
10 located, of the receipt of the application. The commission shall
11 enclose with such notice one copy of the application. The local
12 governing body and the commission shall process the application in
13 the same manner as provided in section 53-132.

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

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

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

6 Sec. 60. Section 53-124.13, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 53-124.13 (1) The holder of a catering license may
9 deliver, sell, or dispense alcoholic liquor, including beer, for
10 consumption at premises designated in a special designated license
11 issued pursuant to section 53-124.11.

12 (2) At least twenty-one days prior to the event for
13 which the special designated license is to be used, the holder of
14 the catering license shall file an application seeking a special
15 designated license for the event. In addition to the information
16 required by subsection (3) of section 53-124.11, the applicant
17 shall inform the commission of (a) the time of the event, (b)
18 the name of the person or organization requesting the applicant's
19 services, (c) the opening and closing dates of the event, and (d)
20 any other information the commission or local governing body deems
21 necessary. A holder of a catering license shall not cater an event
22 unless such licensee receives a special designated license for the
23 event.

24 (3) If the organization for which the holder of a
25 catering license is catering is a nonprofit organization exempted

1 from the payment of federal income taxes, such organization may
2 share with such licensee a part or all of the proceeds from the
3 sale of any alcoholic liquor sold and dispensed pursuant to this
4 section.

5 (4) For purposes of this section, local governing body
6 shall mean the governing body of the city or village in which the
7 event will be held or, if the event will not be held within the
8 corporate limits of a city or village, the governing body of the
9 county in which such event will be held.

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

18 Sec. 61. Section 53-124.14, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 53-124.14 (1) The commission may license the sale of
21 alcoholic liquor at retail in the original package to applicants
22 who reside in any county in which there is no incorporated city
23 or village or in which the county seat is not located in an
24 incorporated city or village if the licensed premises are situated
25 in an unincorporated village having a population of twenty-five

1 inhabitants or more.

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

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

12 Sec. 62. Section 53-125, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 53-125 No license of any kind shall be issued to (1)
15 a person who is not a resident of Nebraska, except in case of
16 railroad, airline, or boat licenses, (2) a person who is not of
17 good character and reputation in the community in which he or
18 she resides, (3) a person who is not a citizen of the United
19 States, (4) a person who has been convicted of or has pleaded
20 guilty to a felony under the laws of this state, any other state,
21 or the United States, (5) a person who has been convicted of or
22 has pleaded guilty to any Class I misdemeanor pursuant to Chapter
23 28, article 3, 4, 7, 8, 10, 11, or 12, or any similar offense
24 under a prior criminal statute or in another state, except that
25 any additional requirements imposed by this subdivision on May

1 18, 1983, shall not prevent any person holding a license on such
2 date from retaining or renewing such license if the conviction or
3 plea occurred prior to May 18, 1983, (6) a person whose license
4 issued under the Nebraska Liquor Control Act has been revoked for
5 cause, (7) a person who at the time of application for renewal of
6 any license issued under the act would not be eligible for such
7 license upon initial application, (8) a partnership, unless one of
8 the partners is a resident of Nebraska and unless all the members
9 of such partnership are otherwise qualified to obtain a license,
10 (9) a limited liability company, ~~unless one of the members is a~~
11 ~~resident of Nebraska and unless all the members of such company are~~
12 ~~otherwise qualified to obtain a license,~~ if any officer or director
13 of the limited liability company or any member having an ownership
14 interest in the aggregate of more than twenty-five percent of such
15 company would be ineligible to receive a license under this section
16 for any reason other than the reasons stated in subdivisions (1)
17 and (3) of this section, or if a manager of a limited liability
18 company licensee would be ineligible to receive a license under
19 this section for any reason, (10) a corporation, if any officer,
20 manager, or director of the corporation or any stockholder owning
21 in the aggregate more than twenty-five percent of the stock of
22 such corporation would be ineligible to receive a license under
23 this section for any reason other than the reasons stated in
24 subdivisions (1) and (3) of this section, except that a manager
25 of a corporate licensee shall be a resident of Nebraska. This

1 subdivision shall not apply to railroad licenses, (11) a person
2 whose place of business is conducted by a manager or agent unless
3 such manager or agent possesses the same qualifications required of
4 the licensee, (12) a person who does not own the premises for which
5 a license is sought or does not have a lease or combination of
6 leases on such premises for the full period for which the license
7 is to be issued, (13) except as provided in this subdivision,
8 an applicant whose spouse is ineligible under this section to
9 receive and hold a liquor license. Such applicant shall become
10 eligible for a liquor license only if the commission finds from the
11 evidence that the public interest will not be infringed upon if
12 such license is granted. It shall be prima facie evidence that when
13 a spouse is ineligible to receive a liquor license the applicant
14 is also ineligible to receive a liquor license. Such prima facie
15 evidence shall be overcome if it is shown to the satisfaction of
16 the commission (a) that the licensed business will be the sole
17 property of the applicant and (b) that such licensed premises will
18 be properly operated, (14) a person seeking a license for premises
19 which do not meet standards for fire safety as established by the
20 State Fire Marshal, (15) a law enforcement officer, except that
21 this subdivision shall not prohibit a law enforcement officer from
22 holding membership in any nonprofit organization holding a liquor
23 license or from participating in any manner in the management or
24 administration of a nonprofit organization, or (16) a person less
25 than twenty-one years of age.

