

AMENDMENTS TO LB 824

Introduced by General Affairs

1 1. Insert the following new sections:

2 Sec. 5. Section 53-160, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 53-160 (1) For the purpose of raising revenue, a tax
5 is imposed upon the privilege of engaging in business as a
6 manufacturer or a wholesaler at a rate of thirty-one cents per
7 gallon on all beer; ninety-five cents per gallon for wine, except
8 for wines produced and released from bond in farm wineries; six
9 cents per gallon for wine produced and released from bond in farm
10 wineries; and three dollars and seventy-five cents per gallon on
11 alcohol and spirits manufactured and sold by such manufacturer or
12 shipped for sale in this state by such wholesaler in the course of
13 such business. The gallonage tax imposed by this subsection shall
14 be imposed only on alcoholic liquor upon which a federal excise tax
15 is imposed.

16 (2) Manufacturers or wholesalers of alcoholic liquor
17 shall be exempt from the payment of the gallonage tax on such
18 alcoholic liquor upon satisfactory proof, including bills of lading
19 furnished to the commission by affidavit or otherwise as the
20 commission may require, that such alcoholic liquor was manufactured
21 in this state but shipped out of the state for sale and consumption
22 outside this state.

23 (3) Dry wines or fortified wines manufactured or shipped

1 into this state solely and exclusively for sacramental purposes and
2 uses shall not be subject to the gallonage tax.

3 (4) The gallonage tax shall not be imposed upon any
4 alcoholic liquor, whether manufactured in or shipped into this
5 state, when sold to a licensed nonbeverage user for use in
6 the manufacture of any of the following when such products are
7 unfit for beverage purposes: Patent and proprietary medicines and
8 medicinal, antiseptic, and toilet preparations; flavoring extracts,
9 syrups, food products, and confections or candy; scientific,
10 industrial, and chemical products, except denatured alcohol; or
11 products for scientific, chemical, experimental, or mechanical
12 purposes.

13 (5) The gallonage tax shall not be imposed upon the
14 privilege of engaging in any business in interstate commerce or
15 otherwise, which business may not, under the Constitution and
16 statutes of the United States, be made the subject of taxation by
17 this state.

18 (6) The gallonage tax shall be in addition to all other
19 occupation or privilege taxes imposed by this state or by any
20 municipal corporation or political subdivision thereof.

21 (7) The commission shall collect the gallonage tax and
22 shall account for and remit to the State Treasurer at least once
23 each week all money collected pursuant to this section. If any
24 alcoholic liquor manufactured in or shipped into this state is
25 sold to a licensed manufacturer or wholesaler of this state to be
26 used solely as an ingredient in the manufacture of any beverage
27 for human consumption, the tax imposed upon such manufacturer or

1 wholesaler shall be reduced by the amount of the taxes which have
2 been paid as to such alcoholic liquor so used under the Nebraska
3 Liquor Control Act. The net proceeds of all revenue arising under
4 this section shall be credited to the General Fund.

5 Sec. 6. Section 53-164.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 53-164.01 Payment of the tax provided for in section
8 53-160 on alcoholic liquor shall be paid by the manufacturer or
9 wholesaler as follows:

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

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

25 (c)(i) Except as provided in subdivision (ii) of this
26 subdivision, farm winery producers which paid less than one
27 thousand dollars of excise taxes pursuant to section 53-160 for the

1 previous calendar year and which will pay less than one thousand
2 dollars of excise taxes pursuant to section 53-160 for the current
3 calendar year shall, on or before the twenty-fifth day of the
4 calendar month following the end of the year in which wine was
5 packaged ~~or bottled for sale,~~ and released from bond, submit a
6 report to the commission upon forms furnished by the commission
7 showing the total amount of wine in gallons or fractional parts
8 thereof packaged ~~or bottled~~ and released from bond by such producer
9 during the preceding calendar year; and

