

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 330

Introduced by Larson, 40.

Read first time January 15, 2015

Committee: General Affairs

1 A BILL FOR AN ACT relating to alcoholic liquor; to amend sections
2 53-103.01, 53-103.02, 53-130, 53-135, 53-167.02, 53-167.03,
3 53-1,107, 53-1,111, and 53-1,113, Reissue Revised Statutes of
4 Nebraska, and sections 53-101, 53-103, 53-103.03, 53-123.15,
5 53-123.17, 53-133, and 53-177, Revised Statutes Cumulative
6 Supplement, 2014; to define and redefine terms; to change and
7 eliminate provisions relating to hours for the conduct of lotteries
8 and alcoholic liquor sales, shipping licenses, renewal of licenses,
9 location of licensees, keg sales, and disposition of seized
10 alcoholic liquor; to state intent relating to appropriations; to
11 harmonize provisions; to repeal the original sections; and to
12 outright repeal section 9-647, Reissue Revised Statutes of Nebraska,
13 and section 53-179, Revised Statutes Cumulative Supplement, 2014.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-101, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 53-101 Sections 53-101 to 53-1,122 and section 6 of this act shall
4 be known and may be cited as the Nebraska Liquor Control Act.

5 Sec. 2. Section 53-103, Revised Statutes Cumulative Supplement,
6 2014, is amended to read:

7 53-103 For purposes of the Nebraska Liquor Control Act, the
8 definitions found in sections 53-103.01 to 53-103.43 and section 6 of
9 this act apply.

10 Sec. 3. Section 53-103.01, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 53-103.01 Alcohol means the product of distillation of any fermented
13 liquid, whether rectified or diluted, whatever the origin thereof, and
14 includes synthetic ethyl alcohol and alcohol processed or sold in a
15 gaseous or powdered form. Alcohol does not include denatured alcohol or
16 wood alcohol.

17 Sec. 4. Section 53-103.02, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 53-103.02 (1) Alcoholic liquor includes alcohol, spirits, wine,
20 beer, and any liquid, powder, or solid, patented or not, containing
21 alcohol, spirits, wine, or beer and capable of being consumed as a
22 beverage by a human being. Alcoholic liquor also includes confections or
23 candy that contains more than one-half of one percent alcohol.

24 (2) The Nebraska Liquor Control Act does not apply to (a) alcohol
25 used in the manufacture of denatured alcohol produced in accordance with
26 acts of Congress and regulations adopted and promulgated pursuant to such
27 acts, (b) flavoring extracts, syrups, medicinal, mechanical, scientific,
28 culinary, or toilet preparations, or food products unfit for beverage
29 purposes, but the act applies to alcoholic liquor used in the
30 manufacture, preparation, or compounding of such products or confections
31 or candy that contains more than one-half of one percent alcohol, or (c)

1 wine intended for use and used by any church or religious organization
2 for sacramental purposes.

3 Sec. 5. Section 53-103.03, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 53-103.03 Beer means a beverage obtained by alcoholic fermentation
6 of an infusion or concoction of barley or other grain, malt, and hops in
7 water and includes, but is not limited to, beer, ale, stout, lager beer,
8 porter, near beer, ~~and~~ flavored malt beverage, and hard cider.

9 Sec. 6. Hard cider means still wine derived (1)(a)(i) primarily
10 from apples or apple concentrate and water such that apple juice, or the
11 equivalent amount of concentrate reconstituted to the original brix of
12 the juice prior to concentration, represents more than fifty percent of
13 the volume of the finished product and (ii) containing no other fruit
14 product nor any artificial product which imparts a fruit flavor other
15 than apple or (b)(i) primarily from pears or pear concentrate and water
16 such that pear juice, or the equivalent amount of concentrate
17 reconstituted to the original brix of the juice prior to concentration,
18 represents more than fifty percent of the volume of the finished product
19 and (ii) containing no other fruit product nor any artificial product
20 which imparts a fruit flavor other than pear, (2) containing at least
21 one-half of one percent and less than eight and one-half percent alcohol
22 by volume, (3) having the taste, aroma, and characteristics generally
23 attributed to hard cider, and (4) sold or offered for sale as hard cider.

