

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1120**

FINAL READING

Introduced by Larson, 40; Thibodeau, 6.

Read first time January 18, 2018

Committee: General Affairs

1 A BILL FOR AN ACT relating to government regulation; to amend sections  
2 53-116.01, 53-116.02, 53-119.01, 53-134.03, 53-134.04, 53-135.01,  
3 53-138.01, 53-148.01, 53-1,115, 59-1401, 59-1403, 59-1404, 59-1405,  
4 and 59-1406, Reissue Revised Statutes of Nebraska, and sections  
5 53-101, 53-103, 53-117, 53-123, 53-123.15, 53-124, 53-124.01,  
6 53-129, 53-131, 53-132, 53-133, 53-134, 53-134.01, 53-135, 53-177,  
7 53-177.01, 53-186.01, and 53-1,100, Revised Statutes Cumulative  
8 Supplement, 2016; to provide for licensure of bottle clubs and to  
9 define terms under the Nebraska Liquor Control Act; to provide and  
10 change provisions relating to fees; to change provisions relating to  
11 container size under a limited bottling endorsement and relating to  
12 rehearings as prescribed; to change provisions relating to music  
13 licensing; to name the Music Licensing Agency Act and to define  
14 terms under the act; to provide and change duties of the Secretary  
15 of State and the Department of Revenue; to require registration of  
16 music licensing agencies and filing of performing-rights agreements  
17 as prescribed; to provide duties relating to contracts; to provide  
18 powers, duties, and limitations relating to collection of royalties;  
19 to provide for applicability; to change penalties; to harmonize  
20 provisions; to provide severability; and to repeal the original  
21 sections.

22 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-101, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

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

5 Sec. 2. Section 53-103, Revised Statutes Cumulative Supplement,  
6 2016, 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 53-103.46 and section 3 of  
9 this act apply.

10 Sec. 3. Bottle club means an operation, whether formally organized  
11 as a club having a regular membership list, dues, officers, and meetings  
12 or not, keeping and maintaining premises where persons who have made  
13 their own purchases of alcoholic liquor congregate for the express  
14 purpose of consuming alcoholic liquor upon the payment of a fee or other  
15 consideration.

16 Sec. 4. (1) A bottle club may be operated by a club, an individual,  
17 a partnership, a limited liability company, or a corporation. An accurate  
18 and current membership list shall be maintained upon the licensed  
19 premises which contains the names and residences of the members but shall  
20 not be subject to disclosure except as required by warrant, subpoena, or  
21 court order.

22 (2) A bottle club shall not operate on any day between the hours of  
23 5 a.m. and 6 a.m.

24 (3) The holder of a bottle club license shall not simultaneously  
25 hold another license under the Nebraska Liquor Control Act.

26 (4) The holder of a bottle club license shall be subject to all  
27 provisions of the Nebraska Liquor Control Act and the rules and  
28 regulations adopted and promulgated under the act that govern the  
29 operation of retail licensees except as otherwise provided in subsection  
30 (2) of this section.

31 Sec. 5. Section 53-116.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 53-116.01 The commission and local governing bodies shall cause  
3 frequent inspection to be made on the premises of all retail licensees  
4 and bottle club licensees, and if it is found that any such licensee is  
5 violating any provision of the Nebraska Liquor Control Act or the rules  
6 and regulations of the commission adopted and promulgated under the act  
7 or is failing to observe in good faith the purposes of the act, the  
8 license may be suspended, canceled, or revoked after the licensee is  
9 given an opportunity to be heard in his or her defense.

10 Sec. 6. Section 53-116.02, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 53-116.02 Whenever any retail licensee, bottle club licensee, craft  
13 brewery licensee, or microdistillery licensee has been convicted by any  
14 court of a violation of the Nebraska Liquor Control Act, the licensee  
15 may, in addition to the penalties for such offense, incur a forfeiture of  
16 the license and all money that had been paid for the license. The local  
17 governing body may conditionally revoke the license subject to a final  
18 order of the commission, or the commission may revoke the license in an  
19 original proceeding brought before it for that purpose.

20 Sec. 7. Section 53-117, Revised Statutes Cumulative Supplement,  
21 2016, is amended to read:

22 53-117 The commission has the following powers, functions, and  
23 duties:

24 (1) To receive applications for and to issue licenses to and  
25 suspend, cancel, and revoke licenses of manufacturers, wholesalers,  
26 nonbeverage users, retailers, railroads including owners and lessees of  
27 sleeping, dining, and cafe cars, airlines, boats, bottle clubs, and  
28 pedal-pub vehicles in accordance with the Nebraska Liquor Control Act;

29 (2) To fix by rules and regulations the standards of manufacture of  
30 alcoholic liquor not inconsistent with federal laws in order to insure  
31 the use of proper ingredients and methods in the manufacture and

1 distribution thereof and to adopt and promulgate rules and regulations  
2 not inconsistent with federal laws for the proper labeling of containers,  
3 barrels, casks, or other bulk containers or of bottles of alcoholic  
4 liquor manufactured or sold in this state. The Legislature intends, by  
5 the grant of power to adopt and promulgate rules and regulations, that  
6 the commission have broad discretionary powers to govern the traffic in  
7 alcoholic liquor and to enforce strictly all provisions of the act in the  
8 interest of sanitation, purity of products, truthful representations, and  
9 honest dealings in a manner that generally will promote the public health  
10 and welfare. All such rules and regulations shall be absolutely binding  
11 upon all licensees and enforceable by the commission through the power of  
12 suspension or cancellation of licenses, except that all rules and  
13 regulations of the commission affecting a club possessing any form of  
14 retail license or bottle club license shall have equal application to all  
15 such licenses or shall be void;

16 (3) To call upon other administrative departments of the state,  
17 county and municipal governments, county sheriffs, city police  
18 departments, village marshals, peace officers, and prosecuting officers  
19 for such information and assistance as the commission deems necessary in  
20 the performance of its duties. The commission shall enter into an  
21 agreement with the Nebraska State Patrol in which the Nebraska State  
22 Patrol shall hire six new patrol officers and, from the entire Nebraska  
23 State Patrol, shall designate a minimum of six patrol officers who will  
24 spend a majority of their time in administration and enforcement of the  
25 Nebraska Liquor Control Act;

26 (4) To recommend to local governing bodies rules and regulations not  
27 inconsistent with law for the distribution and sale of alcoholic liquor  
28 throughout the state;

29 (5) To inspect or cause to be inspected any premises where alcoholic  
30 liquor is manufactured, distributed, or sold and, when sold on unlicensed  
31 premises or on any premises in violation of law, to bring an action to

1   enjoin the use of the property for such purpose;

2           (6) To hear and determine appeals from orders of a local governing  
3   body in accordance with the act;

4           (7) To conduct or cause to be conducted an audit to inspect any  
5   licensee's records and books;

6           (8) In the conduct of any hearing or audit authorized to be held by  
7   the commission (a) to examine or cause to be examined, under oath, any  
8   licensee and to examine or cause to be examined the books and records of  
9   such licensee, (b) to hear testimony and take proof material for its  
10   information in the discharge of its duties under the act, and (c) to  
11   administer or cause to be administered oaths;

12           (9) To investigate the administration of laws in relation to  
13   alcoholic liquor in this and other states and to recommend to the  
14   Governor and through him or her to the Legislature amendments to the act;  
15   and

16           (10) To receive, account for, and remit to the State Treasurer state  
17   license fees and taxes provided for in the act.

