

E AND R AMENDMENTS TO LB 407

Introduced by Larson, 40, Chairperson Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 53-101, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 53-101 Sections 53-101 to 53-1,122 and section 8 of this
6 act shall be known and may be cited as the Nebraska Liquor Control
7 Act.

8 Sec. 2. Section 53-110, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 53-110 (1) No person shall be appointed as a
11 commissioner, the executive director of the commission, or an
12 employee of the commission who is not a citizen of the United
13 States and who has not resided within the State of Nebraska
14 successively for two years next preceding the date of his or her
15 appointment.

16 (2) No person ~~(1)~~ (a) convicted of or who has pleaded
17 guilty to a felony or any violation of any federal or state law
18 concerning the manufacture or sale of alcoholic liquor prior or
19 subsequent to the passage of the Nebraska Liquor Control Act, ~~(2)~~
20 (b) who has paid a fine or penalty in settlement of any prosecution
21 against him or her for any violation of such laws, or ~~(3)~~ (c) who
22 has forfeited his or her bond to appear in court to answer charges
23 for any such violation shall be appointed commissioner.

1 (3) (a) Except as otherwise provided in subdivision (b) of
2 this subsection, no ~~Ne~~ commissioner or employee of the commission
3 may, directly or indirectly, individually, as a member of a
4 partnership, as a member of a limited liability company, or as
5 a shareholder of a corporation, have any interest whatsoever
6 in the manufacture, sale, or distribution of alcoholic liquor,
7 receive any compensation or profit from such manufacture, sale, or
8 distribution, or have any interest whatsoever in the purchases or
9 sales made by the persons authorized by the act to purchase or to
10 sell alcoholic liquor.

11 (b) With the written approval of the executive director,
12 an employee of the commission, other than the executive director
13 or a division manager, may accept part-time or seasonal employment
14 with a person licensed or regulated by the commission. No such
15 employment shall be approved if the licensee receives more than
16 fifty percent of the licensee's gross revenue from the sale or
17 dispensing of alcoholic liquor.

18 (4) This section shall not prevent any commissioner, the
19 executive director, or any employee from purchasing and keeping in
20 his or her possession for the use of himself, herself, or members
21 of his or her family or guests any alcoholic liquor which may be
22 purchased or kept by any person pursuant to the act.

23 Sec. 3. 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
26 to operate a farm winery shall:

27 (a) File an application with the commission in triplicate

1 original upon such forms as the commission from time to time
2 prescribes;

3 (b) Pay the license fee to the commission under sections
4 53-124 and 53-124.01, which fee shall be returned to the applicant
5 if the application is denied; and

6 (c) Pay the nonrefundable application fee to the
7 commission in the sum of four hundred dollars.

8 (2) To renew a farm winery license, a farm winery
9 licensee shall file an application with the commission, pay the
10 license fee under sections 53-124 and 53-124.01, and pay the
11 renewal fee of forty-five dollars.

12 (3) License fees, application fees, and renewal fees may
13 be paid to the commission by certified or cashier's check of a bank
14 within this state, personal or business check, United States post
15 office money order, or cash in the full amount of such fees.

16 (4) For a new license, the commission shall then
17 notify, ~~by registered or certified mail marked return receipt~~
18 ~~requested with postage prepaid,~~ the municipal clerk of the city
19 or incorporated village where such license is sought or, if the
20 license is not sought within a city or incorporated village,
21 the county clerk of the county where such license is sought
22 of the receipt of the application and shall ~~encluse~~ include
23 with such notice one copy of the application. No such license
24 shall then be issued by the commission until the expiration of
25 at least forty-five days from the date of ~~mailing~~ receipt by
26 mail or electronic delivery of such application ~~by~~ from the
27 commission. Within thirty-five days from the date of receipt of

1 such application from the commission, the local governing bodies of
2 nearby cities or villages or the county may make and submit to the
3 commission recommendations relative to the granting of or refusal
4 to grant such license to the applicant.

5 Sec. 4. Section 53-124.12, Reissue Revised Statutes of
6 Nebraska, is amended to read:

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

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

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

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

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

1 shall ~~encluse~~ include with such notice one copy of the application
2 by mail or electronic delivery. The local governing body and the
3 commission shall process the application in the same manner as
4 provided in section 53-132.

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

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

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

22 Sec. 5. Section 53-131, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 53-131 (1) Any person desiring to obtain a new license
25 to sell alcoholic liquor at retail, a craft brewery license, or a
26 microdistillery license shall file with the commission:

27 (a) An application in triplicate original upon forms

1 the commission prescribes, including the information required by
2 subsection (3) of this section for an application to operate a
3 cigar bar;

4 (b) The license fee if under sections 53-124 and
5 53-124.01 such fee is payable to the commission, which fee shall be
6 returned to the applicant if the application is denied; and

7 (c) The nonrefundable application fee in the sum of four
8 hundred dollars, except that the nonrefundable application fee for
9 an application for a cigar bar shall be one thousand dollars.

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

26 (3) For an application to operate a cigar bar, the
27 application shall include proof of the cigar bar's annual gross

1 revenue as requested by the commission and such other information
2 as requested by the commission to establish the intent to operate
3 as a cigar bar. The commission may adopt and promulgate rules and
4 regulations to regulate cigar bars.