24 Sec. 7. Section 53-123.15, Revised Statutes Cumulative Supplement,
25 2014, is amended to read:

26 53-123.15 (1) No person shall order or receive alcoholic liquor in
27 this state which has been shipped directly to him or her from outside
28 this state by any person other than a holder of a shipping license issued
29 by the commission, except that a licensed wholesaler may receive not more
30 than three gallons of wine in any calendar year from any person who is
31 not a holder of a shipping license.

1 (2) The commission may issue a shipping license to a manufacturer.
2 Such license shall allow the licensee to ship alcoholic liquor only to a
3 licensed wholesaler, ~~except that a licensed wholesaler may, without a~~
4 ~~shipping license and for the purposes of subdivision (2) of section~~
5 ~~53-161, receive beer in this state which has been shipped from outside~~
6 ~~the state by a manufacturer in accordance with the Nebraska Liquor~~
7 ~~Control Act to the wholesaler, then transported by the wholesaler to~~
8 ~~another state for retail distribution, and then returned by the retailer~~
9 ~~to such wholesaler.~~ A person who receives a license pursuant to this
10 subsection shall pay the fee required in sections 53-124 and 53-124.01
11 for a manufacturer's shipping license. Such fee shall be collected by the
12 commission and be remitted to the State Treasurer for credit to the
13 General Fund.

14 (3) The commission may issue a shipping license to any person who
15 deals with vintage wines, which shipping license shall allow the licensee
16 to distribute such wines to a licensed wholesaler in the state. For
17 purposes of distributing vintage wines, a licensed shipper must utilize a
18 designated wholesaler if the manufacturer has a designated wholesaler.
19 For purposes of this section, vintage wine shall mean a wine verified to
20 be ten years of age or older and not available from a primary American
21 source of supply. A person who receives a license pursuant to this
22 subsection shall pay the fee required in sections 53-124 and 53-124.01
23 for a vintage wine dealer's shipping license. Such fee shall be collected
24 by the commission and be remitted to the State Treasurer for credit to
25 the General Fund.

26 (4) The commission may issue a shipping license to any manufacturer
27 who sells and ships alcoholic liquor from another state directly to a
28 consumer in this state if the manufacturer satisfies the requirements of
29 subsections (7) through (9) of this section. A manufacturer who receives
30 a license pursuant to this subsection shall pay the fee required in
31 sections 53-124 and 53-124.01 for a manufacture direct sales shipping

1 license. Such fee shall be collected by the commission and remitted to
2 the State Treasurer for credit to the Winery and Grape Producers
3 Promotional Fund.

4 (5) The commission may issue a shipping license to any retailer who
5 is licensed within or outside Nebraska, who is authorized to sell
6 alcoholic liquor at retail in the state of domicile of the retailer, and
7 who is not a manufacturer if such retailer satisfies the requirements of
8 subsections (7) through (9) of this section to ship alcoholic liquor from
9 another state directly to a consumer in this state. A retailer who
10 receives a license pursuant to this subsection shall pay the fee required
11 in sections 53-124 and 53-124.01 for a retail direct sales shipping
12 license. Such fee shall be collected by the commission and remitted to
13 the State Treasurer for credit to the Winery and Grape Producers
14 Promotional Fund.

15 (6) The application for a shipping license under subsection (2) or
16 (3) of this section shall be in such form as the commission prescribes.
17 The application shall contain all provisions the commission deems proper
18 and necessary to effectuate the purpose of any section of the act and the
19 rules and regulations of the commission that apply to manufacturers and
20 shall include, but not be limited to, provisions that the applicant, in
21 consideration of the issuance of such shipping license, agrees:

22 (a) To comply with and be bound by sections 53-162 and 53-164.01 in
23 making and filing reports, paying taxes, penalties, and interest, and
24 keeping records;

25 (b) To permit and be subject to all of the powers granted by section
26 53-164.01 to the commission or its duly authorized employees or agents
27 for inspection and examination of the applicant's premises and records
28 and to pay the actual expenses, excluding salary, reasonably attributable
29 to such inspections and examinations made by duly authorized employees of
30 the commission if within the United States; and

31 (c) That if the applicant violates any of the provisions of the

1 application or the license, any section of the act, or any of the rules
2 and regulations of the commission that apply to manufacturers, the
3 commission may suspend, cancel, or revoke such shipping license for such
4 period of time as it may determine.