18           Sec. 8. Section 53-119.01, Reissue Revised Statutes of Nebraska, is  
19   amended to read:

20           53-119.01 The commission may request the State Fire Marshal to  
21   inspect for fire safety pursuant to section 81-502 any premises for which  
22   an annually renewable retail license or bottle club license, or renewal  
23   of such a license, is sought. The State Fire Marshal shall assess a fee  
24   for such inspection pursuant to section 81-505.01 which shall be payable  
25   by the licensee or applicant for a license. The authority to make such  
26   investigations may be delegated to qualified local fire prevention  
27   personnel pursuant to section 81-502.

28           Sec. 9. Section 53-123, Revised Statutes Cumulative Supplement,  
29   2016, is amended to read:

30           53-123 Licenses issued by the commission shall be of the following  
31   types: (1) Manufacturer's license; (2) alcoholic liquor wholesale

1 license, except beer; (3) beer wholesale license; (4) retail license; (5)  
2 railroad license; (6) airline license; (7) boat license; (8) nonbeverage  
3 user's license; (9) farm winery license; (10) craft brewery license; (11)  
4 shipping license; (12) special designated license; (13) catering license;  
5 (14) microdistillery license; (15) entertainment district license; and  
6 (16) pedal-pub vehicle license; and (17) bottle club license.

7 Sec. 10. Section 53-123.15, Revised Statutes Cumulative Supplement,  
8 2016, is amended to read:

9 53-123.15 (1) No person shall order or receive alcoholic liquor in  
10 this state which has been shipped directly to him or her from outside  
11 this state by any person other than a holder of a shipping license issued  
12 by the commission, except that a licensed wholesaler may receive not more  
13 than three gallons of wine in any calendar year from any person who is  
14 not a holder of a shipping license.

15 (2) The commission may issue a shipping license to a manufacturer.  
16 Such license shall allow the licensee to ship alcoholic liquor only to a  
17 licensed wholesaler. A person who receives a license pursuant to this  
18 subsection shall pay the fee required in sections 53-124 and 53-124.01  
19 for a manufacturer's shipping license. Such fee shall be collected by the  
20 commission and be remitted to the State Treasurer for credit. ~~Fees~~  
21 ~~remitted prior to July 1, 2016, shall be credited~~ to the General Fund,  
22 except that the fee received for a shipping license issued to a beer  
23 manufacturer pursuant to this subsection. ~~Fees remitted beginning on~~  
24 ~~July 1, 2016,~~ shall be credited to the Nebraska Beer Industry Promotional  
25 Fund.

26 (3) The commission may issue a shipping license to any person who  
27 deals with vintage wines, which shipping license shall allow the licensee  
28 to distribute such wines to a licensed wholesaler in the state. For  
29 purposes of distributing vintage wines, a licensed shipper must utilize a  
30 designated wholesaler if the manufacturer has a designated wholesaler.  
31 For purposes of this section, vintage wine shall mean a wine verified to

1 be ten years of age or older and not available from a primary American  
2 source of supply. A person who receives a license pursuant to this  
3 subsection shall pay the fee required in sections 53-124 and 53-124.01  
4 for a vintage wine dealer's shipping license. Such fee shall be collected  
5 by the commission and be remitted to the State Treasurer for credit to  
6 the General Fund.

7 (4) The commission may issue a shipping license to any manufacturer  
8 who sells and ships alcoholic liquor from another state directly to a  
9 consumer in this state if the manufacturer satisfies the requirements of  
10 subsections (7) through (9) of this section. A manufacturer who receives  
11 a license pursuant to this subsection shall pay the fee required in  
12 sections 53-124 and 53-124.01 for a manufacture direct sales shipping  
13 license. Such fee shall be collected by the commission and remitted to  
14 the State Treasurer for credit to the Winery and Grape Producers  
15 Promotional Fund.

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

27 (6) The application for a shipping license under subsection (2) or  
28 (3) of this section shall be in such form as the commission prescribes.  
29 The application shall contain all provisions the commission deems proper  
30 and necessary to effectuate the purpose of any section of the act and the  
31 rules and regulations of the commission that apply to manufacturers and

1 shall include, but not be limited to, provisions that the applicant, in  
2 consideration of the issuance of such shipping license, agrees:

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

6 (b) To permit and be subject to all of the powers granted by section  
7 53-164.01 to the commission or its duly authorized employees or agents  
8 for inspection and examination of the applicant's premises and records  
9 and to pay the actual expenses, excluding salary, reasonably attributable  
10 to such inspections and examinations made by duly authorized employees of  
11 the commission if within the United States; and

12 (c) That if the applicant violates any of the provisions of the  
13 application or the license, any section of the act, or any of the rules  
14 and regulations of the commission that apply to manufacturers, the  
15 commission may suspend, cancel, or revoke such shipping license for such  
16 period of time as it may determine.

17 (7) The application for a shipping license under subsection (4) or  
18 (5) of this section shall be in such form as the commission prescribes.  
19 The application shall require an applicant which is a manufacturer, a  
20 craft brewery, a craft distillery, or a farm winery to identify the  
21 brands of alcoholic liquor that the applicant is requesting the authority  
22 to ship either into or within Nebraska. For all applicants, unless  
23 otherwise provided in this section, the application shall contain all  
24 provisions the commission deems proper and necessary to effectuate the  
25 purpose of any section of the act and the rules and regulations of the  
26 commission that apply to manufacturers or retailers and shall include,  
27 but not be limited to, provisions that the applicant, in consideration of  
28 the issuance of such shipping license, agrees:

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



1 (b) To permit and be subject to all of the powers granted by section  
2 53-164.01 to the commission or its duly authorized employees or agents  
3 for inspection and examination of the applicant's premises and records  
4 and to pay the actual expenses, excluding salary, reasonably attributable  
5 to such inspections and examinations made by duly authorized employees of  
6 the commission if within the United States;

7 (c) That if the applicant violates any of the provisions of the  
8 application or the license, any section of the act, or any of the rules  
9 and regulations of the commission that apply to manufacturers or  
10 retailers, the commission may suspend, cancel, or revoke such shipping  
11 license for such period of time as it may determine;

12 (d) That the applicant agrees to notify the commission of any  
13 violations in the state in which he or she is domiciled and any  
14 violations of the direct shipping laws of any other states. Failure to  
15 notify the commission within thirty days after such a violation may  
16 result in a hearing before the commission pursuant to which the license  
17 may be suspended, canceled, or revoked; and

18 (e) That the applicant, if a manufacturer, craft brewery, craft  
19 distillery, or farm winery, agrees to notify any wholesaler licensed in  
20 Nebraska that has been authorized to distribute such brands that the  
21 application has been filed for a shipping license. The notice shall be in  
22 writing and in a form prescribed by the commission. The commission may  
23 adopt and promulgate rules and regulations as it reasonably deems  
24 necessary to implement this subdivision, including rules and regulations  
25 that permit the holder of a shipping license under this subdivision to  
26 amend the shipping license by, among other things, adding or deleting any  
27 brands of alcoholic liquor identified in the shipping license.

