

ONE HUNDRED THIRD LEGISLATURE - SECOND SESSION - 2014
COMMITTEE STATEMENT
LB863

Hearing Date: Monday February 03, 2014
Committee On: General Affairs
Introducer: Karpisek
One Liner: Eliminate certain election provisions under the Nebraska Liquor Control Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Bloomfield, Crawford, Johnson, Karpisek, Krist, Lautenbaugh, Schilz
Nay:		
Absent:		
Present Not Voting:	1	Senator Coash

Proponents:	Representing:
Sen. Russ Karpisek	Introducer
Hobert Rupe	Nebraska Liquor Control Commission
Jim Moylan	Nebraska Licensed Beverage Association

Opponents:	Representing:
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Neutral:	Representing:
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Summary of purpose and/or changes:

LB863 eliminates a provision requiring cities and villages to "vote in" liquor by the drink. Under current law, the Nebraska Liquor Control Act requires a petition process and voting requirements and procedures to allow the sale of hard liquor by the drink. The Nebraska Liquor Control Commission stated in its legislative letter that this provision is antiquated and should therefore be repealed.

Explanation of amendments:

AM2131 includes the provisions of these bills:

pp. 1-9 (Sections 1-14)

LB 855 (Wallman)- Change provisions for formation and operation of cemetery associations

LB 855 provides for a process to transfer responsibility for an abandoned cemetery from a county to a cemetery association.

Section 1 - A cemetery association that takes over a cemetery from a county is required to make a good faith effort to map the cemetery and file an annual audit.

Section 2 - Requires the cemetery association to mow at least once a year with one mowing occurring within two weeks of Memorial Day.

Sections 3, 4, 5, 6, 7, 8, 9, 10, and 11 - Include stylistic, clarifying and cleanup language such as the use of the term "cemetery association" only applies to the section in which that particular cemetery association was formed. Clarify that

public meeting notices must be published in the precinct or township in which the cemetery is located. New subsections were created for easier navigation through the statute.

Section 12 - Outlines how a county may transfer an abandoned or neglected pioneer cemetery to a cemetery association.

(1) The county has been maintaining the cemetery for five years.

(2) The planning commission reviews transfer proposal.

(3) The county board holds a public hearing and can then approve the transfer with a resolution.

Section 13 - Clarifies the definition of "cemetery associations".

Section 14 - Clarifies that where existing law allows 1/5 of the resident plot owners of a cemetery within a city to form a cemetery association that this provision also applies to villages.

Section 15 - Repeals various sections.

Section 16 - Contains an emergency clause.

The committee amendment to LB855 removed the requirement for an audit for cemeteries formed under this section if the cemetery association has less than \$10,000 in its perpetual care trust fund. If it has between \$10,000 and \$100,000 then a compilation is required. If it has more than \$100,000 then an audit is required. The committee amendment also states that for each cemetery plot sold, \$100 will be placed in the perpetual care trust fund.

Testifiers for LB855 (January 27, 2014)

Proponents:

Sen. Norm Wallman, Introducer

Matt Bauman, Gage County Commissioner, District 2

Dan Crawford, self

Elaine Menzel, NE Association of County Officials

Tracy Crawford, self

Opponents: None

Neutral:

Greg Easley, NE Cemetery Association

pp. 10-14, 24 (Sections 15-22, 33)

LB861 (Karpisek)- Prohibit use and distribution of vapor products and other products derived from tobacco as prescribed and provide an exception and provide penalties

Section 1 - Inserts the terms "vapor products" and "products made or derived from tobacco" into the statute that prohibits minors from using other tobacco products such as cigarettes and cigars therefore making its use a Class V misdemeanor. However, as is current law regarding tobacco use by minors, telling law enforcement who provided the minor the vapor product, which leads to a conviction, may be free from prosecution.

Section 2:

(1) Defines "self-service display" to mean a display in which a customer could access the product.

(2) Defines "tobacco specialty store" to mean a retail store where at least 75% of its revenue is from tobacco products and minors are not allowed unless accompanied by a parent or legal guardian.

(3) Defines "vapor products" to include tobacco-derived nicotine, the containers in which the product is sold, and the mechanism for heating the nicotine solution. This definition includes electronic cigarettes, cigars, cigarillos and electronic pipes.

Section 3 - Makes selling, giving, or furnishing a vapor product to a minor a Class III misdemeanor.

Section 4 - Prohibits selling tobacco and vapor products through a self-service display and makes it a Class III misdemeanor. A subsequent conviction during a 12-month period would result in a 6-month suspension of the person's license. Creates an exception to the self-service prohibition by allowing self-service displays in tobacco specialty shops and cigar bars.

The committee amendment to LB861 added a definition for "alternative nicotine products" and included "vapor products" within the definition for "tobacco specialty shops", which are exempted from the self-service prohibition.

Testifiers for LB861 (January 27, 2014)

Proponents:

Sen. Russ Karpisek, Introducer

Jim Moylan, R.J. Reynolds Co.