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

6 Sec. 63. Section 53-129, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 53-129 Retail, craft brewery, and microdistillery
9 licenses issued under the Nebraska Liquor Control Act apply only to
10 that part of the premises described in the application approved by
11 the commission and in the license issued on the application, and
12 only one location shall be described in each license. After such
13 license has been granted for particular premises, the commission,
14 with the approval of the local governing body and upon proper
15 showing, may endorse upon the license permission to add to, delete
16 from, or abandon the premises described in such license and, if
17 applicable, to move from the premises to other premises approved by
18 it, but in order to obtain such approval the retail, craft brewery,
19 or microdistillery licensee shall file with the local governing
20 body a request in writing and a statement under oath which shows
21 that the premises as added to or deleted from or to which such
22 move is to be made comply in all respects with the requirements of
23 the act. No such addition, deletion, or move shall be made by any
24 such licensee until the license has been endorsed to that effect
25 in writing by the local governing body and by the commission and

1 the licensee furnishes proof of payment of the ~~state registration~~
2 renewal fee prescribed in subsection (4) of section 53-131.

3 Sec. 64. Section 53-130, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 53-130 (1) New licenses to manufacturers, wholesalers,
6 railroads, airlines, boats, and nonbeverage users of alcoholic
7 liquor may be issued by the commission upon ~~(1)~~ (a) written
8 application in duplicate filed in the manner and on such forms
9 as the commission prescribes and in which the applicant for a
10 beer wholesale license sets forth the sales territory in Nebraska
11 in which it is authorized by a manufacturer or manufacturers to
12 sell their brand or brands and the name of such brand or brands,
13 ~~(2)~~ (b) receipt of bond, ~~(3)~~ (c) payment in advance of the ~~state~~
14 ~~registration nonrefundable application fee~~ of forty-five dollars
15 and the license fee, and ~~(4)~~ (d) such notice and hearing as the
16 commission fixes by its own order.

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

21 (3) A license so issued may be renewed without formal
22 application upon payment of license fees and ~~registration fees.~~ a
23 renewal fee of forty-five dollars. The payment of such fees shall
24 be an affirmative representation and certification by the licensee
25 that all answers contained in an application, if submitted, would

1 be the same in all material respects as the answers contained
2 in the last previous application. The commission may at any time
3 require a licensee to submit an application.

4 Sec. 65. Section 53-131, Revised Statutes Supplement,
5 2009, is amended to read:

6 53-131 (1) Any person desiring to obtain a new license
7 to sell alcoholic liquor at retail, a craft brewery license, or a
8 microdistillery license shall file with the commission:

9 (a) An application in triplicate original upon forms
10 the commission prescribes, including the information required by
11 subsection (3) of this section for an application to operate a
12 cigar bar;

13 (b) The license fee if under section 53-124 and section
14 57 of this act such fee is payable to the commission, which fee
15 shall be returned to the applicant if the application is denied;
16 ~~7 except that if the applicant is making application to operate a~~
17 ~~cigar bar, the initial application fee is nonrefundable as provided~~
18 ~~in subdivision (5)(c) of section 53-124; and~~

19 (c) The state registration nonrefundable application fee
20 in the sum of ~~forty-five~~ four hundred dollars, except that the
21 nonrefundable application fee for an application for a cigar bar
22 shall be one thousand dollars.

23 (2) The commission shall notify, by registered or
24 certified mail, return receipt requested with postage prepaid, (a)
25 the clerk of the city or village in which such license is sought or

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

13 (3) For an application to operate a cigar bar, the
14 application shall include proof of the cigar bar's annual gross
15 revenue as requested by the commission and such other information
16 as requested by the commission to establish the intent to operate
17 as a cigar bar. The commission may adopt and promulgate rules and
18 regulations to regulate cigar bars.

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

23 Sec. 66. Section 53-132, Revised Statutes Cumulative
24 Supplement, 2008, is amended to read:

25 53-132 (1) If no hearing is required pursuant to

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

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

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

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

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

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

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

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

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

17 (g) The adequacy of existing law enforcement;

18 (h) Zoning restrictions;

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

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

24 (4) Retail licenses, craft brewery licenses, or
25 microdistillery licenses issued or renewed by the commission shall

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

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

20 Sec. 67. Section 53-133, Revised Statutes Cumulative
21 Supplement, 2008, is amended to read:

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

25 (a) Within forty-five days after the date of receipt

1 of such application by the city, village, or county clerk, a
2 recommendation of denial from the city, village, or county;

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

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

17 (d) An indication on the application that the location of
18 a proposed retail establishment is within one hundred fifty feet of
19 a church as described in subsection (2) of section 53-177.