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

30 (a) Only ship the brands of alcoholic liquor identified on the  
31 application;

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

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

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

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

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

1 delivery of alcoholic beverages to a minor by a common carrier shall  
2 constitute a violation by the common carrier. The common carrier and the  
3 holder of the shipping license shall be liable only for their independent  
4 acts.

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

12 (10) By July 1, 2014, the commission shall report to the General  
13 Affairs Committee of the Legislature the number of shipping licenses  
14 issued for license years 2013-14 and 2014-15. The report shall be made  
15 electronically.

16 Sec. 11. Section 53-124, Revised Statutes Cumulative Supplement,  
17 2016, is amended to read:

18 53-124 (1) At the time application is made to the commission for a  
19 license of any type, the applicant shall pay the fee provided in section  
20 53-124.01 and, if the applicant is an individual, provide the applicant's  
21 social security number. The commission shall issue the types of licenses  
22 described in this section.

23 (2) There shall be an airline license, a boat license, a pedal-pub  
24 vehicle license, and a railroad license. The commission shall charge one  
25 dollar for each duplicate of an airline license, a pedal-pub vehicle  
26 license, or a railroad license.

27 (3)(a) There shall be a manufacturer's license for alcohol and  
28 spirits, for beer, and for wine. The annual fee for a manufacturer's  
29 license for beer shall be based on the barrel daily capacity as follows:

30 (i) 1 to 100 barrel daily capacity, or any part thereof, tier one;

31 (ii) 100 to 150 barrel daily capacity, tier two;

1 (iii) 150 to 200 barrel daily capacity, tier three;

2 (iv) 200 to 300 barrel daily capacity, tier four;

3 (v) 300 to 400 barrel daily capacity, tier five;

4 (vi) 400 to 500 barrel daily capacity, tier six;

5 (vii) 500 barrel daily capacity, or more, tier seven.

6 (b) For purposes of this subsection, daily capacity means the  
7 average daily barrel production for the previous twelve months of  
8 manufacturing operation. If no such basis for comparison exists, the  
9 manufacturing licensee shall pay in advance for the first year's  
10 operation a fee of five hundred dollars.

11 (4) There shall be five classes of nonbeverage users' licenses:  
12 Class 1, Class 2, Class 3, Class 4, and Class 5.

13 (5) In lieu of a manufacturer's, a retailer's, or a wholesaler's  
14 license, there shall be a license to operate issued for a craft brewery,  
15 a farm winery, or a microdistillery.

16 (6)(a) There shall be six classes of retail licenses:

17 (i) Class A: Beer only, for consumption on the premises;

18 (ii) Class B: Beer only, for consumption off the premises, sales in  
19 the original packages only;

20 (iii) Class C: Alcoholic liquor, for consumption on the premises and  
21 off the premises, sales in original packages only. If a Class C license  
22 is held by a nonprofit corporation, it shall be restricted to consumption  
23 on the premises only. A Class C license may have a sampling designation  
24 restricting consumption on the premises to sampling, but such designation  
25 shall not affect sales for consumption off the premises under such  
26 license;

27 (iv) Class D: Alcoholic liquor, including beer, for consumption off  
28 the premises, sales in the original packages only, except as provided in  
29 subdivision (6)(a)(vi) of this section and subsection (2) of section  
30 53-123.04;

31 (v) Class I: Alcoholic liquor, for consumption on the premises; and

1 (vi) Class J: Alcoholic liquor, including beer, for consumption off  
2 the premises, sales in the original packages only, for a retail licensee  
3 whose annual gross revenue from the sale of alcohol does not exceed  
4 twenty percent of the licensee's total annual gross revenue from all  
5 retail sales.

6 (b) All applicable license fees shall be paid by the applicant or  
7 licensee directly to the city or village treasurer in the case of  
8 premises located inside the corporate limits of a city or village and  
9 directly to the county treasurer in the case of premises located outside  
10 the corporate limits of a city or village.

11 (7) There shall be four types of shipping licenses as described in  
12 section 53-123.15: Manufacturers, vintage wines, manufacture direct  
13 sales, and retail direct sales.

14 (8) There shall be two types of wholesale licenses: Alcoholic liquor  
15 and beer only. The annual fee shall be paid for the first and each  
16 additional wholesale place of business operated in this state by the same  
17 licensee and wholesaling the same product.

18 (9) There shall be a bottle club license. All applicable license  
19 fees shall be paid by the applicant or licensee directly to the city or  
20 village treasurer in the case of premises located inside the corporate  
21 limits of a city or village and directly to the county treasurer in the  
22 case of premises located outside the corporate limits of a city or  
23 village.

24 (10) ~~(9)~~ The license year, unless otherwise provided in the Nebraska  
25 Liquor Control Act, shall commence on May 1 of each year and shall end on  
26 the following April 30, except that the license year for a Class C  
27 license shall commence on November 1 of each year and shall end on the  
28 following October 31. During the license year, no license shall be issued  
29 for a sum less than the amount of the annual license fee as fixed in  
30 section 53-124.01, regardless of the time when the application for such  
31 license has been made, except that (a) when there is a purchase of an

1 existing licensed business and a new license of the same class is issued  
2 or (b) upon the issuance of a new license for a location which has not  
3 been previously licensed, the license fee and occupation taxes shall be  
4 prorated on a quarterly basis as of the date of issuance.

5 Sec. 12. Section 53-124.01, Revised Statutes Cumulative Supplement,  
6 2016, is amended to read:

7 53-124.01 (1) The fees for annual licenses finally issued by the  
8 commission shall be as provided in this section and section 53-124.

9 (2) Airline license ... \$100

10 (3) Boat license ... \$50

11 (4) Bottle club license ... \$300

12 (5) (4) Manufacturer's license:

13 Class	Fee - In Dollars
14 Alcohol and spirits	1,000
15 Beer - tier one	100
16 Beer - tier two	200
17 Beer - tier three	350
18 Beer - tier four	500
19 Beer - tier five	650
20 Beer - tier six	700
21 Beer - tier seven	800
22 Wine	250

23 (6) (5) Nonbeverage user's license:

24 Class	Fee - In Dollars
25 Class 1	5
26 Class 2	25
27 Class 3	50
28 Class 4	100
29 Class 5	250

30 (7) (6) Operator's license:

1	Class	Fee - In Dollars
2	Craft brewery	250
3	Farm winery	250
4	Microdistillery	250
5	<del>(8)</del> <del>(7)</del> Pedal-pub vehicle license ...	\$50
6	<del>(9)</del> <del>(8)</del> Railroad license ...	\$100
7	<del>(10)</del> <del>(9)</del> Retail license:	
8	Class	Fee - In Dollars
9	Class A	100
10	Class B	100
11	Class C	300
12	Class D	200
13	Class I	250
14	Class J	50
15	<del>(11)</del> <del>(10)</del> Shipping license:	
16	Class	Fee - In Dollars
17	Manufacturer	1,000
18	Vintage wines	1,000
19	Manufacture direct sales	500
20	Retail direct sales	500
21	<del>(12)</del> <del>(11)</del> Wholesale license:	
22	Class	Fee - In Dollars
23	Alcoholic liquor	750
24	Beer	500
25	Sec. 13. Section 53-129, Revised Statutes Cumulative Supplement,	
26	2016, is amended to read:	
27	53-129 Retail, <u>bottle club</u> , craft brewery, and microdistillery	
28	licenses issued under the Nebraska Liquor Control Act apply only to that	
29	part of the premises described in the application approved by the	
30	commission and in the license issued on the application. For retail,	