10 (ii) Farm winery producers which paid one thousand
11 dollars or more of excise taxes pursuant to section 53-160 for
12 the previous calendar year or which become liable for one thousand
13 dollars or more of excise taxes pursuant to section 53-160 during
14 the current calendar year shall, on or before the twenty-fifth
15 day of each calendar month following the month in which wine was
16 packaged ~~or bottled for sale,~~ and released from bond, submit a
17 report to the commission upon forms furnished by the commission
18 showing the total amount of wine in gallons or fractional parts
19 thereof packaged ~~or bottled~~ and released from bond by such producer
20 during the preceding calendar month. A farm winery producer which
21 becomes liable for one thousand dollars or more of excise taxes
22 pursuant to section 53-160 during the current calendar year shall
23 also pay such excise taxes immediately;

24 (d) A craft brewery shall, on or before the twenty-fifth
25 day of each calendar month following the month in which the beer
26 was ~~produced~~ released from bond for sale, submit a report to the
27 commission on forms furnished by the commission showing the total

1 amount of beer in gallons or fractional parts thereof produced for
2 sale by the craft brewery during the preceding calendar month;

3 (e) A microdistillery shall, on or before the
4 twenty-fifth day of each calendar month following the month in
5 which the distilled liquor was ~~produced~~ released from bond for
6 sale, submit a report to the commission on forms furnished by
7 the commission showing the total amount of distilled liquor in
8 gallons or fractional parts thereof produced for sale by the
9 microdistillery during the preceding calendar month; and

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

15 (2) The wholesaler or farm winery producer shall at the
16 time of the filing of the report pay to the commission the tax
17 due on alcoholic liquor, except beer, shipped to licensed retailers
18 inside this state at the rate fixed in accordance with section
19 53-160. The tax due on beer shall be paid by the wholesaler on beer
20 shipped from all manufacturers;

21 (3) The tax imposed pursuant to section 53-160 shall be
22 due on the date the report is due less a discount of one percent
23 of the tax on alcoholic liquor for submitting the report and paying
24 the tax in a timely manner. The discount shall be deducted from the
25 payment of the tax before remittance to the commission and shall be
26 shown in the report to the commission as required in this section.
27 If the tax is not paid within the time provided in this section,

1 the discount shall not be allowed and shall not be deducted from
2 the tax;

3 (4) If the report is not submitted by the twenty-fifth
4 day of the calendar month or if the tax is not paid to the
5 commission by the twenty-fifth day of the calendar month, the
6 following penalties shall be assessed on the amount of the tax:
7 One to five days late, three percent; six to ten days late, six
8 percent; and over ten days late, ten percent. In addition, interest
9 on the tax shall be collected at the rate of one percent per month,
10 or fraction of a month, from the date the tax became due until
11 paid;

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

15 (6) In order to insure the payment of all state taxes
16 on alcoholic liquor, together with interest and penalties, persons
17 required to submit reports and payment of the tax shall, at
18 the time of application for a license under sections 53-124 and
19 53-124.01, enter into a surety bond with corporate surety, both the
20 bond form and surety to be approved by the commission. Subject to
21 the limitations specified in this subdivision, the amount of the
22 bond required of any taxpayer shall be fixed by the commission and
23 may be increased or decreased by the commission at any time. In
24 fixing the amount of the bond, the commission shall require a bond
25 equal to the amount of the taxpayer's estimated maximum monthly
26 excise tax ascertained in a manner as determined by the commission.
27 Nothing in this section shall prevent or prohibit the commission

1 from accepting and approving bonds which run for a term longer
2 than the license period. The amount of a bond required of any one
3 taxpayer shall not be less than one thousand dollars. The bonds
4 required by this section shall be filed with the commission; and

5 (7) When a manufacturer or wholesaler sells and delivers
6 alcoholic liquor upon which the tax has been paid to any
7 instrumentality of the armed forces of the United States engaged
8 in resale activities as provided in section 53-160.01, the
9 manufacturer or wholesaler shall be entitled to a credit in
10 the amount of the tax paid in the event no tax is due on such
11 alcoholic liquor as provided in such section. The amount of the
12 credit, if any, shall be deducted from the tax due on the following
13 monthly report and subsequent reports until liquidated.

14 2. On page 2, line 21, strike "and 53-103.03" and insert
15 ", 53-103.03, 53-160, and 53-164.01,".

16 3. Renumber the remaining section accordingly.