5 (7) The application for a shipping license under subsection (4) or
6 (5) of this section shall be in such form as the commission prescribes.
7 The application shall require an applicant which is a manufacturer, a
8 craft brewery, a craft distillery, or a farm winery to identify the
9 brands of alcoholic liquor that the applicant is requesting the authority
10 to ship either into or within Nebraska. For all applicants, unless
11 otherwise provided in this section, the application shall contain all
12 provisions the commission deems proper and necessary to effectuate the
13 purpose of any section of the act and the rules and regulations of the
14 commission that apply to manufacturers or retailers and shall include,
15 but not be limited to, provisions that the applicant, in consideration of
16 the issuance of such shipping license, agrees:

17 (a) To comply with and be bound by sections 53-162 and 53-164.01 in
18 making and filing reports, paying taxes, penalties, and interest, and
19 keeping records;

20 (b) To permit and be subject to all of the powers granted by section
21 53-164.01 to the commission or its duly authorized employees or agents
22 for inspection and examination of the applicant's premises and records
23 and to pay the actual expenses, excluding salary, reasonably attributable
24 to such inspections and examinations made by duly authorized employees of
25 the commission if within the United States;

26 (c) That if the applicant violates any of the provisions of the
27 application or the license, any section of the act, or any of the rules
28 and regulations of the commission that apply to manufacturers or
29 retailers, the commission may suspend, cancel, or revoke such shipping
30 license for such period of time as it may determine;

31 (d) That the applicant agrees to notify the commission of any

1 violations in the state in which he or she is domiciled and any
2 violations of the direct shipping laws of any other states. Failure to
3 notify the commission within thirty days after such a violation may
4 result in a hearing before the commission pursuant to which the license
5 may be suspended, canceled, or revoked; and

6 (e) That the applicant, if a manufacturer, craft brewery, craft
7 distillery, or farm winery, agrees to notify any wholesaler licensed in
8 Nebraska that has been authorized to distribute such brands that the
9 application has been filed for a shipping license. The notice shall be in
10 writing and in a form prescribed by the commission. The commission may
11 adopt and promulgate rules and regulations as it reasonably deems
12 necessary to implement this subdivision, including rules and regulations
13 that permit the holder of a shipping license under this subdivision to
14 amend the shipping license by, among other things, adding or deleting any
15 brands of alcoholic liquor identified in the shipping license.

16 (8) Any manufacturer or retailer who is granted a shipping license
17 under subsection (4) or (5) of this section shall:

18 (a) Only ship the brands of alcoholic liquor identified on the
19 application;

20 (b) Only ship alcoholic liquor that is owned by the holder of the
21 shipping license;

22 (c) Only ship alcoholic liquor that is properly registered with the
23 Alcohol and Tobacco Tax and Trade Bureau of the United States Department
24 of the Treasury;

25 (d) Not ship any alcoholic liquor products that the manufacturers or
26 wholesalers licensed in Nebraska have voluntarily agreed not to bring
27 into Nebraska at the request of the commission;

28 (e) Not ship more than nine liters of alcoholic liquor per month to
29 any person in Nebraska to whom alcoholic beverages may be lawfully sold.
30 All such sales and shipments shall be for personal consumption only and
31 not for resale; and

1 (f) Cause the direct shipment of alcoholic liquor to be by approved
2 common carrier only. The commission shall adopt and promulgate rules and
3 regulations pursuant to which common carriers may apply for approval to
4 provide common carriage of alcoholic liquor shipped by a holder of a
5 shipping license issued pursuant to subsection (4) or (5) of this
6 section. The rules and regulations shall include provisions that require
7 (i) the recipient to demonstrate, upon delivery, that he or she is at
8 least twenty-one years of age, (ii) the recipient to sign an electronic
9 or paper form or other acknowledgement of receipt as approved by the
10 commission, and (iii) the commission-approved common carrier to submit to
11 the commission such information as the commission may prescribe. The
12 commission-approved common carrier shall refuse delivery when the
13 proposed recipient appears to be under the age of twenty-one years and
14 refuses to present valid identification. All holders of shipping licenses
15 shipping alcoholic liquor pursuant to this subdivision shall affix a
16 conspicuous notice in sixteen-point type or larger to the outside of each
17 package of alcoholic liquor shipped within or into the State of Nebraska,
18 in a conspicuous location, stating: CONTAINS ALCOHOLIC BEVERAGES;
19 SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY. Any
20 delivery of alcoholic beverages to a minor by a common carrier shall
21 constitute a violation by the common carrier. The common carrier and the
22 holder of the shipping license shall be liable only for their independent
23 acts.