20 (2) Hearings upon such applications shall be in the
21 following manner: Notice indicating the time and place of such
22 hearing shall be mailed to the applicant, the local governing body,
23 ~~and~~ each individual protesting a license pursuant to subdivision
24 (1)(b) of this section, and any church affected as described in
25 subdivision (1)(d) of this section, by certified mail, return

1 receipt requested, at least fifteen days prior to such hearing.
2 The notice shall state that the commission will receive evidence
3 for the purpose of determining whether to approve or deny the
4 application. Mailing to the attorney of record of a party shall be
5 deemed to fulfill the purposes of this section. The commission may
6 receive evidence, including testimony and documentary evidence, and
7 may hear and question witnesses concerning the application.

8 Sec. 68. Section 53-134, Revised Statutes Cumulative
9 Supplement, 2008, is amended to read:

10 53-134 The local governing body of any city or village
11 with respect to licenses within its corporate limits and the local
12 governing body of any county with respect to licenses not within
13 the corporate limits of any city or village but within the county
14 shall have the following powers, functions, and duties with respect
15 to retail, craft brewery, and microdistillery licenses:

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

20 (2) To enter or to authorize any law enforcement officer
21 to enter at any time upon any premises licensed under the Nebraska
22 Liquor Control Act to determine whether any provision of the act,
23 any rule or regulation adopted and promulgated pursuant to the act,
24 or any ordinance, resolution, rule, or regulation adopted by the
25 local governing body has been or is being violated and at such

1 time examine the premises of such licensee in connection with such
2 determination;

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

9 (4) To receive retail license fees, craft brewery license
10 fees, and microdistillery license fees as provided in section
11 53-124 and section 57 of this act and pay the same, after the
12 license has been delivered to the applicant, to the city, village,
13 or county treasurer;

14 (5) To examine or cause to be examined any applicant
15 or any retail licensee, craft brewery licensee, or microdistillery
16 licensee upon whom notice of cancellation or revocation has been
17 served as provided in the act, to examine or cause to be examined
18 the books and records of any applicant or licensee, and to hear
19 testimony and to take proof for its information in the performance
20 of its duties. For purposes of obtaining any of the information
21 desired, the local governing body may authorize its agent or
22 attorney to act on its behalf;

23 (6) To cancel or revoke on its own motion any license if,
24 upon the same notice and hearing as provided in section 53-134.04,
25 it determines that the licensee has violated any of the provisions

1 of the act or any valid and subsisting ordinance, resolution, rule,
2 or regulation duly enacted, adopted, and promulgated relating to
3 alcoholic liquor. Such order of cancellation or revocation may
4 be appealed to the commission within thirty days after the date
5 of the order by filing a notice of appeal with the commission.
6 The commission shall handle the appeal in the manner provided for
7 hearing on an application in section 53-133; and

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

1 to the commission by first-class mail, postage prepaid, a copy of
2 the resolution which shall state the cost of the published notice,
3 except that failure to comply with this provision shall not void
4 any license issued by the commission. If the commission refuses to
5 issue such a license, the cost of publication of notice shall be
6 paid by the commission from the security for costs.

7 Sec. 69. Section 53-135, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 53-135 A retail license issued by the commission and
10 outstanding may be automatically renewed by the commission without
11 formal application upon payment of the ~~state registration~~ renewal
12 fee and license fee if payable to the commission. The payment shall
13 be an affirmative representation and certification by the licensee
14 that all answers contained in an application, if submitted, would
15 be the same in all material respects as the answers contained
16 in the last previous application. The commission may at any time
17 require a licensee to submit an application, and the commission
18 shall at any time require a licensee to submit an application if
19 requested in writing to do so by the local governing body.

20 If a licensee files an application form in triplicate
21 original upon seeking renewal of his or her license, the
22 application shall be processed as set forth in section 53-131.

23 Any licensed retail premises located in an area which
24 is annexed to any governmental subdivision shall file a formal
25 application for a license, and while such application is pending,

1 the licensee may continue all license privileges until the original
2 license expires or is canceled or revoked. If such license expires
3 within sixty days following the annexation date of such area, the
4 license may be renewed by order of the commission for not more than
5 one year.

6 Sec. 70. Section 53-138.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 53-138.01 The State Treasurer shall credit three hundred
9 ninety-five dollars of each four-hundred-dollar application fee
10 and forty dollars of each state registration forty-five-dollar
11 application fee and each renewal fee to the General Fund and the
12 remaining five dollars to the Nebraska Liquor Control Commission
13 Rule and Regulation Cash Fund to be used for providing licensees
14 with materials pursuant to section 53-117.05. All retail license
15 fees received by the city or village treasurer, as the case may
16 be, shall inure to the school fund of the district lying wholly or
17 partially within the corporate limits of such city or village. The
18 State Treasurer shall ~~credit~~ all distribute license fees received
19 by the commission for licenses issued pertaining to alcoholic
20 liquor, including beer, ~~to the temporary school fund to be used~~
21 ~~for the support of the common schools as provided in accordance~~
22 with Article VII, section 5, of the Constitution of Nebraska. All
23 retail license fees received by the county treasurer, as provided
24 in section 53-124, shall be credited to the school fund of the
25 county.