Max Velinsky, Generation V Electronic Cigarettes and Vape Bar

Mick Mines, NE Grocery Industry Association

Tim Keigher, NE Petroleum Marketers and Convenience Store Association

Tim Bowen, Plumes

Ann Elliott, self

Opponents:

Bill Peters, Cigar Association of America

Neutral:

David Holmquist, American Cancer Society Cancer Action Network

pp. 14-15 (Sections 23-26)

LB899 (Karpisek)- Define hard cider under the Nebraska Liquor Control Act

Currently, there is no definition in the Nebraska Liquor Control Act for hard cider. Hard cider has seen a resurgence in American alcohol markets. Because hard cider is produced by the fermentation of primarily apples, it is considered a wine. As a wine, distributors must have a wine-distributing license, retailers must have a wine-retailing license, and the product is taxed as a wine. The issue is that the industry markets the product more like a beer based on its packaging and alcohol content. The Nebraska Liquor Control Commission requested in its legislative letter that hard cider be reclassified as beer. LB 899 is modeled after the federal regulation definition for hard cider, except that in addition to apple, the bill includes pear and the alcohol content is 8.5 percent, which is the same as a bill called the CIDER Act that is currently being considered by Congress.

Testifiers for LB899 (February 3, 2014)

Proponents:

Sen. Russ Karpisek, Introducer

Hobert Rupe, NE Liquor Control Commission

Joseph Kohout, Associated Beverage Distributors of Nebraska

Justin Brady, Nebraska Liquor Wholesalers

Tim Keigher, NE Petroleum Marketers and Convenience Store Association

Kathy Siefken, NE Grocery Industry Association

Opponents:

Nicole Carritt, Project Extra Mile

Neutral: None

pp. 15-19, 24, 25 (Sections 27, 32 and 36)

LB863 (Karpisek)- Eliminate certain election provisions under the Nebraska Liquor Control Act

LB863 eliminates a provision requiring cities and villages to "vote in" liquor by the drink. Under current law, the Nebraska Liquor Control Act requires a petition process and voting requirements and procedures to allow the sale of hard liquor by the drink. The Nebraska Liquor Control Commission stated in its legislative letter that this provision is antiquated and should therefore be repealed.

Testifiers for LB863 (February 3, 2014)

Proponents:

Sen. Russ Karpisek, Introducer

Hobert Rupe, Nebraska Liquor Control Commission

Jim Moylan, Nebraska Licensed Beverage Association

Opponents: None

Neutral: None

pp. 19-21 (Sections 28-29)

LB914 (Karpisek)- Provide for a limited bottling endorsement under the Nebraska Liquor Control Act

LB 914 would allow a retail licensee with a class C license to be eligible for a limited bottling endorsement. LB 914 clarifies that craft brewery licensees may also get the limited bottling endorsement, although current law already allows them to bottle their product under their manufacturer's license.

The limited bottling endorsement would allow the license holder to repackage beer into containers, commonly referred to as growlers. The growlers may not exceed 68 ounces, which is approximately 2 liters, but must feature a logo of the licensee's trade name. The licensee must provide a sanitized container and either seal it or place the container in a bag that is then sealed. The container or bag must have the purchase receipt attached. Customers from the licensed premises may then remove these containers for off-site consumption.

Testifiers for LB914 (February 10, 2014)

Proponents:

Sen. Russ Karpisek, Introducer

Mark Kantaras, Flagship Restaurant Group

Hobie Rupe, NE Liquor Control Commission

Jim Moylan, NE Licensed Beverage Association

Opponents:

Nicole Carritt, Project Extra Mile

Neutral: None

pp. 21-23 (Section 30)

LB888 (Murante)- Provide for changing the hours for sale of alcohol

Under current law, a local governing body may, with at least a two-thirds vote, allow for consumption on a licensed premises within the governing body's jurisdiction until 2 a.m. LB 888 would allow a local governing body, with at least a two-thirds vote, to allow for the purchase of alcohol for consumption off a licensed premises until 2 a.m. In other words, LB 888 would allow a local governing body with a two-thirds vote to approve, in addition to on-sale until 2 a.m., off-sale until 2 a.m. or on- and off-sale until 2 a.m.

Testifiers for LB888 (February 3, 2014)

Proponents:

Sen. John Murante, Introducer

Kathy Siefken, Nebraska Grocery Industry Association

Jim Moylan, Nebraska Licensed Beverage Association

Tim Keigher, Nebraska Petroleum Marketers and Convenience Store Association

Joseph Kohout, Associated Beverage Distributors of Nebraska

Opponents:

Nicole Carritt, Project Extra Mile

Neutral:

Hobert Rupe, Nebraska Liquor Control Commission

pp. 23-24 (Section 31)

LB1052 (Karpisek)- Change restrictions on retailers under the Nebraska Liquor Control Act

LB 1052 would allow any licensed retailer engaged in the sale of distilled spirits to issue tasting cards to customers. Without this change in the Liquor Control Act, a customer would be able to "run a tab," but would be unable to have a prepaid distilled spirits card. Current law only allows for pre-paid wine-tasting cards.

Testifiers for LB1052 (February 10, 2014)

Proponents:

Sen. Russ Karpisek, Introducer

Dan Matuszek, Brix

Opponents:

Nicole Carritt, Project Extra Mile

Neutral:

Hobert Rupe, NE Liquor Control Commission

p. 24 Section 34

Severability Clause

p. 25 Section 37

Emergency Clause

Russ Karpisek, Chairperson