24 (9) For purposes of sections 53-160, 77-2703, and 77-27,142, each
25 shipment of alcoholic liquor by the holder of a shipping license under
26 subsection (3), (4), or (5) of this section shall constitute a sale in
27 Nebraska by establishing a nexus in the state. The holder of the shipping
28 license shall collect all the taxes due to the State of Nebraska and any
29 political subdivision and remit any excise taxes monthly to the
30 commission and any sales taxes to the Department of Revenue.

31 (10) By July 1, 2014, the commission shall report to the General

1 Affairs Committee of the Legislature the number of shipping licenses
2 issued for license years 2013-14 and 2014-15. The report shall be made
3 electronically.

4 Sec. 8. Section 53-123.17, Revised Statutes Cumulative Supplement,
5 2014, is amended to read:

6 53-123.17 (1) A local governing body may designate an entertainment
7 district in which a commons area may be used by retail, craft brewery,
8 and microdistillery licensees which obtain an entertainment district
9 license. The local governing body may, at any time, revoke such
10 designation if it finds that the commons area threatens the health,
11 safety, or welfare of the public or has become a common nuisance. The
12 local governing body shall file the designation or the revocation of the
13 designation with the commission.

14 (2) An entertainment district license allows the sale of alcoholic
15 liquor for consumption on the premises within the confines of a commons
16 area. ~~The consumption of alcoholic liquor in the commons area shall only~~
17 ~~occur during the hours authorized for sale of alcoholic liquor for~~
18 ~~consumption on the premises under section 53-179 and while food service~~
19 ~~is available in the commons area.~~ Only the holder of an entertainment
20 district license or employees of such licensee may sell or dispense
21 alcoholic liquor in the commons area.

22 (3) An entertainment district licensee shall serve alcoholic liquor
23 to be consumed in the commons area in containers that prominently
24 displays the licensee's trade name or logo or some other mark that is
25 unique to the licensee under the licensee's retail license, craft brewery
26 license, or microdistillery license. An entertainment district licensee
27 may allow alcohol sold by another entertainment district licensee to
28 enter the licensed premises of either licensee. No entertainment district
29 licensee shall allow alcoholic liquor to leave the commons area or the
30 premises licensed under its retail license, craft brewery license, or
31 microdistillery license.

1 (4) If the licensed premises of the holder of a license to sell
2 alcoholic liquor at retail issued under subsection (6) of section 53-124,
3 a craft brewery license, or a microdistillery license is adjacent to a
4 commons area in an entertainment district designated by a local governing
5 body pursuant to this section, the holder of the license may obtain an
6 annual entertainment district license as prescribed in this section. The
7 entertainment district license shall be issued for the same period and
8 may be renewed in the same manner as the retail license, craft brewery
9 license, or microdistillery license.

10 (5) In order to obtain an entertainment district license, a person
11 eligible under subsection (4) of this section shall:

12 (a) File an application with the commission upon such forms as the
13 commission prescribes; and

14 (b) Pay an additional license fee of three hundred dollars for the
15 privilege of serving alcohol in the entertainment district payable to the
16 clerk of the local governing body in the same manner as license fees
17 under subdivision (4) of section 53-134.

18 (6) When an application for an entertainment district license is
19 filed, the commission shall notify the clerk of the local governing body.
20 The commission shall include with such notice one copy of the application
21 by mail or electronic delivery. The local governing body and the
22 commission shall process the application in the same manner as provided
23 in section 53-132.

24 (7) The local governing body may impose an occupation tax on the
25 business of an entertainment district licensee doing business within the
26 liquor license jurisdiction of the local governing body as provided in
27 subdivision (11)(b) of this section in accordance with section 53-132.

28 (8) The local governing body with respect to entertainment district
29 licensees within its liquor license jurisdiction as provided in
30 subdivision (11)(b) of this section may cancel an entertainment district
31 license for cause for the remainder of the period for which such

1 entertainment district license is issued. Any person whose entertainment
2 district license is canceled may appeal to the commission in accordance
3 with section 53-134.

4 (9) A local governing body may regulate by ordinance, not
5 inconsistent with the Nebraska Liquor Control Act, any area it designates
6 as an entertainment district.