1 Sec. 71. Section 53-139, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 53-139 No person shall receive a retail license to sell
4 alcoholic liquor upon any premises used as a restaurant or as a
5 club unless such premises or plan of operation strictly complies
6 with ~~the provisions of subdivisions (18) and (19) of section~~
7 53-103, sections 17 and 38 of this act.

8 Sec. 72. Section 53-149, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 53-149 (1) A license shall be purely a personal
11 privilege, good for not to exceed one year after issuance unless
12 sooner revoked as provided in the Nebraska Liquor Control Act,
13 and shall not constitute property, nor shall it be subject to
14 attachment, garnishment, or execution, nor shall it be alienable
15 or transferable, voluntarily or involuntarily, or subject to being
16 encumbered or hypothecated.

17 (2) A license issued under the act terminates immediately
18 upon the sale of the licensed premises named in such license.
19 The purchaser or transferee may submit an application for a
20 license under the act prior to closing such sale or transfer.
21 While such application is pending, the purchaser may request and
22 obtain a temporary operating permit from the commission which
23 shall authorize the purchaser to continue the business which
24 was conducted on the purchased premises under the terms and
25 conditions of the terminated license for ninety days or until the

1 purchaser has obtained a license in its own name, whichever occurs
2 sooner. Prior to the issuance of a temporary operating permit,
3 the purchaser shall supply the commission with documentation from
4 the seller that the seller is current on all accounts with any
5 wholesaler under section 53-123.02. A seller who provides false
6 information regarding such accounts is guilty of a Class IV
7 misdemeanor for each offense. In the absence of such temporary
8 operating permit, the purchaser shall not manufacture, store,
9 or sell alcoholic liquor on the purchased premises until the
10 purchaser has obtained a license in the purchaser's own name.
11 If the application is withdrawn by the applicant or is denied
12 by the commission, the previous license may be reinstated at the
13 discretion of the commission upon request by the previous licensee.

14 Such ~~(3)~~ A license shall not descend by the laws of
15 testate or intestate devolution, but it shall cease upon the death
16 of the licensee, except that ~~(1)~~ (a) executors or administrators
17 of the estate of any deceased licensee, when such estate consists
18 in part of alcoholic liquor, or a partnership or limited liability
19 company upon the death of one or more of the partners or members,
20 may continue the business of the sale or manufacture of alcoholic
21 liquor under order of the appropriate court and may exercise the
22 privileges of the deceased or deceased partner or member after
23 the death of such decedent until the expiration of such license,
24 but if such license would have expired within two months following
25 the death of the licensee, the license may be renewed by the

1 administrators or executors with the approval of the appropriate
2 court for a period not to exceed one additional year; or ~~(2)~~ (b)
3 when a license is issued to a husband and wife, as colicensees with
4 rights of survivorship, upon the death of one spouse the survivor
5 may exercise all rights and privileges under such license in his or
6 her own name. The trustee of any insolvent or bankrupt licensee,
7 when such estate consists in part of alcoholic liquor, may continue
8 the business of the sale or manufacture of alcoholic liquor under
9 order of the appropriate court and may exercise the privileges of
10 the insolvent or bankrupt licensee until the expiration of such
11 license.

12 Sec. 73. Section 53-164.01, Revised Statutes Cumulative
13 Supplement, 2008, is amended to read:

14 53-164.01 Payment of the tax provided for in section
15 53-160 on alcoholic liquor shall be paid by the manufacturer or
16 wholesaler as follows:

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

25 (b) All beer wholesalers shall, on or before the

1 twenty-fifth day of each calendar month following the month in
2 which shipments were made, submit a report to the commission
3 upon forms furnished by the commission showing the total amount
4 of beer in gallons or fractional parts thereof shipped by all
5 manufacturers, whether inside or outside this state, during the
6 preceding calendar month to such wholesaler;

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

18 (e) (ii) Farm winery producers which paid one thousand
19 dollars or more of excise taxes pursuant to section 53-160 for
20 the previous calendar year or which become liable for one thousand
21 dollars or more of excise taxes pursuant to section 53-160 during
22 the current calendar year shall, on or before the twenty-fifth
23 day of each calendar month following the month in which wine was
24 packaged or bottled for sale, submit a report to the commission
25 upon forms furnished by the commission showing the total amount of

1 wine in gallons or fractional parts thereof packaged or bottled by
2 such producer during the preceding calendar month. A farm winery
3 producer which becomes liable for one thousand dollars or more of
4 excise taxes pursuant to section 53-160 during the current calendar
5 year shall also pay such excise taxes immediately;

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

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

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

24 (2) The wholesaler or farm winery producer shall at the
25 time of the filing of the report pay to the commission the tax

