

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2016-17</b>		<b>FY 2017-18</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$5,000		\$0	
CASH FUNDS	\$3,000	\$121,500	\$3,000	\$121,500
FEDERAL FUNDS				
OTHER FUNDS		(\$115,000)		(\$115,000)
<b>TOTAL FUNDS</b>	<b>\$8,000</b>	<b>\$6,500</b>	<b>\$3,000</b>	<b>\$6,500</b>

**Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.**

LB 1105 makes a number of changes to the Nebraska Liquor Control Act and creates the Nebraska Craft Brewery Board and the Nebraska Beer Industry Promotional Fund.

The bill creates the Nebraska Craft Brewery Board (NCBB), which is to consist of 7 members appointed by the Governor for terms of three years. Board members may be reimbursed for their expenses incurred while engaged in performance of their official responsibilities.

The Board is to: establish a public forum to provide any manufacturer of beer or producer of agricultural products used in the brewing process to discuss with the Board their policies and procedures; keep minutes and records of its meetings; authorize and approve expenditure of funds from the Nebraska Beer Industry Promotional Fund (NBIP); serve as an advisory panel to the Liquor Control Commission on matters relating to the beer industry; and issue an annual report.

The NBIP Fund is created and shall consist of fees received from shipping licenses issued to beer manufacturers pursuant to 53-123.15 (2) and any gifts, grants or bequests. For administrative purposes the fund is to be located in the Nebraska Tourism Commission.

**NOTE:** At this time the fees received from the beer manufacturers shipping licenses is deposited in the Temporary School Fund pursuant to the Nebraska Constitution, Article VII, Section 5 which states, "(1) Except as provided in subsections (2) and (3) of this section, all fines, penalties, and license money arising under the general laws of the state . . . shall belong and be paid over to the counties respectively where the same may be levied or imposed, and all fines, penalties, and license money arising under the rules, bylaws, or ordinances of cities, villages, precincts, or other municipal subdivisions less than a county shall belong and be paid over to the same respectively. All such fines, penalties, and license money shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue . . ."

The bill also requires, beginning July 1, 2016, that in addition to the annual license fee, each holder of a craft brewery license pay an annual fee of \$250 to the Liquor Control Commission, such fee to be credited to the NBIP Fund.

The Tourism Commission is to use the NBIP Fund to develop and maintain programs for the research and advancement of the beer brewing process, marketing and promotion of the beer industry, and the marketing and promotion of agricultural products in Nebraska used in the beer industry. Expenditures may include necessary funding for the employment of experts in the field of beer brewing and business development as deemed necessary by the NCBB.

LB 1105 also amends a number of sections of statute to do the following: amend the definition of "club" to remove the requirement for a kitchen and dining room; adds "restaurant" and "hotel" to the definition of "manufacturer;" changes the definition of "wholesaler;" changes the definition of "hard cider" to remove language restricting the use of other fruit products or fruit flavors; adds "holder of a manufacturer's license" to the entities that may use the common area of an entertainment district; and provides that the Commission may issue a special designated license or an annual catering license to the holder of a manufacturer's license issued under 53-123.01(2).

The bill changes provisions regarding a manufacturer's license by adding language stating that such license shall be the only license required for the manufacture and retail sale of beer manufactured on the licensed premises for consumption on the licensed premises. In addition, a licensee who first obtains a craft brewery license who holds such license for 3 years and operates a brewpub or

microbrewery on the premises shall obtain a manufacturer's license when the production of beer exceeds 20,000 barrels per year. The license will authorize the continued retail sale of beer for consumption on or off the premises but only to the extent the premises were previously licensed as a craft brewery. The holder of such a license may operate up to 5 retail locations which are in operation at the time the license is issued and divest itself from any retail locations in excess of 5 locations.

Changes the provisions of the craft brewery license to refer to the licensed premises and that they may include up to 5 separate physical locations.

The bill also creates a new retail license type, the Class T, which would allow the sale of alcoholic liquor, including beer, for consumption off the premises, in original packages, for a retail licensee whose annual gross revenue from the sale of alcohol does not exceed 20% of their total gross revenue from all retail sales. The fee for this license is \$50.

Section 53-168.06 is amended to allow persons who are 16 years old or older to complete a sale of alcoholic liquor in the course of their employment if they are not handling or serving alcoholic liquor and persons who are at least 16 and younger than 19 years of age from serving and selling alcoholic liquor in the course of their employment if they are certified as beverage servers pursuant to Section 53-117.03.