7 (10) Violation of any provision of this section or any rules or
8 regulations adopted and promulgated pursuant to this section by an
9 entertainment district licensee may be cause to revoke, cancel, or
10 suspend the retail license issued under subsection (6) of section 53-124,
11 craft brewery license, or microdistillery license held by such licensee.

12 (11) For purposes of this section:

13 (a) Commons area means an area:

14 (i) Within an entertainment district designated by a local governing
15 body;

16 (ii) Shared by authorized licensees with entertainment district
17 licenses;

18 (iii) Abutting the licensed premises of such licensees;

19 (iv) Having limited pedestrian accessibility by use of a physical
20 barrier, either on a permanent or temporary basis; and

21 (v) Closed to vehicular traffic when used as a commons area.

22 Commons area may include any area of a public or private right-of-
23 way if the area otherwise meets the requirements of this section; and

24 (b) Local governing body means the governing body of the city or
25 village in which the entertainment district licensee is located.

26 Sec. 9. Section 53-130, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 53-130 (1) New licenses to manufacturers, wholesalers, railroads,
29 airlines, boats, and nonbeverage users of alcoholic liquor may be issued
30 by the commission upon (a) written application in duplicate filed in the
31 manner and on such forms as the commission prescribes and in which the

1 applicant for a beer wholesale license sets forth the sales territory in
2 Nebraska in which it is authorized by a manufacturer or manufacturers to
3 sell their brand or brands and the name of such brand or brands, (b)
4 receipt of bond, (c) payment in advance of the nonrefundable application
5 fee of forty-five dollars and the license fee, and (d) such notice and
6 hearing as the commission fixes by its own order.

7 (2) A notice of such application shall be served upon the
8 manufacturer or manufacturers listed in any application for a beer
9 wholesale license and upon any existing wholesaler licensed to sell the
10 brand or brands in the described sales territory.

11 (3) A license so issued may be renewed without formal application
12 upon payment of license fees and a renewal fee of forty-five dollars
13 prior to or within thirty days after the expiration of the license. The
14 payment of such fees shall be an affirmative representation and
15 certification by the licensee that all answers contained in an
16 application, if submitted, would be the same in all material respects as
17 the answers contained in the last previous application. The commission
18 may at any time require a licensee to submit an application.

19 Sec. 10. Section 53-133, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 53-133 (1) The commission shall set for hearing before it any
22 application for a retail license, craft brewery license, or
23 microdistillery license relative to which it has received:

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

27 (b) Within ten days after the receipt of a recommendation from the
28 city, village, or county, or, if no recommendation is received, within
29 forty-five days after the date of receipt of such application by the
30 city, village, or county clerk, objections in writing by not less than
31 three persons residing within such city, village, or county, protesting

1 the issuance of the license. Withdrawal of the protest does not prohibit
2 the commission from conducting a hearing based upon the protest as
3 originally filed and making an independent finding as to whether the
4 license should or should not be issued;

5 (c) Within forty-five days after the date of receipt of such
6 application by the city, village, or county clerk, objections by the
7 commission or any duly appointed employee of the commission, protesting
8 the issuance of the license; or

9 (d) An indication on the application that the location of a proposed
10 retail establishment is within one hundred fifty feet of a church as
11 described in subsection (2) of section 53-177 and a written request by
12 the church for a hearing.

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

28 Sec. 11. Section 53-135, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 53-135 A retail license issued by the commission and outstanding may
31 be automatically renewed by the commission without formal application

1 upon payment of the renewal fee and license fee if payable to the
2 commission prior to or within thirty days after the expiration of the
3 license. The payment shall be an affirmative representation and
4 certification by the licensee that all answers contained in an
5 application, if submitted, would be the same in all material respects as
6 the answers contained in the last previous application. The commission
7 may at any time require a licensee to submit an application, and the
8 commission shall at any time require a licensee to submit an application
9 if requested in writing to do so by the local governing body.

10 If a licensee files an application form in triplicate original upon
11 seeking renewal of his or her license, the application shall be processed
12 as set forth in section 53-131.

13 Any licensed retail premises located in an area which is annexed to
14 any governmental subdivision shall file a formal application for a
15 license, and while such application is pending, the licensee may continue
16 all license privileges until the original license expires or is canceled
17 or revoked. If such license expires within sixty days following the
18 annexation date of such area, the license may be renewed by order of the
19 commission for not more than one year.

