

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 619

Introduced by Larson, 40.

Read first time January 21, 2015

Committee: General Affairs

1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 section 53-123.11, Reissue Revised Statutes of Nebraska, and
3 sections 53-101, 53-123.14, 53-123.16, and 53-131, Revised Statutes
4 Cumulative Supplement, 2014; to state intent; to define terms; to
5 provide for a special designated poker license and a poker
6 endorsement; to provide for fees and disposition of proceeds; to
7 provide restrictions on participants; to harmonize provisions; and
8 to repeal the original sections.
9 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 sections 2 to 4 of this act
4 shall be known and may be cited as the Nebraska Liquor Control Act.

5 Sec. 2. (1) The Legislature finds that:

6 (a) Certain poker games require skill and players that are able to
7 develop that skill may become professional poker players; and

8 (b) While poker does have a random component in the cards that
9 players are dealt, there is more skill than luck for successful poker
10 players in games where the player implements a strategy by making
11 decisions that influence the other players and ultimately the game's
12 outcome.

13 (2) It is the intent of the Legislature to recognize various forms
14 of the card game, poker, as games of skill, including variations of draw
15 and community card poker games.

16 Sec. 3. (1) For purposes of this section, poker means a draw or
17 community card game in which a player bets that the value of his or her
18 hand is greater than the value of the hands held by others and each
19 subsequent player must either equal or raise the bet or drop out. Poker
20 includes a draw poker game, such as five-card draw, in which a player
21 determines whether to discard and then receive new cards from the dealer,
22 and a community card poker game, such as Texas Hold'em and Omaha Hold'em,
23 in which the player combines the cards he or she is holding along with
24 the community cards that all players share and the player with the
25 highest hand at the end of the betting wins the pot unless the player is
26 the only player playing once the other players have dropped out.

27 (2) The commission may, in conjunction with a special designated
28 license under section 53-124.11, issue a special designated poker license
29 to host poker games and tournaments at a designated location or on the
30 premises of a retail licensee, a craft brewery licensee, a
31 microdistillery licensee, or a farm winery licensee. The only poker games

1 allowed under this section are draw and community card poker games. All
2 participants in a poker game or tournament shall be at least twenty-one
3 years of age. Neither the licensee nor any employee of the licensee shall
4 participate as a player.

5 (3) No retail licensee, craft brewery licensee, microdistillery
6 licensee, or farm winery licensee may be issued a special designated
7 poker license under this section for more than six calendar days in any
8 one calendar year. Only one special designated license shall be required
9 for any application for two or more consecutive days.

10 (4) A special designated poker license shall require a fee of forty
11 dollars for each day identified in the special designated poker license.
12 Such fee shall be submitted with the application for the special
13 designated poker license, collected by the commission, and remitted to
14 the State Treasurer for credit to the General Fund. The applicant shall
15 be exempt from the provisions of the Nebraska Liquor Control Act
16 requiring an application or renewal fee and the provisions of the act
17 requiring the expiration of forty-five days from the time the application
18 is received by the commission prior to the issuance of a license, if
19 granted by the commission. The retail licensees, craft brewery licensees,
20 microdistillery licensees, and farm winery licensees seeking a special
21 designated poker license shall file an application on such forms as the
22 commission may prescribe. Such forms shall contain, along with other
23 information as required by the commission, (a) the name of the applicant,
24 (b) the premises for which a special designated poker license is
25 requested, identified by street and number if practicable and, if not, by
26 some other appropriate description which definitely locates the premises,
27 (c) the name of the owner or lessee of the premises for which the special
28 designated poker license is requested, (d) sufficient evidence that the
29 holder of the special designated poker license, if issued, will carry on
30 the activities and business authorized by the license for himself,
31 herself, or itself and not as the agent of any other person, group,

1 organization, or corporation, whether such entity is for profit or not
2 for profit, (e) a statement of the type of activity to be carried on
3 during the time period for which a special designated poker license is
4 requested, and (f) sufficient evidence that the activity will be
5 supervised by persons or managers who are agents of and directly
6 responsible to the holder of the special designated poker license.