Section 53-171 is amended to say that no manufacturer shall be permitted a retail license except as provided in 53-123.01(2) and that they may not engage in the wholesale distribution of alcoholic liquor.

Section 53-175 is amended to strike language that permits a licensed retailer to purchase alcoholic liquor other than beer and wine from one or more retailers for consumption off the premises if the seller has the required federal wholesaler's basic permit and federal wholesale liquor dealer's special tax stamp.

Section 53-187 is amended to increase the fine for a nonbeverage user who violates the provisions of this section from \$2.10 to \$3.75 per gallon.

Section 53-1,100 is amended to provide a penalty for any person who manufacturer spirits in the state without first having obtained a valid license to do so shall be guilty of a Class I misdemeanor for a first offense and a Class IV felony for a second or subsequent offense.

The bill also outright repeals the prohibition on selling any carbonated soft drink or beer can which has a removable, disposable tab or grip for opening the can which does not remain on the can after opening.

The bill contains both the emergency clause and the severability clause.

The Nebraska Liquor Control Commission estimates the fiscal impact of LB 1105 to be as follows:

- 1) Revenue from the requirement for each holder of a craft brewery license to pay an additional \$250 to be approximately \$6,500;
- 2) Operational costs associated with the implementation of the new Class T retail license to be approximately \$5,000;
- 3) Revenue from an increase in the number of individuals taking the beverage server certification is unknown as they are unable to estimate that number;
- 4) There are currently 115 beer manufacturer shipping licenses at \$1,000 per license for a total of \$115,000 that now goes to the Temporary School Fund.

We have no basis to disagree with the Commission's estimate of fiscal impact and cost but should note that the number of individuals receiving the beverage server certification could be substantial. The fee for certification is \$10.

In addition, members of the NCBB are to receive reimbursement for their expenses. We estimate a cost of approximately \$3,000 per fiscal year for expense reimbursement.

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2016

LB<sup>(1)</sup> 1105

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup>

NEBRASKA LIQUOR CONTROL COMMISSION

Prepared by: <sup>(3)</sup> JERRY VAN ACKEREN

Date Prepared: <sup>(4)</sup> 1/26/2016

Phone: <sup>(5)</sup> (402) 471-4892

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2016-17		FY 2017-18	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	5,000		0	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
Guild Member Fees NE Beer Industry Promo Fund		6,500		6,500
State School Fund		{115,000}		{115,000}
<b>TOTAL FUNDS</b>	<u>5,000</u>	<u>6,500</u>	<u>0</u>	<u>6,500</u>

Explanation of Estimate:

Section 4, Part 2, Page 4, Line #28

Number of Current Guild Members = 26 x fee of \$250.00 = \$6,500 Revenue stream to the Nebraska Beer Industry Promotional Fund.

Section 4, Part 1, Page 4, Line #23

Section 12, Part 2, Page 9-10, Line #14

License holders of a shipping license renew annually May 1<sup>st</sup>. The license fee is \$1,000. Currently there are 115 beer manufacturers and/or authorized agents of a beer manufacturer licensed accordingly. Estimated Financial Impact: 115 Shipping Licenses x annual fee of \$1,000 = \$115,000

Currently the Commission credits the State School Fund for all shipping license fees collected with the exception of license fees collected from holders of Direct Shipping Licenses issued by Commission. Direct Shipping license fees are credited to Winery & Grape Promotional Fund.

Section 14, Part vi, Page 19, Line #16

Operational costs to modify agency computer system to include a new license classification estimated at a cost of \$5,000. This is a one-time charge with no future financial impact expected the following fiscal year. The Commission has no means to project how many applications may be received for this type of license.

Section 19, Page 27, Lines #13-19

Commission realizes zero financial impact because although a formal application is currently required with a registration fee of \$45, the registration fee was collected in lieu of the renewal fee of \$45. If legislation is passed, no application form or registration fee will be required and license will be allowed to automatically renew and pay the renewal fee of \$45. It is estimated no financial impact will be realized.

Section 20, Page 28, Line #20-23

The Commission does not have a means of projection of the number of persons at least age 16 years old and younger than 19 years old that would need to apply for beverage certification.

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**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

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**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2016-17</u>	<u>2017-18</u>
	<u>16-17</u>	<u>17-18</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....				
Operating.....			5,000	0
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
<b>TOTAL</b> .....			5,000	0