

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 883**

Introduced by Coash, 27; Karpisek, 32.

Read first time January 11, 2010

Committee: General Affairs

A BILL

1 FOR AN ACT relating to farm wineries; to amend sections 53-123.11  
2 and 53-164.01, Revised Statutes Cumulative Supplement,  
3 2008; to provide for offsite storage facilities; to  
4 change reporting and payment requirements for farm  
5 wineries; and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 53-123.11, Revised Statutes Cumulative  
2 Supplement, 2008, is amended to read:

3           53-123.11 (1) A farm winery license shall entitle the  
4 holder to:

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

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

10           (c) (i) Permit a customer to remove one unsealed bottle of  
11 wine for consumption off the premises. The licensee or his or her  
12 agent shall (A) securely reseal such bottle and place the bottle  
13 in a bag designed so that it is visibly apparent that the resealed  
14 bottle of wine has not been opened or tampered with and (B) provide  
15 a dated receipt to the customer and attach to such bag a copy of  
16 the dated receipt for the resealed bottle of wine.

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

22           (d) Ship wines produced at the farm winery by common  
23 carrier and sold at retail to recipients in and outside the State  
24 of Nebraska, if the output of such farm winery for each calendar  
25 year as reported to the commission by December 31 of each year

1 does not exceed thirty thousand gallons. In the event such amount  
2 exceeds thirty thousand gallons, the farm winery shall be required  
3 to use a licensed wholesaler to distribute its wines for the  
4 following calendar year, except that this requirement shall not  
5 apply to wines produced and sold onsite at the farm winery pursuant  
6 to subdivision (1)(a) of this section;

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

9 (f) Sell wines produced at the farm winery to other  
10 Nebraska farm winery licensees, in bulk, bottled, labeled, or  
11 unlabeled, in accordance with 27 C.F.R. 24.308, 27 C.F.R. 24.309,  
12 and 27 C.F.R. 24.314, as such regulations existed on January 1,  
13 2008; ~~and~~

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

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

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

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

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

7           Sec. 2. Section 53-164.01, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

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

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

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

1 preceding calendar month to such wholesaler;

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

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

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

22 (f) Reports submitted pursuant to subdivision (a), (b),  
23 or (c) of this subdivision shall also contain a statement of  
24 the total amount of alcoholic liquor, except beer, in gallons or  
25 fractional parts thereof shipped to licensed retailers inside this

1 state and such other information as the commission may require;

2 (2) The wholesaler or farm winery producer shall at the  
3 time of the filing of the report pay to the commission the tax  
4 due on alcoholic liquor, except beer, shipped to licensed retailers  
5 inside this state at the rate fixed in accordance with section  
6 53-160. The tax due on beer shall be paid by the wholesaler on beer  
7 shipped from all manufacturers;

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

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

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

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

21           (7) When a manufacturer or wholesaler sells and delivers  
22 alcoholic liquor upon which the tax has been paid to any  
23 instrumentality of the armed forces of the United States engaged  
24 in resale activities as provided in section 53-160.01, the  
25 manufacturer or wholesaler shall be entitled to a credit in

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1 the amount of the tax paid in the event no tax is due on such  
2 alcoholic liquor as provided in such section. The amount of the  
3 credit, if any, shall be deducted from the tax due on the following  
4 monthly report and subsequent reports until liquidated.

5           Sec. 3. Original sections 53-123.11 and 53-164.01,  
6 Revised Statutes Cumulative Supplement, 2008, are repealed.