7 (5) No special designated poker license provided for by this section
8 shall be issued by the commission without the approval of the local
9 governing body. The local governing body may establish criteria for
10 approving or denying a special designated poker license. The local
11 governing body may designate an agent to determine whether a special
12 designated poker license is to be approved or denied. Such agent shall
13 follow criteria established by the local governing body in making his or
14 her determination. The determination of the agent shall be considered the
15 determination of the local governing body unless otherwise provided by
16 the local governing body. For purposes of this section, the local
17 governing body shall be the city or village within which the premises for
18 which the special designated poker license is requested are located or,
19 if such premises are not within the corporate limits of a city or
20 village, then the local governing body shall be the county within which
21 the premises for which the special designated poker license is requested
22 are located.

23 (6) If the applicant meets the requirements of this section, a
24 special designated poker license shall be granted and issued by the
25 commission for use by the holder of the special designated poker license.
26 All statutory provisions and rules and regulations of the commission that
27 apply to a retail licensee shall apply to the holder of a special
28 designated poker license with the exception of such statutory provisions
29 and rules and regulations of the commission so designated by the
30 commission and stated upon the issued special designated poker license,
31 except that the commission may not designate exemption of sections 53-180

1 to 53-180.07. The decision of the commission shall be final. If the
2 applicant does not qualify for a special designated poker license, the
3 application shall be denied by the commission.

4 (7) A special designated poker license issued by the commission
5 shall be mailed or delivered to the city, village, or county clerk who
6 shall deliver such license to the licensee upon receipt of any fee or tax
7 imposed by such city, village, or county.

8 (8) The licensee shall remit ten percent of the gross proceeds of a
9 poker tournament and five percent of the final amount in each pot of a
10 cash game to the commission. The commission shall remit that amount to
11 the State Treasurer. The State Treasurer shall distribute the amounts as
12 follows:

13 (a) If the poker tournament or cash game was held within the
14 boundaries of a city or village:

15 (i) Fifty percent of the amount shall be credited to the Property
16 Tax Credit Cash Fund;

17 (ii) Twenty-four and one-half percent of the amount shall be
18 distributed to the county treasurer for the county general fund of the
19 county in which it was held;

20 (iii) Twenty-four and one-half percent of the amount shall be
21 distributed to the city or village; and

22 (iv) One percent of the amount shall be credited to the Compulsive
23 Gamblers Assistance Fund; and

24 (b) If the poker tournament or cash game was held outside the
25 boundaries of a city or village:

26 (i) Fifty percent of the amount shall be credited to the Property
27 Tax Credit Cash Fund;

28 (ii) Forty-nine percent of the amount shall be distributed to the
29 county treasurer for the county general fund of the county in which it
30 was held; and

31 (iii) One percent of the amount shall be credited to the Compulsive

1 Gamblers Assistance Fund.

2 Sec. 4. No person or licensee, or any employee or agent thereof,
3 accepting wagers on a poker game conducted pursuant to a special
4 designated poker license shall extend credit to participants in the poker
5 game or tournament. No person shall participate in a poker game or
6 tournament unless he or she pays with cash. For purposes of this section,
7 cash means United States currency having the same face value as the poker
8 chips or other monetary representation that may be substituted for cash
9 for purposes of wagering.

10 Sec. 5. Section 53-123.11, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 53-123.11 (1) A farm winery license shall entitle the holder to:

13 (a) Sell wines produced at the farm winery onsite at wholesale and
14 retail and to sell wines produced at the farm winery at off-premises
15 sites holding the appropriate retail license;

16 (b) Sell wines produced at the farm winery at retail for consumption
17 on the premises;

18 (c)(i) Permit a customer to remove one unsealed bottle of wine for
19 consumption off the premises. The licensee or his or her agent shall (A)
20 securely reseal such bottle and place the bottle in a bag designed so
21 that it is visibly apparent that the resealed bottle of wine has not been
22 opened or tampered with and (B) provide a dated receipt to the customer
23 and attach to such bag a copy of the dated receipt for the resealed
24 bottle of wine.