1 bottle club, and microdistillery licenses, only one location shall be  
2 described in each license. For craft brewery licenses, up to five  
3 separate physical locations may be described in each license. After such  
4 license has been granted for particular premises, the commission, with  
5 the approval of the local governing body and upon proper showing, may  
6 endorse upon the license permission to add to, delete from, or abandon  
7 the premises described in such license and, if applicable, to move from  
8 the premises to other premises approved by it, but in order to obtain  
9 such approval the retail, bottle club, craft brewery, or microdistillery  
10 licensee shall file with the local governing body a request in writing  
11 and a statement under oath which shows that the premises as added to or  
12 deleted from or to which such move is to be made comply in all respects  
13 with the requirements of the act. No such addition, deletion, or move  
14 shall be made by any such licensee until the license has been endorsed to  
15 that effect in writing by the local governing body and by the commission  
16 and the licensee furnishes proof of payment of the renewal fee prescribed  
17 in subsection (4) of section 53-131.

18 Sec. 14. Section 53-131, Revised Statutes Cumulative Supplement,  
19 2016, is amended to read:

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

23 (a) An application upon forms prescribed by the commission,  
24 including the information required by subsection (3) of this section for  
25 an application to operate a cigar shop;

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 shop shall be one thousand dollars.



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

14           (3) For an application to operate a cigar shop, the application  
15 shall include proof of the cigar shop's annual gross revenue as requested  
16 by the commission and such other information as requested by the  
17 commission to establish the intent to operate as a cigar shop. The  
18 commission may adopt and promulgate rules and regulations to regulate  
19 cigar shops. The rules and regulations existing on August 1, 2014,  
20 applicable to cigar bars shall apply to cigar shops until amended or  
21 repealed by the commission.

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

26           Sec. 15. Section 53-132, Revised Statutes Cumulative Supplement,  
27 2016, is amended to read:

28           53-132 (1) If no hearing is required pursuant to subdivision (1)(a)  
29 or (b) of section 53-133 and the commission has no objections pursuant to  
30 subdivision (1)(c) of such section, the commission may waive the forty-  
31 five-day objection period and, if not otherwise prohibited by law, cause

1 a retail license, bottle club license, craft brewery license, or  
2 microdistillery license to be signed by its chairperson, attested by its  
3 executive director over the seal of the commission, and issued in the  
4 manner provided in subsection (4) of this section as a matter of course.

5 (2) A retail license, bottle club license, craft brewery license, or  
6 microdistillery license may be issued to any qualified applicant if the  
7 commission finds that (a) the applicant is fit, willing, and able to  
8 properly provide the service proposed within the city, village, or county  
9 where the premises described in the application are located, (b) the  
10 applicant can conform to all provisions and requirements of and rules and  
11 regulations adopted pursuant to the Nebraska Liquor Control Act, (c) the  
12 applicant has demonstrated that the type of management and control to be  
13 exercised over the premises described in the application will be  
14 sufficient to insure that the licensed business can conform to all  
15 provisions and requirements of and rules and regulations adopted pursuant  
16 to the act, and (d) the issuance of the license is or will be required by  
17 the present or future public convenience and necessity.

18 (3) In making its determination pursuant to subsection (2) of this  
19 section the commission shall consider:

20 (a) The recommendation of the local governing body;

21 (b) The existence of a citizens' protest made in accordance with  
22 section 53-133;

23 (c) The existing population of the city, village, or county and its  
24 projected growth;

25 (d) The nature of the neighborhood or community of the location of  
26 the proposed licensed premises;

27 (e) The existence or absence of other retail licenses, bottle club  
28 licenses, craft brewery licenses, or microdistillery licenses with  
29 similar privileges within the neighborhood or community of the location  
30 of the proposed licensed premises and whether, as evidenced by  
31 substantive, corroborative documentation, the issuance of such license

1 would result in or add to an undue concentration of licenses with similar  
2 privileges and, as a result, require the use of additional law  
3 enforcement resources;

4 (f) The existing motor vehicle and pedestrian traffic flow in the  
5 vicinity of the proposed licensed premises;

6 (g) The adequacy of existing law enforcement;

7 (h) Zoning restrictions;

8 (i) The sanitation or sanitary conditions on or about the proposed  
9 licensed premises; and

10 (j) Whether the type of business or activity proposed to be operated  
11 in conjunction with the proposed license is and will be consistent with  
12 the public interest.

13 (4) Retail licenses, bottle club licenses, craft brewery licenses,  
14 or microdistillery licenses issued or renewed by the commission shall be  
15 mailed or delivered to the clerk of the city, village, or county who  
16 shall deliver the same to the licensee upon receipt from the licensee of  
17 proof of payment of (a) the license fee if by the terms of subsection (6)  
18 of section 53-124 the fee is payable to the treasurer of such city,  
19 village, or county, (b) any fee for publication of notice of hearing  
20 before the local governing body upon the application for the license, (c)  
21 the fee for publication of notice of renewal as provided in section  
22 53-135.01, and (d) occupation taxes, if any, imposed by such city,  
23 village, or county except as otherwise provided in subsection (6) of this  
24 section. Notwithstanding any ordinance or charter power to the contrary,  
25 no city, village, or county shall impose an occupation tax on the  
26 business of any person, firm, or corporation licensed under the act and  
27 doing business within the corporate limits of such city or village or  
28 within the boundaries of such county in any sum which exceeds two times  
29 the amount of the license fee required to be paid under the act to obtain  
30 such license.

31 (5) Each license shall designate the name of the licensee, the place

1 of business licensed, and the type of license issued.

2 (6) Class J retail licensees shall not be subject to occupation  
3 taxes under subsection (4) of this section.

4 Sec. 16. Section 53-133, Revised Statutes Cumulative Supplement,  
5 2016, is amended to read:

6 53-133 (1) The commission shall set for hearing before it any  
7 application for a retail license, bottle club license, craft brewery  
8 license, or microdistillery license relative to which it has received:

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

12 (b) Within ten days after the receipt of a recommendation from the  
13 city, village, or county, or, if no recommendation is received, within  
14 forty-five days after the date of receipt of such application by the  
15 city, village, or county clerk, objections in writing by not less than  
16 three persons residing within such city, village, or county, protesting  
17 the issuance of the license. Withdrawal of the protest does not prohibit  
18 the commission from conducting a hearing based upon the protest as  
19 originally filed and making an independent finding as to whether the  
20 license should or should not be issued;

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

25 (d) An indication on the application that the location of a proposed  
26 retail or bottle club establishment is within one hundred fifty feet of a  
27 church as described in subsection (2) of section 53-177 and a written  
28 request by the church for a hearing.