20 Sec. 12. Section 53-167.02, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 53-167.02 (1) When any person licensed to sell alcoholic liquor at
23 retail sells alcohol beer for consumption off the premises in a container
24 with a liquid capacity of five or more gallons or eighteen and ninety-two
25 hundredths or more liters, the seller shall record the date of the sale,
26 the keg identification number, the purchaser's name and address, and the
27 number of the purchaser's motor vehicle operator's license, state
28 identification card, or military identification, if such military
29 identification contains a picture of the purchaser, together with the
30 purchaser's signature. Such record shall be on a form prescribed by the
31 commission and shall be kept by the licensee at the retail establishment

1 where the purchase was made for not less than six months.

2 (2) The commission shall adopt and promulgate rules and regulations
3 which require the licensee to place a label on the alcohol beer
4 container, which label shall at least contain a keg identification number
5 and shall be on a form prescribed by the commission. Such label shall be
6 placed on the keg at the time of retail sale. The licensee shall purchase
7 the forms referred to in this section from the commission. The cost
8 incurred to produce and distribute such forms shall be reasonable and
9 shall not exceed the reasonable and necessary costs of producing and
10 distributing the forms. Any money collected by the commission relating to
11 the sale of such forms shall be credited to the Nebraska Liquor Control
12 Commission Rule and Regulation Cash Fund.

13 (3) The keg identification number for each container shall be
14 registered with the commission. The records kept pursuant to this section
15 shall be available for inspection by any law enforcement officer during
16 normal business hours or at any other reasonable time. Any person
17 violating this section shall, upon conviction, be guilty of a Class III
18 misdemeanor.

19 Sec. 13. Section 53-167.03, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 53-167.03 (1) Any person who unlawfully tampers with, alters, or
22 removes the keg identification number from a ~~beer~~ container described in
23 section 53-167.02 or is in possession of a ~~beer~~ container described in
24 section 53-167.02 with an altered or removed keg identification number
25 after such container has been taken from the licensed premises pursuant
26 to a retail sale and before its return to such licensed premises or other
27 place where returned kegs are accepted shall be guilty of a Class III
28 misdemeanor.

29 (2) A licensee may require a deposit of not more than the
30 replacement cost of the container described in section 53-167.02 from a
31 person purchasing alcohol ~~beer~~ for consumption off the premises. Such

1 deposit may be retained by the licensee, in the amount of actual damages,
2 if upon return the container or any associated equipment is damaged or if
3 the keg identification number has been unlawfully tampered with, altered,
4 or removed and such tampering, alteration, or removal has been reported
5 to a law enforcement officer.

6 Sec. 14. Section 53-177, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 53-177 (1) Except as otherwise provided in subsection (2) of this
9 section, no license shall be issued for the sale at retail of any
10 alcoholic liquor within one hundred fifty feet of any church, school,
11 hospital, or home for ~~aged or indigent~~ persons or for veterans, and their
12 wives or children. This prohibition does not apply (a) to any location
13 within such distance of one hundred fifty feet for which a license to
14 sell alcoholic liquor at retail has been granted by the commission for
15 two years continuously prior to making of application for license, (b) to
16 hotels offering restaurant service, to regularly organized clubs, or to
17 restaurants, food shops, or other places where sale of alcoholic liquor
18 is not the principal business carried on, if such place of business so
19 exempted was established for such purposes prior to May 24, 1935, or (c)
20 to a college or university in the state which is subject to section
21 53-177.01.

22 (2) If a proposed location for the sale at retail of any alcoholic
23 liquor is within one hundred fifty feet of any church, a license may be
24 issued if the commission gives notice to the affected church and holds a
25 hearing as prescribed in section 53-133 if the affected church submits a
26 written request for a hearing.