25 (ii) If the resealed bottle of wine is transported in a motor
26 vehicle, it must be placed in the trunk of the motor vehicle or the area
27 behind the last upright seat of such motor vehicle if the area is not
28 normally occupied by the driver or a passenger and the motor vehicle is
29 not equipped with a trunk;

30 (d) Ship wines produced at the farm winery by common carrier and
31 sold at retail to recipients in and outside the State of Nebraska, if the

1 output of such farm winery for each calendar year as reported to the
2 commission by December 31 of each year does not exceed thirty thousand
3 gallons. In the event such amount exceeds thirty thousand gallons, the
4 farm winery shall be required to use a licensed wholesaler to distribute
5 its wines for the following calendar year, except that this requirement
6 shall not apply to wines produced and sold onsite at the farm winery
7 pursuant to subdivision (1)(a) of this section;

8 (e) Allow sampling of the wine at the farm winery and at one branch
9 outlet in the state in reasonable amounts;

10 (f) Sell wines produced at the farm winery to other Nebraska farm
11 winery licensees, in bulk, bottled, labeled, or unlabeled, in accordance
12 with 27 C.F.R. 24.308, 27 C.F.R. 24.309, and 27 C.F.R. 24.314, as such
13 regulations existed on January 1, 2008;

14 (g) Purchase distilled spirits from licensed microdistilleries in
15 Nebraska, in bulk or bottled, made entirely from Nebraska-licensed farm
16 winery wine to be used in the production of fortified wine at the
17 purchasing licensed farm winery; and

18 (h) Store and warehouse products produced at the farm winery in a
19 designated, secure, offsite storage facility if the holder of the farm
20 winery license notifies the commission of the location of the facility
21 and maintains, at the farm winery and at the facility, a separate
22 perpetual inventory of the product stored at the facility. Consumption of
23 alcoholic liquor at the facility is strictly prohibited.

24 (2) No farm winery shall manufacture wine in excess of fifty
25 thousand gallons per year.

26 (3) A holder of a farm winery license may obtain a special
27 designated license pursuant to section 53-124.11.

28 (4) A holder of a farm winery license may obtain an annual catering
29 license pursuant to section 53-124.12.

30 (5) A holder of a farm winery license may obtain a special
31 designated poker license pursuant to section 3 of this act.

1 Sec. 6. Section 53-123.14, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 53-123.14 Any person who operates a craft brewery shall obtain a
4 license pursuant to the Nebraska Liquor Control Act. A license to operate
5 a craft brewery shall permit a brewpub or microbrewery to produce on the
6 craft brewery premises a maximum of twenty thousand barrels of beer per
7 year. A craft brewery may also sell to beer wholesalers for sale and
8 distribution to licensed retailers. A craft brewery license issued
9 pursuant to this section shall be the only license required by the
10 Nebraska Liquor Control Act for the manufacture and retail sale of beer
11 for consumption on or off the licensed premises, except that the sale of
12 any beer other than beer manufactured by the craft brewery licensee,
13 wine, or alcoholic liquor by the drink for consumption on the craft
14 brewery premises shall require the appropriate retail license. Any
15 license held by the operator of a craft brewery shall be subject to the
16 act. A holder of a craft brewery license may obtain an annual catering
17 license pursuant to section 53-124.12, a special designated license
18 pursuant to section 53-124.11, ~~or~~ an entertainment district license
19 pursuant to section 53-123.17, or a special designated poker license
20 pursuant to section 3 of this act.