29 (2) Hearings upon such applications shall be in the following  
30 manner: Notice indicating the time and place of such hearing shall be  
31 mailed or electronically delivered to the applicant, the local governing

1 body, each individual protesting a license pursuant to subdivision (1)(b)  
2 of this section, and any church affected as described in subdivision (1)  
3 (d) of this section, at least fifteen days prior to such hearing. The  
4 notice shall state that the commission will receive evidence for the  
5 purpose of determining whether to approve or deny the application.  
6 Mailing or electronic delivery to the attorney of record of a party shall  
7 be deemed to fulfill the purposes of this section. The commission may  
8 receive evidence, including testimony and documentary evidence, and may  
9 hear and question witnesses concerning the application. The commission  
10 shall not use electronic delivery with respect to an applicant, a  
11 protestor, or a church under this section without the consent of the  
12 recipient to electronic delivery.

13 Sec. 17. Section 53-134, Revised Statutes Cumulative Supplement,  
14 2016, is amended to read:

15 53-134 The local governing body of any city or village with respect  
16 to licenses within its corporate limits and the local governing body of  
17 any county with respect to licenses not within the corporate limits of  
18 any city or village but within the county shall have the following  
19 powers, functions, and duties with respect to retail, bottle club, craft  
20 brewery, microdistillery, and entertainment district licenses:

21 (1) To cancel or revoke for cause retail, craft brewery,  
22 microdistillery, or entertainment district licenses to sell or dispense  
23 alcoholic liquor or bottle club licenses, issued to persons for premises  
24 within its jurisdiction, subject to the right of appeal to the  
25 commission;

26 (2) To enter or to authorize any law enforcement officer to enter at  
27 any time upon any premises licensed under the Nebraska Liquor Control Act  
28 to determine whether any provision of the act, any rule or regulation  
29 adopted and promulgated pursuant to the act, or any ordinance,  
30 resolution, rule, or regulation adopted by the local governing body has  
31 been or is being violated and at such time examine the premises of such

1 licensee in connection with such determination. Any law enforcement  
2 officer who determines that any provision of the act, any rule or  
3 regulation adopted and promulgated pursuant to the act, or any ordinance,  
4 resolution, rule, or regulation adopted by the local governing body has  
5 been or is being violated shall report such violation in writing to the  
6 executive director of the commission (a) within thirty days after  
7 determining that such violation has occurred, (b) within thirty days  
8 after the conclusion of an ongoing police investigation, or (c) within  
9 thirty days after the verdict in a prosecution related to such an ongoing  
10 police investigation if the prosecuting attorney determines that  
11 reporting such violation prior to the verdict would jeopardize such  
12 prosecution, whichever is later;

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

19 (4) To receive retail license fees, bottle club license fees, craft  
20 brewery license fees, and microdistillery license fees as provided in  
21 sections 53-124 and 53-124.01 and entertainment district license fees as  
22 provided in section 53-123.17 and pay the same, after the license has  
23 been delivered to the applicant, to the city, village, or county  
24 treasurer;

25 (5) To examine or cause to be examined any applicant or any retail  
26 licensee, bottle club licensee, craft brewery licensee, microdistillery  
27 licensee, or entertainment district licensee upon whom notice of  
28 cancellation or revocation has been served as provided in the act, to  
29 examine or cause to be examined the books and records of any applicant or  
30 licensee except as otherwise provided for bottle club licensees in  
31 section 4 of this act, and to hear testimony and to take proof for its

1 information in the performance of its duties. For purposes of obtaining  
2 any of the information desired, the local governing body may authorize  
3 its agent or attorney to act on its behalf;

4 (6) To cancel or revoke on its own motion any license if, upon the  
5 same notice and hearing as provided in section 53-134.04, it determines  
6 that the licensee has violated any of the provisions of the act or any  
7 valid and subsisting ordinance, resolution, rule, or regulation duly  
8 enacted, adopted, and promulgated relating to alcoholic liquor. Such  
9 order of cancellation or revocation may be appealed to the commission  
10 within thirty days after the date of the order by filing a notice of  
11 appeal with the commission. The commission shall handle the appeal in the  
12 manner provided for hearing on an application in section 53-133; and

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

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

4 Sec. 18. Section 53-134.01, Revised Statutes Cumulative Supplement,  
5 2016, is amended to read:

6 53-134.01 (1) The holder of a Class C license may obtain a limited  
7 bottling endorsement for such license as prescribed in this section. The  
8 endorsement shall be issued for the same period and may be renewed in the  
9 same manner as the Class C license. A limited bottling endorsement may  
10 not be used in conjunction with a special designated license.

11 (2) A licensee desiring to obtain a limited bottling endorsement for  
12 a license shall file with the commission an application upon such forms  
13 as the commission prescribes and a fee of three hundred dollars payable  
14 to the commission.

15 (3) The holder of a limited bottling endorsement may sell beer for  
16 consumption off the licensed premises in sealed containers filled as  
17 provided in this subsection if:

18 (a) The sale occurs on the licensed premises of the licensee during  
19 the hours the licensee is authorized to sell beer;

20 (b) The licensee uses sanitary containers purchased by the customer  
21 from the licensee or exchanged for containers previously purchased by the  
22 customer from the licensee. The containers shall prominently display the  
23 endorsement holder's trade name or logo or some other mark that is unique  
24 to the endorsement holder and shall hold no more than sixty-four ~~thirty-~~  
25 ~~two~~ ounces;

26 (c) The licensee seals the container in a manner designed so that it  
27 is visibly apparent whether the sealed container has been tampered with  
28 or opened or seals the container and places the container in a bag  
29 designed so that it is visibly apparent whether the sealed container has  
30 been tampered with or opened; and

31 (d) The licensee provides a dated receipt to the customer and



1 attaches a copy of the dated receipt to the sealed container or, if the  
2 sealed container is placed in a bag, to the bag.

3 Sec. 19. Section 53-134.03, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 53-134.03 The governing bodies of cities and villages are authorized  
6 to regulate by ordinance, not inconsistent with the Nebraska Liquor  
7 Control Act, the business of all retail, bottle club, craft brewery, or  
8 microdistillery licensees carried on within the corporate limits of the  
9 city or village.

10 Sec. 20. Section 53-134.04, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 53-134.04 Any five residents of the city or village shall have the  
13 right to file a complaint with the local governing body of such city or  
14 village stating that any retail licensee or bottle club licensee subject  
15 to the jurisdiction of such local governing body has been or is violating  
16 any provision of the Nebraska Liquor Control Act or the rules or  
17 regulations issued pursuant to the act. Such complaint shall be in  
18 writing in the form prescribed by the local governing body and shall be  
19 signed and sworn to by the parties complaining. The complaint shall state  
20 the particular provision, rule, or regulation believed to have been  
21 violated and the facts in detail upon which belief is based. If the local  
22 governing body is satisfied that the complaint substantially charges a  
23 violation and that from the facts alleged there is reasonable cause for  
24 such belief, it shall set the matter for hearing within ten days from the  
25 date of the filing of the complaint and shall serve notice upon the  
26 licensee of the time and place of such hearing and of the particular  
27 charge in the complaint. The complaint shall in all cases be disposed of  
28 by the local governing body within thirty days from the date the  
29 complaint was filed by resolution thereof, which resolution shall be  
30 deemed the final order for purposes of appeal to the commission as  
31 provided in section 53-1,115.