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

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

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

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

1 (6) In order to insure the payment of all state taxes
2 on alcoholic liquor, together with interest and penalties, persons
3 required to submit reports and payment of the tax shall, at the
4 time of application for a license under section 53-124 and section
5 57 of this act, enter into a surety bond with corporate surety,
6 both the bond form and surety to be approved by the commission.
7 Subject to the limitations specified in this subdivision, the
8 amount of the bond required of any taxpayer shall be fixed by the
9 commission and may be increased or decreased by the commission at
10 any time. In fixing the amount of the bond, the commission shall
11 require a bond equal to the amount of the taxpayer's estimated
12 maximum monthly excise tax ascertained in a manner as determined by
13 the commission. Nothing in this section shall prevent or prohibit
14 the commission from accepting and approving bonds which run for
15 a term longer than the license period. The amount of a bond
16 required of any one taxpayer shall not be less than one thousand
17 dollars. The bonds required by this section shall be filed with the
18 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. 74. Section 53-169.01, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:

5 53-169.01 No manufacturer of alcoholic liquor holding a
6 manufacturer's license under section 53-123.01 and no manufacturer
7 of alcoholic liquor outside this state manufacturing alcoholic
8 liquor, except beer, for distribution and sale within this
9 state shall, directly or indirectly, as owner or part owner,
10 or through a subsidiary or affiliate, or by any officer, director,
11 or employee thereof, or by stock ownership, interlocking directors,
12 trusteeship, loan, mortgage, or lien on any personal or real
13 property, or as guarantor, endorser, or surety, be interested in
14 the ownership, conduct, operation, or management of any alcoholic
15 liquor wholesaler holding an alcoholic liquor wholesale license,
16 except beer, under section 53-123.02. ~~unless such interest in~~
17 ~~the licensed wholesaler was acquired or became effective prior to~~
18 ~~January 1, 2007.~~

19 No manufacturer of alcoholic liquor holding a
20 manufacturer's license under section 53-123.01 and no manufacturer
21 of alcoholic liquor outside this state manufacturing alcoholic
22 liquor, except beer, for distribution and sale within this state
23 shall be interested directly or indirectly, as lessor or lessee, as
24 owner or part owner, or through a subsidiary or affiliate, or by
25 any officer, director, or employee thereof, or by stock ownership,

1 interlocking directors, or trusteeship in the premises upon which
2 the place of business of an alcoholic liquor wholesaler holding
3 an alcoholic liquor wholesale license, except beer, under section
4 53-123.02 is located, established, conducted, or operated in whole
5 or in part unless such interest was acquired or became effective
6 prior to April 17, 1947.

7 Sec. 75. Section 53-172, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 53-172 No manufacturer or wholesaler shall sell or
10 deliver any original package containing alcoholic liquor, except
11 beer and wine, manufactured or distributed by him or her unless the
12 package has affixed thereto a clear and legible label containing
13 the name and address of the manufacturer, the kind of alcoholic
14 liquor contained in the package, and, in the case of alcoholic
15 liquor other than beer, the date when manufactured. No original
16 package of alcoholic liquor shall be delivered by any manufacturer
17 or wholesaler unless the package is securely sealed so that the
18 contents cannot be removed without breaking the seal placed thereon
19 by such manufacturer, and no other licensee shall sell, have in
20 his or her possession, or use any original package which does not
21 comply with this section ~~and section 53-174~~ or which does not bear
22 evidence that such original package, when delivered to him or her,
23 complied with this section.

24 Sec. 76. Section 53-177, Revised Statutes Supplement,
25 2009, is amended to read:

1 53-177 (1) ~~Ne~~ Except as otherwise provided in subsection
2 (2) of this section, no license shall be issued for the sale at
3 retail of any alcoholic liquor within one hundred and fifty feet of
4 any church, school, hospital, or home for aged or indigent persons
5 or for veterans, their wives or children. This prohibition does not
6 apply (a) to any location within such distance of one hundred and
7 fifty feet for which a license to sell alcoholic liquor at retail
8 has been granted by the Nebraska Liquor Control Commission for two
9 years continuously prior to making of application for license and
10 (b) to hotels offering restaurant service, to regularly organized
11 clubs, or to restaurants, food shops, or other places where sale of
12 alcoholic liquor is not the principal business carried on, if such
13 place of business so exempted was established for such purposes
14 prior to May 24, 1935.

15 (2) If a proposed location for the sale at retail of
16 any alcoholic liquor is within one hundred fifty feet of any
17 church, a license may be issued if the commission gives notice to
18 the affected church and holds a hearing as prescribed in section
19 53-133.