21 Sec. 7. Section 53-123.16, Revised Statutes Cumulative Supplement,
22 2014, is amended to read:

23 53-123.16 Any person who operates a microdistillery shall obtain a
24 license pursuant to the Nebraska Liquor Control Act. A license to operate
25 a microdistillery shall permit the licensee to produce on the premises a
26 maximum of ten thousand gallons of liquor per year. A microdistillery may
27 also sell to licensed wholesalers for sale and distribution to licensed
28 retailers. A microdistillery license issued pursuant to this section
29 shall be the only license required by the Nebraska Liquor Control Act for
30 the manufacture and retail sale of microdistilled product for consumption
31 on or off the licensed premises, except that the sale of any beer, wine,

1 or alcoholic liquor, other than microdistilled product manufactured by
2 the microdistillery licensee, by the drink for consumption on the
3 microdistillery premises shall require the appropriate retail license.
4 Any license held by the operator of a microdistillery shall be subject to
5 the act. A holder of a microdistillery license may obtain an annual
6 catering license pursuant to section 53-124.12, a special designated
7 license pursuant to section 53-124.11, ~~or~~ an entertainment district
8 license pursuant to section 53-123.17, or a special designated poker
9 license pursuant to section 3 of this act. The commission may, upon the
10 conditions it determines, grant to any microdistillery licensed under
11 this section a special license authorizing the microdistillery to
12 purchase and to import, from such persons as are entitled to sell the
13 same, wines or spirits to be used solely as ingredients and for the sole
14 purpose of blending with and flavoring microdistillery products as a part
15 of the microdistillation process.

16 Sec. 8. Section 53-131, Revised Statutes Cumulative Supplement,
17 2014, is amended to read:

18 53-131 (1) Any person desiring to obtain a new license to sell
19 alcoholic liquor at retail, a craft brewery license, or a microdistillery
20 license shall file with the commission:

21 (a) An application in triplicate original upon forms the commission
22 prescribes, including the information required by subsection (3) of this
23 section for an application to operate a cigar bar and the information
24 required by subsection (5) of this section for an application to host a
25 poker game or tournament as provided in section 3 of this act;

26 (b) The license fee if under sections 53-124 and 53-124.01 such fee
27 is payable to the commission, which fee shall be returned to the
28 applicant if the application is denied; and

29 (c) The nonrefundable application fee in the sum of four hundred
30 dollars, except that the nonrefundable application fee for an application
31 for a cigar bar shall be one thousand dollars and the nonrefundable

1 application fee for an application to host a poker game or tournament
2 shall be one thousand dollars.

3 (2) The commission shall notify the clerk of the city or village in
4 which such license is sought or, if the license sought is not sought
5 within a city or village, the county clerk of the county in which such
6 license is sought, of the receipt of the application and shall include
7 one copy of the application with the notice. No such license shall be
8 issued or denied by the commission until the expiration of the time
9 allowed for the receipt of a recommendation of denial or an objection
10 requiring a hearing under subdivision (1)(a) or (b) of section 53-133.
11 During the period of forty-five days after the date of receipt by mail or
12 electronic delivery of such application from the commission, the local
13 governing body of such city, village, or county may make and submit to
14 the commission recommendations relative to the granting or refusal to
15 grant such license to the applicant.

16 (3) For an application to operate a cigar bar, the application shall
17 include proof of the cigar bar's annual gross revenue as requested by the
18 commission and such other information as requested by the commission to
19 establish the intent to operate as a cigar bar. The commission may adopt
20 and promulgate rules and regulations to regulate cigar bars.

21 (4) For renewal of a license under this section, a licensee shall
22 file with the commission an application, the license fee as provided in
23 subdivision (1)(b) of this section, and a renewal fee of forty-five
24 dollars.

25 (5) For an application to host poker games or tournaments, the
26 application shall include an agreement to notify the commission at least
27 three days prior to holding a poker game or tournament and shall include
28 such other information as requested by the commission. The commission may
29 adopt and promulgate rules and regulations to regulate poker games and
30 poker tournaments.

31 Sec. 9. Original section 53-123.11, Reissue Revised Statutes of

- 1 Nebraska, and sections 53-101, 53-123.14, 53-123.16, and 53-131, Revised
- 2 Statutes Cumulative Supplement, 2014, are repealed.