1           Sec. 21. Section 53-135, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3           53-135 A retail or bottle club license issued by the commission and  
4 outstanding may be automatically renewed by the commission without formal  
5 application upon payment of the renewal fee and license fee if payable to  
6 the commission prior to or within thirty days after the expiration of the  
7 license. The payment shall be an affirmative representation and  
8 certification by the licensee that all answers contained in an  
9 application, if submitted, would be the same in all material respects as  
10 the answers contained in the last previous application. The commission  
11 may at any time require a licensee to submit an application, and the  
12 commission shall at any time require a licensee to submit an application  
13 if requested in writing to do so by the local governing body.

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

17           Sec. 22. Section 53-135.01, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19           53-135.01 The city, village, or county clerk shall cause to be  
20 published in a legal newspaper in or of general circulation in such city,  
21 village, or county, one time between January 10 and January 30 of each  
22 year, individual notice of the right of automatic renewal of each retail  
23 liquor and beer license and each bottle club license, except that notice  
24 of the right of automatic renewal of Class C licenses shall be published  
25 between the dates of July 10 and July 30 of each year within such city,  
26 village, or county, in substantially the following form:

27           NOTICE OF RENEWAL OF RETAIL LIQUOR OR BOTTLE CLUB LICENSE

28           Notice is hereby given pursuant to section 53-135.01 that a liquor  
29 license [or bottle club license] may be automatically renewed for one  
30 year from May 1, 20...., or November 1, 20...., for the following retail  
31 liquor [or bottle club] licensee:

1 (Name of Licensee) (Address of licensed premises)

2 Notice is hereby given that written protests to the issuance of  
3 automatic renewal of license may be filed by any resident of the city  
4 (village or county) on or before February 10, 20...., or August 10,  
5 20...., in the office of the city (village or county) clerk and that in  
6 the event protests are filed by three or more such persons, hearing will  
7 be had to determine whether continuation of the license should be  
8 allowed.

9 (Name)

10 City (village or county) Clerk

11 Upon the conclusion of any hearing required by this section, the  
12 local governing body may request a licensee to submit an application as  
13 provided in section 53-135.

14 Sec. 23. Section 53-138.01, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 53-138.01 The State Treasurer shall credit three hundred ninety-five  
17 dollars of each four-hundred-dollar application fee and forty dollars of  
18 each forty-five-dollar application fee and each renewal fee to the  
19 General Fund and the remaining five dollars to the Nebraska Liquor  
20 Control Commission Rule and Regulation Cash Fund to be used for providing  
21 licensees with materials pursuant to section 53-117.05. All retail and  
22 bottle club license fees received by the city or village treasurer, as  
23 the case may be, shall inure to the school fund of the district lying  
24 wholly or partially within the corporate limits of such city or village.  
25 Except as otherwise provided in section 53-123.15, the State Treasurer  
26 shall distribute license fees received by the commission for licenses  
27 issued pertaining to alcoholic liquor, including beer, in accordance with  
28 Article VII, section 5, of the Constitution of Nebraska. All retail and  
29 bottle club license fees received by the county treasurer, as provided in  
30 section 53-124, shall be credited to the school fund of the county.

31 Sec. 24. Section 53-148.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 53-148.01 Any retail or bottle club licensee shall post in a  
3 conspicuous place a sign which clearly reads as follows: Warning:  
4 Drinking alcoholic beverages during pregnancy can cause birth defects.  
5 The commission shall prescribe the form of such warning sign and shall  
6 make such warning signs available to all retail and bottle club  
7 licensees.

8 Sec. 25. Section 53-177, Revised Statutes Cumulative Supplement,  
9 2016, is amended to read:

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

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

29 Sec. 26. Section 53-177.01, Revised Statutes Cumulative Supplement,  
30 2016, is amended to read:

31 53-177.01 (1) No alcoholic liquor shall be sold for consumption on

1 the premises within three hundred feet from the campus of any college or  
2 university in the state, except that this section:

3 (a) Does not prohibit a nonpublic college or university from  
4 contracting with an individual or corporation holding a license to sell  
5 alcoholic liquor at retail for the purpose of selling alcoholic liquor at  
6 retail on the campus of such college or university at events sanctioned  
7 by such college or university but does prohibit the sale of alcoholic  
8 liquor at retail by such licensee on the campus of such nonpublic college  
9 or university at student activities or events; and

10 (b) Does not prohibit sales of alcoholic liquor by a community  
11 college culinary education program pursuant to section 53-124.15.

12 (2) Except as otherwise provided in subsection (4) of this section,  
13 the commission may waive the three-hundred-foot restriction in subsection  
14 (1) of this section taking into consideration one or more of the  
15 following:

16 (a) The impact of retail sales of alcoholic liquor for consumption  
17 on the premises on the academic mission of the college or university;

18 (b) The impact on students and prospective students if such sales  
19 were permitted on or near campus;

20 (c) The impact on economic development opportunities located within  
21 or in proximity to the campus; and

22 (d) The waiver would likely reduce the number of applications for  
23 special designated licenses requested by the college or university or its  
24 designee.

25 (3) To apply for a waiver under this section, the applicant shall  
26 submit a written application to the commission. The commission shall  
27 notify the governing body of the affected college or university when the  
28 commission receives an application for a waiver. The application shall  
29 include:

30 (a) The address of the location for which the waiver is requested;

31 (b) The name and type of business for which the waiver is requested;

1 and

2 (c) A description of the justification for the waiver explaining how  
3 the proposed location complies with the findings prescribed in subsection  
4 (2) of this section.

5 (4) The commission shall not waive the three-hundred-foot  
6 restriction in subsection (1) of this section without written approval  
7 from the governing body of the college or university or its designee if  
8 the physical location of the property which is the subject of the  
9 requested waiver is (a) surrounded by property owned by the college or  
10 university including any public or private easement, street, or right-of-  
11 way adjacent to the property owned by the college or university or (b)  
12 adjacent to property on two or more sides owned by the college or  
13 university including any public or private easement, street, or right-of-  
14 way adjacent to the property owned by the college or university.

15 (5) No bottle club shall be operated within three hundred feet from  
16 the campus of any college or university in the state.

17 Sec. 27. Section 53-186.01, Revised Statutes Cumulative Supplement,  
18 2016, is amended to read:

19 53-186.01 (1) It shall be unlawful for any person owning, operating,  
20 managing, or conducting any bottle club, dance hall, restaurant, cafe, or  
21 club or any place open to the general public to permit or allow any  
22 person to consume alcoholic liquor upon the premises except as permitted  
23 by a license issued for such premises pursuant to the Nebraska Liquor  
24 Control Act.

25 (2) It shall be unlawful for any person to consume alcoholic liquor  
26 in any bottle club, dance hall, restaurant, cafe, or club or any place  
27 open to the general public except as permitted by a license issued for  
28 such premises pursuant to the act.