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

9 Sec. 6. Section 53-133, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 53-133 (1) The commission shall set for hearing before
12 it any application for a retail license, craft brewery license, or
13 microdistillery license relative to which it has received:

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

17 (b) Within ten days after the receipt of a recommendation
18 from the city, village, or county, or, if no recommendation is
19 received, within forty-five days after the date of receipt of
20 such application by the city, village, or county clerk, objections
21 in writing by not less than three persons residing within such
22 city, village, or county, protesting the issuance of the license.
23 Withdrawal of the protest does not prohibit the commission from
24 conducting a hearing based upon the protest as originally filed and
25 making an independent finding as to whether the license should or
26 should not be issued;

27 (c) Within forty-five days after the date of receipt of

1 such application by the city, village, or county clerk, objections
2 by the commission or any duly appointed employee of the commission,
3 protesting the issuance of the license; or

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

7 (2) Hearings upon such applications shall be in the
8 following manner: Notice indicating the time and place of such
9 hearing shall be mailed or electronically delivered to the
10 applicant, the local governing body, each individual protesting
11 a license pursuant to subdivision (1)(b) of this section, and any
12 church affected as described in subdivision (1)(d) of this section,
13 ~~by certified mail, return receipt requested,~~ at least fifteen days
14 prior to such hearing. The notice shall state that the commission
15 will receive evidence for the purpose of determining whether to
16 approve or deny the application. Mailing or electronic delivery
17 to the attorney of record of a party shall be deemed to fulfill
18 the purposes of this section. The commission may receive evidence,
19 including testimony and documentary evidence, and may hear and
20 question witnesses concerning the application. The commission shall
21 not use electronic delivery with respect to an applicant, a
22 protestor, or a church under this section without the consent of
23 the recipient to electronic delivery.

24 Sec. 7. Section 53-177, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 53-177 (1) Except as otherwise provided in subsection
27 (2) of this section, no license shall be issued for the sale

1 at retail of any alcoholic liquor within one hundred fifty feet
2 of any church, school, hospital, or home for aged or indigent
3 persons or for veterans, their wives or children. This prohibition
4 does not apply (a) to any location within such distance of
5 one hundred fifty feet for which a license to sell alcoholic
6 liquor at retail has been granted by the ~~Nebraska Liquor Control~~
7 ~~Commission~~ commission for two years continuously prior to making
8 of application for license, and (b) to hotels offering restaurant
9 service, to regularly organized clubs, or to restaurants, food
10 shops, or other places where sale of alcoholic liquor is not
11 the principal business carried on, if such place of business so
12 exempted was established for such purposes prior to May 24, 1935, or
13 (c) to a college or university in the state which is subject to
14 section 8 of this act.

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

24 (a) ~~Does not prohibit a nonpublic college or university~~
25 ~~from contracting with an individual or corporation holding a~~
26 ~~license to sell alcoholic liquor at retail for the purpose of~~
27 ~~selling alcoholic liquor at retail on the campus of such college~~

1 or university at events sanctioned by such college or university
2 but does prohibit the sale of alcoholic liquor at retail by such
3 licensee on the campus of such nonpublic college or university at
4 student activities or events; and

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

8 Sec. 8. (1) No alcoholic liquor shall be sold for
9 consumption on the premises within three hundred feet from the
10 campus of any college or university in the state, except that this
11 section:

12 (a) Does not prohibit a nonpublic college or university
13 from contracting with an individual or corporation holding a
14 license to sell alcoholic liquor at retail for the purpose of
15 selling alcoholic liquor at retail on the campus of such college
16 or university at events sanctioned by such college or university
17 but does prohibit the sale of alcoholic liquor at retail by such
18 licensee on the campus of such nonpublic college or university at
19 student activities or events; and

20 (b) Does not prohibit sales of alcoholic liquor by a
21 community college culinary education program pursuant to section
22 53-124.15.

23 (2) Except as otherwise provided in subsection (4) of
24 this section, the commission may waive the three-hundred-foot
25 restriction in subsection (1) of this section taking into
26 consideration one or more of the following:

27 (a) The impact of retail sales of alcoholic liquor for

1 consumption on the premises on the academic mission of the college
2 or university;

3 (b) The impact on students and prospective students if
4 such sales were permitted on or near campus;

5 (c) The impact on economic development opportunities
6 located within or in proximity to the campus; and

7 (d) The waiver would likely reduce the number of
8 applications for special designated licenses requested by the
9 college or university or its designee.

10 (3) To apply for a waiver under this section, the
11 applicant shall submit a written application to the commission. The
12 commission shall notify the governing body of the affected college
13 or university when the commission receives an application for a
14 waiver. The application shall include:

15 (a) The address of the location for which the waiver is
16 requested;

17 (b) The name and type of business for which the waiver is
18 requested; and

19 (c) A description of the justification for the waiver
20 explaining how the proposed location complies with the findings
21 prescribed in subsection (2) of this section.

22 (4) The commission shall not waive the three-hundred-foot
23 restriction in subsection (1) of this section without written
24 approval from the governing body of the college or university or
25 its designee if the physical location of the property which is
26 the subject of the requested waiver is (a) surrounded by property
27 owned by the college or university including any public or private

1 easement, street, or right-of-way adjacent to the property owned
2 by the college or university or (b) adjacent to property on two
3 or more sides owned by the college or university including any
4 public or private easement, street, or right-of-way adjacent to the
5 property owned by the college or university.

6 Sec. 9. Original sections 53-101, 53-110, 53-123.12,
7 53-124.12, 53-131, 53-133, and 53-177, Reissue Revised Statutes of
8 Nebraska, are repealed.

9 2. On page 1, strike lines 2 through 5 and insert
10 "sections 53-101, 53-110, 53-123.12, 53-124.12, 53-131, 53-133,
11 and 53-177, Reissue Revised Statues of Nebraska; to authorize
12 employment by staff of the Nebraska Liquor Control Commission
13 as prescribed; to provide for mailing and electronic delivery
14 of certain notices as prescribed; to provide for a waiver of
15 restrictions on sales of alcoholic liquor near a campus of a
16 college or university; to harmonize provisions; and to repeal the
17 original sections."