20 ~~(2)~~ (3) No alcoholic liquor, other than beer, shall be
21 sold for consumption on the premises within three hundred feet from
22 the campus of any college or university in the state, except that
23 this section:

24 (a) Does not prohibit a nonpublic college or university
25 from contracting with an individual or corporation holding a

1 license to sell alcoholic liquor at retail for the purpose of
2 selling alcoholic liquor at retail on the campus of such college
3 or university at events sanctioned by such college or university
4 but does prohibit the sale of alcoholic liquor at retail by such
5 licensee on the campus of such nonpublic college or university at
6 student activities or events; and

7 (b) Does not prohibit sales of alcoholic liquor by a
8 community college culinary education program pursuant to section
9 53-124.15.

10 Sec. 77. Section 53-179, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 53-179 (1) No alcoholic liquor, including beer, shall be
13 sold at retail or dispensed on any day between the hours of 1 a.m.
14 and 6 a.m., except that the ~~The~~ local governing body of any city
15 or village with respect to area inside the corporate limits of such
16 city or village, or the county board with respect to area outside
17 the corporate limits of any city or village, may by ordinance or
18 resolution (a) require closing prior to 1 a.m. on any day or (b)
19 if adopted by a vote of at least two-thirds of the members of
20 such local governing body or county board, permit retail sale or
21 dispensing of alcoholic liquor for consumption on the premises,
22 excluding sales for consumption off the premises, later than 1 a.m.
23 and prior to 2 a.m. on any day.

24 (2) Except as provided for and allowed by ordinance of a
25 local governing body applicable to area inside the corporate limits

1 of a city or village or by resolution of a county board applicable
2 to area inside such county and outside the corporate limits of any
3 city or village, no alcoholic liquor, including beer, shall be sold
4 at retail or dispensed between the hours of 6 a.m. Sunday and 1
5 a.m. Monday. No ordinance or resolution allowed by this subsection
6 shall permit alcoholic liquor, other than beer and wine, to be
7 sold at retail or dispensed between the hours of 6 a.m. Sunday
8 and 12 noon Sunday. This subsection shall not apply after 12 noon
9 on Sunday to a licensee which is a nonprofit corporation and the
10 holder of a Class C license or a Class I license.

11 (3) It shall be unlawful on property licensed to sell
12 alcoholic liquor at retail to allow alcoholic liquor in open
13 containers to remain or be in possession or control of any person
14 for purposes of consumption between the hours of ~~1:15 a.m.~~ fifteen
15 minutes after the closing hour applicable to the licensed premises
16 and 6 a.m. on any day. ~~When any city or village provides by~~
17 ~~ordinance or any county provides by resolution for an earlier~~
18 ~~closing hour,~~ the provisions of this subsection shall become
19 effective ~~fifteen minutes after such closing hour instead of 1:15~~
20 ~~a.m.~~

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

25 Sec. 78. Section 53-1,104, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 53-1,104 (1) Any licensee which sells or permits the
3 sale of any alcoholic liquor not authorized under the terms of
4 such license on the licensed premises or in connection with such
5 licensee's business or otherwise shall be subject to suspension,
6 cancellation, or revocation of such license by the commission.

7 (2) When an order suspending a license to sell alcoholic
8 liquor becomes final, the licensee may elect to pay a cash penalty
9 to the commission in lieu of suspending sales of alcoholic liquor
10 for the designated period if such election is not prohibited
11 by order of the commission. Except as otherwise provided in
12 subsection (3) of this section, for the first such suspension for
13 any licensee, the penalty shall be fifty dollars per day, and for
14 a second or any subsequent suspension, the penalty shall be one
15 hundred dollars per day.

16 (3) (a) For a second suspension for violation of section
17 53-180 or 53-180.02 occurring within four years after the date of
18 the first suspension, the commission, in its discretion, may order
19 that the licensee be required to suspend sales of alcoholic liquor
20 for a period of time not to exceed forty-eight hours and that the
21 licensee may not elect to pay a cash penalty. The commission may
22 use the required suspension of sales of alcoholic liquor penalty
23 either alone or in conjunction with suspension periods for which
24 the licensee may elect to pay a cash penalty. For purposes of this
25 subsection, second suspension for violation of section 53-180 shall

1 include suspension for a violation of section 53-180.02 following
2 suspension for a violation of section 53-180 and second suspension
3 for violation of section 53-180.02 shall include suspension for a
4 violation of section 53-180 following suspension for a violation of
5 section 53-180.02;

6 (b) For a third or subsequent suspension for violation of
7 section 53-180 or 53-180.02 occurring within four years after the
8 date of the first suspension, the commission, in its discretion,
9 may order that the licensee be required to suspend sales of
10 alcoholic liquor for a period of time not to exceed fifteen days
11 and that the licensee may not elect to pay a cash penalty. The
12 commission may use the required suspension of sales of alcoholic
13 liquor penalty either alone or in conjunction with suspension
14 periods for which the licensee may elect to pay a cash penalty.
15 For purposes of this subsection, third or subsequent suspension
16 for violation of section 53-180 shall include suspension for a
17 violation of section 53-180.02 following suspension for a violation
18 of section 53-180 and third or subsequent suspension for violation
19 of section 53-180.02 shall include suspension for a violation of
20 section 53-180 following suspension for a violation of section
21 53-180.02; and

22 (c) For a first suspension based upon a finding that a
23 licensee or an employee or agent of the licensee has been convicted
24 of possession of a gambling device on a licensee's premises in
25 violation of sections 28-1107 to 28-1111, the commission, in its

1 discretion, may order that the licensee be required to suspend
2 sales of alcoholic liquor for thirty days and that the licensee
3 may not elect to pay a cash penalty. For a second or subsequent
4 suspension for such a violation of sections 28-1107 to 28-1111
5 occurring within four years after the date of the first suspension,
6 the commission shall order that the license be canceled.