29 (3) This section shall not apply to a retail licensee while lawfully  
30 engaged in the catering of alcoholic beverages or to limousines or buses  
31 operated under section 60-6,211.08.

1 (4) Any person violating subsection (1) of this section shall, upon  
2 conviction thereof, be subject to the penalties contained in section  
3 53-1,100.

4 (5) Any person violating subsection (2) of this section shall be  
5 guilty of a Class III misdemeanor.

6 Sec. 28. Section 53-1,100, Revised Statutes Cumulative Supplement,  
7 2016, is amended to read:

8 53-1,100 (1) Any person (a) who imports alcoholic liquor for  
9 distribution as a wholesaler or distributes or sells alcoholic liquor at  
10 any place within the state without having first obtained a valid license  
11 to do so under the Nebraska Liquor Control Act, (b) who manufactures  
12 alcoholic liquor other than spirits within the state without having first  
13 obtained a valid license to do so under the act, (c) who makes any false  
14 statement or otherwise violates any of the provisions of the act in  
15 obtaining any license under the act, (d) who, having obtained a license  
16 under the act, violates any of the provisions of the act with respect to  
17 the manufacture, possession, distribution, or sale of alcoholic liquor or  
18 with respect to the maintenance of the licensed premises, or (e) who  
19 violates any other provision of the act for which a penalty is not  
20 otherwise provided, shall for a first offense be guilty of a Class IV  
21 misdemeanor and for a second or subsequent offense shall be guilty of a  
22 Class II misdemeanor.

23 (2) Any person who manufactures spirits at any place within the  
24 state without having first obtained a valid license to do so under the  
25 act shall be guilty of a Class I misdemeanor for a first offense and a  
26 Class IV felony for a second or subsequent offense.

27 (3) Each day any person engages in business as a manufacturer,  
28 wholesaler, ~~or~~ retailer, or bottle club in violation of the act shall  
29 constitute a separate offense.

30 (4) In any prosecution in which a person is charged with an offense  
31 arising out of the failure to obtain a valid license as provided in

1 subdivision (1)(a) or (b) or subsection (2) of this section, evidence of  
2 the failure of the accused to produce such license upon demand shall  
3 constitute prima facie proof that a license has not been issued by the  
4 commission to such person.

5 Sec. 29. Section 53-1,115, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 53-1,115 (1) A copy of the rule, regulation, order, or decision of  
8 the commission denying an application or suspending, canceling, or  
9 revoking a license or of any notice required by any proceeding before it,  
10 certified under the seal of the commission, shall be served upon each  
11 party of record to the proceeding before the commission. Service upon any  
12 attorney of record for any such party shall be deemed to be service upon  
13 such party. Each party appearing before the commission shall enter his or  
14 her appearance and indicate to the commission his or her address for such  
15 service. The mailing of a copy of any rule, regulation, order, or  
16 decision of the commission or of any notice by the commission, in the  
17 proceeding, to such party at such address shall be deemed to be service  
18 upon such party.

19 (2) Within thirty days after the service of any rule, regulation,  
20 order, or decision of the commission denying an application or  
21 suspending, canceling, or revoking any license upon any party to the  
22 proceeding, as provided for by subsection (1) of this section, such party  
23 may apply for a rehearing with respect to any matters determined by the  
24 commission. The commission shall receive and consider such application  
25 for a rehearing within thirty days after its filing with the executive  
26 director of the commission. If such application for rehearing is granted,  
27 the commission shall proceed as promptly as possible to consider the  
28 matters presented by such application. No appeal shall be allowed from  
29 any decision of the commission except as provided in section 53-1,116.

30 (3) Upon final disposition of any proceeding, costs shall be paid by  
31 the party or parties against whom a final decision is rendered. Costs may



1 be taxed or retaxed to local governing bodies as well as individuals.  
2 Only one rehearing referred to in subsection (2) of this section shall be  
3 granted by the commission on application of any one party.

4 (4) For purposes of this section, party of record means:

5 (a) In the case of an administrative proceeding before the  
6 commission on the application for a retail, bottle club, craft brewery,  
7 or microdistillery license:

8 (i) The applicant;

9 (ii) Each individual protesting the issuance of such license  
10 pursuant to subdivision (1)(b) of section 53-133;

11 (iii) The local governing body if it is entering an appearance to  
12 protest the issuance of the license or if it is requesting a hearing  
13 pursuant to subdivision (1)(c) of section 53-133; and

14 (iv) The commission;

15 (b) In the case of an administrative proceeding before a local  
16 governing body to cancel or revoke a retail, bottle club, craft brewery,  
17 or microdistillery license:

18 (i) The licensee; and

19 (ii) The local governing body; and

20 (c) In the case of an administrative proceeding before the  
21 commission to suspend, cancel, or revoke a retail, bottle club, craft  
22 brewery, or microdistillery license:

23 (i) The licensee; and

24 (ii) The commission.

25 Sec. 30. Section 59-1401, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 59-1401 Sections 59-1401 to 59-1406 and sections 31 and 33 to 37 of  
28 this act shall be known and may be cited as the Music Licensing Agency  
29 Act. As used in sections 59-1401 to 59-1406, person means any individual,  
30 resident or nonresident of this state, and every domestic, foreign, or  
31 alien partnership, limited liability company, society, association, or

1 ~~corporation and the words performing rights refer to public performance~~  
2 ~~for profit.~~

3 Sec. 31. For purposes of the Music Licensing Agency Act:

4 (1) Copyright owner means the owner of a copyright of a nondramatic  
5 musical work recognized and enforceable under the copyright laws of the  
6 United States pursuant to 17 U.S.C. 101 et seq., as such sections existed  
7 on January 1, 2018, and does not include the owner of a copyright in a  
8 motion picture or audiovisual work or in part of a motion picture or  
9 audiovisual work;

10 (2) Music licensing agency means an association or corporation that  
11 licenses the public performance of nondramatic musical works on behalf of  
12 copyright owners;

13 (3) Performing right means the right to perform a copyrighted  
14 nondramatic musical work publicly for profit;

15 (4) Person means any individual, resident or nonresident of this  
16 state, and every domestic, foreign, or alien partnership, limited  
17 liability company, society, association, corporation, or music licensing  
18 agency;

19 (5) Proprietor means the owner of a retail establishment,  
20 restaurant, inn, bar, tavern, sports or entertainment facility, or other  
21 similar place of business or professional office located in this state in  
22 which the public may assemble and in which nondramatic musical works or  
23 similar copyrighted works may be performed, broadcast, or otherwise  
24 transmitted for the enjoyment of members of the public there assembled;  
25 and

26 (6) Royalty means the fees payable to a copyright owner for a  
27 performing right.

