

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 641

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
25 within thirty days after determining that such violation has

1 occurred;

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

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

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

21 (6) To cancel or revoke on its own motion any license if,
22 upon the same notice and hearing as provided in section 53-134.04, it
23 determines that the licensee has violated any of the provisions of
24 the act or any valid and subsisting ordinance, resolution, rule, or
25 regulation duly enacted, adopted, and promulgated relating to

1 alcoholic liquor. Such order of cancellation or revocation may be
2 appealed to the commission within thirty days after the date of the
3 order by filing a notice of appeal with the commission. The
4 commission shall handle the appeal in the manner provided for hearing
5 on an application in section 53-133; and

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

1 with this provision shall not void any license issued by the
2 commission. If the commission refuses to issue such a license, the
3 cost of publication of notice shall be paid by the commission from
4 the security for costs.

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

7 53-197 Every sheriff, deputy sheriff, police officer,
8 marshal, or deputy marshal who knows or who is credibly informed that
9 any offense has been committed against ~~the provisions of~~ any law of
10 this state relating to the sale of alcoholic ~~liquors~~ liquor shall
11 make complaint against the person so offending within their
12 respective jurisdictions to the proper court, and for every neglect
13 or refusal so to do, every such officer shall be guilty of a Class V
14 misdemeanor.

15 Every sheriff, deputy sheriff, police officer, marshal,
16 or deputy marshal who knows or who is credibly informed that any
17 offense has been committed against any law of this state relating to
18 the sale of alcoholic liquor shall report such offense in writing to
19 the executive director of the commission within thirty days after
20 such offense is committed or such sheriff, deputy sheriff, police
21 officer, marshal, or deputy marshal is informed of such offense,
22 whichever is later.

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