7 (4) For any licensee which has no violation for a period
8 of four years consecutively, any suspension shall be treated as a
9 new first suspension.

10 (5) The election provided for in subsection (2) of
11 this section shall be filed with the commission in writing one
12 week before the suspension is ordered to commence and shall be
13 accompanied by payment in full of the sum required by this section.
14 If such election has not been received by the commission by the
15 close of business one week before the day such suspension is
16 ordered to commence, it shall be conclusively presumed that the
17 licensee has elected to close for the period of the suspension
18 and any election received later shall be absolutely void and the
19 payment made shall be returned to the licensee. The election shall
20 be made on a form prescribed by the commission. ~~All funds received~~
21 ~~under this section shall be remitted to the State Treasurer for~~
22 ~~credit to the temporary school fund.~~ The commission shall remit
23 all funds collected under this section to the State Treasurer for
24 distribution in accordance with Article VII, section 5, of the
25 Constitution of Nebraska.

1 Sec. 79. Section 53-403, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 53-403 For purposes of the Minor Alcoholic Liquor
4 Liability Act:

5 (1) Alcoholic liquor has the definition found in section
6 ~~53-103~~, 10 of this act;

7 (2) Intoxication means an impairment of a person's mental
8 or physical faculties as a result of his or her use of alcoholic
9 liquor so as to diminish the person's ability to think and act in
10 the manner of a reasonably prudent person in full possession of his
11 or her faculties using reasonable care under the same or similar
12 circumstances;

13 (3) Licensee means a person holding a license issued
14 under the Nebraska Liquor Control Act to sell alcoholic liquor at
15 retail;

16 (4) Minor has the definition found in section ~~53-103~~, 31
17 of this act;

18 (5) Retailer means a licensee, any agent or employee of
19 the licensee acting within the scope and course of his or her
20 employment, or any person who at the time of the events leading
21 to an action under the Minor Alcoholic Liquor Liability Act was
22 required to have a license issued under the Nebraska Liquor Control
23 Act in order to sell alcoholic liquor at retail;

24 (6) Service of alcoholic liquor means any sale, gift, or
25 other manner of conveying possession of alcoholic liquor; and

1 (7) Social host means a person who knowingly allows
2 consumption of alcoholic liquor in his or her home or on property
3 under his or her control by one or more minors. Social host
4 does not include (a) a parent providing alcoholic liquor to
5 only his or her minor child and to no other minors or (b)
6 a religious corporation, organization, association, or society,
7 and any authorized representative of such religious corporation,
8 organization, association, or society, dispensing alcoholic liquor
9 as part of any bona fide religious rite, ritual, or ceremony.

10 Sec. 80. Section 60-4,119, Revised Statutes Cumulative
11 Supplement, 2008, is amended to read:

12 60-4,119 (1) All state identification cards and
13 operators' licenses, except farm permits and except as otherwise
14 provided in subsection (2) of this section and section 60-4,120,
15 shall include a color photograph or a digital image of the
16 cardholder or licensee as provided in section 60-484.02. State
17 identification cards and operators' licenses shall be issued by the
18 county treasurer or the Department of Motor Vehicles. The director
19 shall negotiate and enter into a contract to provide the necessary
20 equipment, supplies, and forms for the issuance of the licenses and
21 cards. All costs incurred by the Department of Motor Vehicles under
22 this section shall be paid by the state out of appropriations made
23 to the department. All costs of taking the photographs or digital
24 images shall be paid by the issuer from the fees provided to the
25 issuer pursuant to section 60-4,115.

1 (2) A person who is out of the state at the time of
2 renewal of his or her operator's license may apply for a license
3 without a photograph upon payment of a fee as provided in section
4 60-4,115. The license may be issued at any time within one year
5 after the expiration of the original license. Such application
6 shall be made to the department, and the department shall issue the
7 license.

8 (3) Any operator's license and any state identification
9 card issued to a minor as defined in section ~~53-103~~, 31 of this
10 act, as such definition may be amended from time to time by
11 the Legislature, shall be of a distinct designation, of a type
12 prescribed by the director, from the operator's license or state
13 identification card of a person who is not a minor.

14 Sec. 81. Section 60-4,152, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 60-4,152 Any commercial driver's license issued by the
17 Department of Motor Vehicles to a minor as defined in section
18 ~~53-103~~, 31 of this act, as such definition may be amended from time
19 to time by the Legislature, shall be of a distinct designation,
20 of a type prescribed by the director, from the commercial driver's
21 license of a person who is not a minor.