28 Sec. 32. Section 59-1403, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 59-1403 ~~There From and after August 10, 1945,~~ there is hereby  
31 levied and there shall be collected a tax for the act or privilege of

1 selling, licensing, or otherwise disposing in this state of performing  
2 rights in any musical composition, which has been copyrighted under the  
3 laws of the United States, in an amount equal to three percent of the  
4 gross receipts of all such sales, licenses, or other dispositions of  
5 performing rights in this state, payable to the Department of Revenue  
6 ~~Secretary of State on or before March 15, 1946, with respect to all such~~  
7 ~~gross receipts for the portion of the calendar year 1945 from August 10,~~  
8 ~~1945, and annually thereafter,~~ on or before March 15 of each succeeding  
9 year with respect to the gross receipts of the preceding calendar year.  
10 ~~At the time of paying the said tax the Secretary of State shall issue a~~  
11 ~~receipt therefor in duplicate, one of which shall be given to the~~  
12 ~~taxpayer and one filed with the State Treasurer at the time the tax~~  
13 ~~collected is paid by the Secretary of State to the state treasury. The~~  
14 ~~department~~ Secretary of State shall adopt and promulgate publish rules  
15 and regulations not in conflict with this section herewith, as well as a  
16 form of return and any other forms necessary to carry out the provisions  
17 of this section.

18       Sec. 33. (1) Beginning January 1, 2019, a music licensing agency  
19 shall not license or attempt to license the use of or collect or attempt  
20 to collect any compensation with regard to any sale, license, or other  
21 disposition of a performing right unless the music licensing agency  
22 registers and files annually, on or before February 15, with the  
23 Department of Revenue an electronic copy of each variation of the  
24 performing-rights agreement providing for the payment of royalties made  
25 available from the music licensing agency to any proprietor within this  
26 state. The registration shall be valid for the calendar year. The  
27 department shall impose a fine for failure to renew or register in the  
28 amount of ten thousand dollars for each forty-five-day period which has  
29 passed since February 15 of the registration year if a music licensing  
30 agency fails to renew a registration or engages in business without  
31 registration.

1       (2) Each registered music licensing agency shall make available  
2 electronically to proprietors the most current available list of members  
3 and affiliates represented by the music licensing agency and the most  
4 current available list of the performed works that the music licensing  
5 agency licenses.

6       Sec. 34. (1) Beginning January 1, 2019, no music licensing agency  
7 may enter into, or offer to enter into, a contract for the payment of  
8 royalties by a proprietor unless at least seventy-two hours prior to the  
9 execution of that contract it provides to the proprietor or the  
10 proprietor's employees, in writing, the following:

11       (a) A schedule of the rates and terms of royalties under the  
12 contract; and

13       (b) Notice that the proprietor is entitled to the information filed  
14 with the Department of Revenue pursuant to section 33 of this act.

15       (2) Beginning January 1, 2019, a contract for the payment of  
16 royalties executed in this state shall:

17       (a) Be in writing;

18       (b) Be signed by the parties; and

19       (c) Include, at least, the following information:

20       (i) The proprietor's name and business address;

21       (ii) The name and location of each place of business to which the  
22 contract applies;

23       (iii) The duration of the contract; and

24       (iv) The schedule of rates and terms of the royalties to be  
25 collected under the contract, including any sliding scale or schedule for  
26 any increase or decrease of those rates for the duration of the contract.

27       Sec. 35. (1) Beginning January 1, 2019, before seeking payment or a  
28 contract for payment of royalties for the use of copyrighted works by  
29 that proprietor, a representative or agent for a music licensing agency  
30 shall identify himself or herself to the proprietor or the proprietor's  
31 employees, disclose that he or she is acting on behalf of a music

1 licensing agency, and disclose the purpose for being on the premises.

2 (2) A representative or agent of a music licensing agency shall not:

3 (a) Use obscene, abusive, or profane language when communicating  
4 with a proprietor or his or her employees;

5 (b) Communicate by telephone or in person with a proprietor other  
6 than at the proprietor's place of business during the hours when the  
7 proprietor's business is open to the public unless otherwise authorized  
8 by the proprietor or the proprietor's agents, employees, or  
9 representatives;

10 (c) Engage in any coercive conduct, act, or practice that is  
11 substantially disruptive to a proprietor's business;

12 (d) Use or attempt to use any unfair or deceptive act or practice in  
13 negotiating with a proprietor; or

14 (e) Communicate with an unlicensed proprietor about licensing  
15 performances of musical works at the proprietor's establishment after  
16 receiving notification in writing from an attorney representing the  
17 proprietor that all further communications related to the licensing of  
18 the proprietor's establishment by the music licensing agency should be  
19 addressed to the attorney. However, the music licensing agency may resume  
20 communicating directly with the proprietor if the attorney fails to  
21 respond to communications from the music licensing agency within sixty  
22 days or the attorney becomes nonresponsive for a period of sixty days or  
23 more.

24 Sec. 36. The Department of Revenue shall inform proprietors of  
25 their rights and responsibilities regarding the public performance of  
26 copyrighted music as part of the business licensing service.

27 Sec. 37. Nothing in the Music Licensing Agency Act may be construed  
28 to prohibit a music licensing agency from conducting an investigation to  
29 determine the existence of music use by a proprietor's business or  
30 informing a proprietor of the proprietor's obligations under the  
31 copyright laws of the United States pursuant to 17 U.S.C. 101 et seq., as

1 such sections existed on January 1, 2018.

2 Sec. 38. Section 59-1404, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 59-1404 Upon compliance with the Music Licensing Agency Act,  
5 ~~provisions of sections 59-1401 to 59-1406~~ the copyright owner, and his or  
6 her proprietors, ~~their~~ assigns and licensees, of a nondramatic musical  
7 work compositions copyrighted under the laws of the United States shall  
8 be entitled to all the benefits thereof.

9 Sec. 39. Section 59-1405, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 59-1405 All music licensing agencies ~~persons~~ who sell, license the  
12 use of, or in any manner whatsoever dispose of, in this state, the  
13 performing rights in or to any copyrighted musical composition shall  
14 refrain from discriminating in price or terms between licensees similarly  
15 situated, except ; ~~Provided, however,~~ that differentials based upon  
16 applicable business factors which justify different prices or terms shall  
17 not be considered discriminations within the meaning of this section.  
18 Nothing ; ~~and provided further, that nothing~~ contained in this section  
19 shall prevent price changes from time to time by reason of changing  
20 conditions affecting the market for or marketability of performing  
21 rights.

22 Sec. 40. Section 59-1406, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 59-1406 Any person violating the Music Licensing Agency Act ~~sections~~  
25 ~~59-1401 to 59-1406~~ shall be fined an amount not less than five ~~one~~  
26 hundred dollars and not more than two ~~one~~ thousand dollars. Multiple  
27 violations on a single day may be considered separate violations.

28 Sec. 41. If any section in this act or any part of any section is  
29 declared invalid or unconstitutional, the declaration shall not affect  
30 the validity or constitutionality of the remaining portions.

31 Sec. 42. Original sections 53-116.01, 53-116.02, 53-119.01,

1 53-134.03, 53-134.04, 53-135.01, 53-138.01, 53-148.01, 53-1,115, 59-1401,  
2 59-1403, 59-1404, 59-1405, and 59-1406, Reissue Revised Statutes of  
3 Nebraska, and sections 53-101, 53-103, 53-117, 53-123, 53-123.15, 53-124,  
4 53-124.01, 53-129, 53-131, 53-132, 53-133, 53-134, 53-134.01, 53-135,  
5 53-177, 53-177.01, 53-186.01, and 53-1,100, Revised Statutes Cumulative  
6 Supplement, 2016, are repealed.