27 Sec. 15. Section 53-1,107, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 53-1,107 In any indictment, information, complaint, or affidavit
30 against any one or more individuals charging the violation of the
31 Nebraska Liquor Control Act, separate offenses under the act may be

1 joined in the same indictment, information, complaint, or affidavit and
2 the accused may be prosecuted and convicted upon all or any of such
3 counts so joined the same as upon separate indictments, information,
4 complaint, or affidavits and judgment may be rendered on each count upon
5 which there is a conviction. In any indictment, information, complaint,
6 or affidavit for any violation of the act, it shall not be necessary to
7 describe the place where the offense was committed except to allege that
8 it was committed in the county wherein the prosecution was had unless the
9 particular place where the violation occurred constitutes one of specific
10 ingredients of the offense and it shall not be necessary to negative any
11 of the exceptions contained in the act or to state the day or the hour
12 when the offense was committed ~~unless the day or hour constitutes a~~
13 ~~special element or ingredient of the offense.~~

14 Sec. 16. Section 53-1,111, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 53-1,111 Upon the issuance of any search warrant pursuant to section
17 53-1,108, it shall be the duty of the officers executing the same to
18 enter the house, building, premises, boat, vehicle, receptacle, or other
19 place described, either in the daytime or nighttime, by force if
20 necessary and to remove and confiscate any alcoholic liquor manufactured,
21 possessed, or kept for sale contrary to the terms of the Nebraska Liquor
22 Control Act and any machinery, equipment, or material used in connection
23 therewith and to hold such property until all prosecution arising out of
24 such search and seizure shall have ended and determined. It shall be the
25 duty of the officers executing such search warrant to arrest any person
26 or persons found using or in possession or control of such alcoholic
27 liquor, articles, or things. All alcoholic liquor unlawfully
28 manufactured, stored, kept, sold, or otherwise disposed of, and the
29 containers thereof, and all equipment used or fit for use in the
30 manufacture or production of the same which are found at or about any
31 still or outfit for the unlawful manufacture of alcoholic liquor on

1 unlicensed premises are hereby declared contraband, and no right of
2 property shall be or exist in any person owning, furnishing, or
3 possessing any such property, liquor, material, or equipment, but all
4 such property, articles, and things, including alcoholic liquor, shall be
5 sold upon an order of the court as in the manner hereinafter provided in
6 section 53-1,113, and the proceeds thereof shall be disposed of in the
7 manner provided for the disposition of license money under the
8 Constitution of Nebraska.

9 Sec. 17. Section 53-1,113, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 53-1,113 (1) It shall be the duty of the officer who has seized and
12 is holding any of the property mentioned in section 53-1,111 to make
13 application to the court on final determination of any prosecution
14 arising under such search and seizure, and in which such prosecution has
15 been commenced or prosecuted, for an order to sell such property. The
16 court, if satisfied that the property so seized and held was at the time
17 of its seizure being kept or used, or was fit for use in the unlawful
18 manufacture or production of alcoholic liquor, shall make an order that
19 (a) the commission dispose of any alcoholic liquor in accordance with the
20 Nebraska Liquor Control Act and (b) any other such property and effects
21 be sold by such officer subject to and shall fix the time, place, manner,
22 and notice of such sale set by the order.

23 (2) Nothing contained in the Nebraska Liquor Control Act shall be
24 considered to authorize the sale of any alcoholic liquor unlawfully
25 manufactured fit for human consumption which comes into the possession of
26 any officer or the commission by seizure, confiscation, or forfeiture
27 under the provisions of the act without the payment of all taxes and
28 inspection fees required by the laws of this state and of the United
29 States, and all such unlawfully manufactured alcoholic liquor which is
30 unfit for human consumption shall be destroyed.

31 (3) The commission shall destroy alcoholic liquor which is unfit for

1 human consumption and may sell alcoholic liquor, when directed by order
2 of the court, at the time, place, and manner the commission determines to
3 be in the public interest and subject to the taxes and inspection fees
4 required by the laws of this state and of the United States.

5 Sec. 18. It is the intent of the Legislature to appropriate one
6 hundred two thousand dollars for personnel expenses for the Nebraska
7 Liquor Control Commission.

8 Sec. 19. Original sections 53-103.01, 53-103.02, 53-130, 53-135,
9 53-167.02, 53-167.03, 53-1,107, 53-1,111, and 53-1,113, Reissue Revised
10 Statutes of Nebraska, and sections 53-101, 53-103, 53-103.03, 53-123.15,
11 53-123.17, 53-133, and 53-177, Revised Statutes Cumulative Supplement,
12 2014, are repealed.

13 Sec. 20. The following sections are outright repealed: Section
14 9-647, Reissue Revised Statutes of Nebraska, and section 53-179, Revised
15 Statutes Cumulative Supplement, 2014.