22 Sec. 82. Section 71-5730, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-5730 The following indoor areas are exempt from
25 section 71-5729:

1 (1) Guestrooms and suites that are rented to guests and
2 are designated as smoking rooms, except that not more than twenty
3 percent of rooms rented to guests in an establishment may be
4 designated as smoking rooms. All smoking rooms on the same floor
5 shall be contiguous, and smoke from such rooms shall not infiltrate
6 into areas where smoking is prohibited under the Nebraska Clean
7 Indoor Air Act;

8 (2) Indoor areas used in connection with a research
9 study on the health effects of smoking conducted in a scientific
10 or analytical laboratory under state or federal law or at a
11 college or university approved by the Coordinating Commission for
12 Postsecondary Education;

13 (3) Tobacco retail outlets; and

14 (4) Cigar bars as defined in section ~~53-103-~~ 16 of this
15 act.

16 Sec. 83. Section 79-267, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 79-267 The following student conduct shall constitute
19 grounds for long-term suspension, expulsion, or mandatory
20 reassignment, subject to the procedural provisions of the Student
21 Discipline Act, when such activity occurs on school grounds, in
22 a vehicle owned, leased, or contracted by a school being used
23 for a school purpose or in a vehicle being driven for a school
24 purpose by a school employee or by his or her designee, or at a
25 school-sponsored activity or athletic event:

1 (1) Use of violence, force, coercion, threat,
2 intimidation, or similar conduct in a manner that constitutes a
3 substantial interference with school purposes;

4 (2) Willfully causing or attempting to cause substantial
5 damage to property, stealing or attempting to steal property of
6 substantial value, or repeated damage or theft involving property;

7 (3) Causing or attempting to cause personal injury to a
8 school employee, to a school volunteer, or to any student. Personal
9 injury caused by accident, self-defense, or other action undertaken
10 on the reasonable belief that it was necessary to protect some
11 other person shall not constitute a violation of this subdivision;

12 (4) Threatening or intimidating any student for the
13 purpose of or with the intent of obtaining money or anything of
14 value from such student;

15 (5) Knowingly possessing, handling, or transmitting any
16 object or material that is ordinarily or generally considered a
17 weapon;

18 (6) Engaging in the unlawful possession, selling,
19 dispensing, or use of a controlled substance or an imitation
20 controlled substance, as defined in section 28-401, a substance
21 represented to be a controlled substance, or alcoholic liquor
22 as defined in section ~~53-103~~ 10 of this act or being under the
23 influence of a controlled substance or alcoholic liquor;

24 (7) Public indecency as defined in section 28-806, except
25 that this subdivision shall apply only to students at least twelve

1 years of age but less than nineteen years of age;

2 (8) Engaging in bullying as defined in section 79-2,137;

3 (9) Sexually assaulting or attempting to sexually assault
4 any person if a complaint has been filed by a prosecutor in a court
5 of competent jurisdiction alleging that the student has sexually
6 assaulted or attempted to sexually assault any person, including
7 sexual assaults or attempted sexual assaults which occur off school
8 grounds not at a school function, activity, or event. For purposes
9 of this subdivision, sexual assault means sexual assault in the
10 first degree as defined in section 28-319, sexual assault in the
11 second degree as defined in section 28-320, sexual assault of
12 a child in the second or third degree as defined in section
13 28-320.01, or sexual assault of a child in the first degree as
14 defined in section 28-319.01, as such sections now provide or may
15 hereafter from time to time be amended;

16 (10) Engaging in any other activity forbidden by the laws
17 of the State of Nebraska which activity constitutes a danger to
18 other students or interferes with school purposes; or

19 (11) A repeated violation of any rules and standards
20 validly established pursuant to section 79-262 if such violations
21 constitute a substantial interference with school purposes.

22 It is the intent of the Legislature that alternatives to
23 suspension or expulsion be imposed against a student who is truant,
24 tardy, or otherwise absent from required school activities.

25 Sec. 84. Original sections 2-1201, 2-1219, 9-647, 9-823,

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1 28-421, 53-123.12, 53-124.13, 53-124.14, 53-125, 53-130, 53-135,
2 53-138.01, 53-139, 53-149, 53-172, 53-179, 53-1,104, 60-4,152,
3 71-5730, and 79-267, Reissue Revised Statutes of Nebraska, sections
4 48-1902, 53-122, 53-123.11, 53-123.13, 53-123.15, 53-124.11,
5 53-124.12, 53-129, 53-132, 53-133, 53-134, 53-164.01, 53-169.01,
6 53-403, and 60-4,119, Revised Statutes Cumulative Supplement, 2008,
7 and sections 53-101, 53-103, 53-124, 53-131, and 53-177, Revised
8 Statutes Supplement, 2009, are repealed.

9 Sec. 85. The following section is outright repealed:
10 Section 53-174, Reissue Revised Statutes of Nebraska.