

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 641**  
Final Reading

Introduced by Cornett, 45.

Read first time January 19, 2011

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend  
2 sections 53-134 and 53-197, Reissue Revised Statutes of  
3 Nebraska; to provide for reporting of offenses to the  
4 commission by law enforcement officers as prescribed; to  
5 harmonize provisions; and to repeal the original  
6 sections.

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

1           Section 1. Section 53-134, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           53-134 The local governing body of any city or village  
4 with respect to licenses within its corporate limits and the local  
5 governing body of any county with respect to licenses not within the  
6 corporate limits of any city or village but within the county shall  
7 have the following powers, functions, and duties with respect to  
8 retail, craft brewery, and microdistillery licenses:

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

13           (2) To enter or to authorize any law enforcement officer  
14 to enter at any time upon any premises licensed under the Nebraska  
15 Liquor Control Act to determine whether any provision of the act, any  
16 rule or regulation adopted and promulgated pursuant to the act, or  
17 any ordinance, resolution, rule, or regulation adopted by the local  
18 governing body has been or is being violated and at such time examine  
19 the premises of such licensee in connection with such determination.  
20 Any law enforcement officer who determines that any provision of the  
21 act, any rule or regulation adopted and promulgated pursuant to the  
22 act, or any ordinance, resolution, rule, or regulation adopted by the  
23 local governing body has been or is being violated shall report such  
24 violation in writing to the executive director of the commission (a)  
25 within thirty days after determining that such violation has

1 occurred, (b) within thirty days after the conclusion of an ongoing  
2 police investigation, or (c) within thirty days after the verdict in  
3 a prosecution related to such an ongoing police investigation if the  
4 prosecuting attorney determines that reporting such violation prior  
5 to the verdict would jeopardize such prosecution, whichever is later;

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

12 (4) To receive retail license fees, craft brewery license  
13 fees, and microdistillery license fees as provided in sections 53-124  
14 and 53-124.01 and pay the same, after the license has been delivered  
15 to the applicant, to the city, village, or county treasurer;

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

25 (6) To cancel or revoke on its own motion any license if,

1 upon the same notice and hearing as provided in section 53-134.04, it  
2 determines that the licensee has violated any of the provisions of  
3 the act or any valid and subsisting ordinance, resolution, rule, or  
4 regulation duly enacted, adopted, and promulgated relating to  
5 alcoholic liquor. Such order of cancellation or revocation may be  
6 appealed to the commission within thirty days after the date of the  
7 order by filing a notice of appeal with the commission. The  
8 commission shall handle the appeal in the manner provided for hearing  
9 on an application in section 53-133; and

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

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

9           Sec. 2. Section 53-197, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           53-197 (1) Every sheriff, deputy sheriff, police officer,  
12 marshal, or deputy marshal who knows or who is credibly informed that  
13 any offense has been committed against ~~the provisions of~~ any law of  
14 this state relating to the sale of alcoholic ~~liquors~~ liquor shall  
15 make complaint against the person so offending within their  
16 respective jurisdictions to the proper court, and for every neglect  
17 or refusal so to do, every such officer shall be guilty of a Class V  
18 misdemeanor.

19           (2) Every sheriff, deputy sheriff, police officer,  
20 marshal, or deputy marshal who knows or who is credibly informed that  
21 any offense has been committed against any law of this state relating  
22 to the sale of alcoholic liquor shall report such offense in writing  
23 to the executive director of the commission (a) within thirty days  
24 after such offense is committed, (b) within thirty days after such  
25 sheriff, deputy sheriff, police officer, marshal, or deputy marshal

1 is informed of such offense, (c) within thirty days after the  
2 conclusion of an ongoing police investigation, or (d) within thirty  
3 days after the verdict in a prosecution related to such an ongoing  
4 police investigation if the prosecuting attorney determines that  
5 reporting such violation prior to the verdict would jeopardize such  
6 prosecution, whichever is later.

7                   Sec. 3. Original sections 53-134 and 53-197, Reissue  
8 Revised Statutes of Nebraska, are repealed.