

AMENDMENTS TO LB1056

(Amendments to Standing Committee amendments, AM2595)

Introduced by Briese, 41.

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

3           Section 1. Section 9-426, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           9-426 (1) A licensed organization may obtain from the department a  
6 special permit to conduct one raffle and one lottery. The cost of the  
7 special permit shall be ten dollars. The special permit shall exempt the  
8 licensed organization from subsections (2) and (3) of section 9-427 and  
9 from section 9-430. The organization shall comply with all other  
10 requirements of the Nebraska Lottery and Raffle Act.

11           (2) The special permit shall be valid for one year ~~three calendar~~  
12 ~~months~~ and shall be issued by the department upon the proper application  
13 by the licensed organization. The special permit shall become invalid  
14 upon termination, revocation, or cancellation of the organization's  
15 license to conduct a lottery or raffle. The application shall be in such  
16 form and contain such information as the department may prescribe. ~~No~~  
17 ~~licensed organization may obtain more than one special permit for each~~  
18 ~~twelve-month period commencing October 1 of each year or such other date~~  
19 ~~as the department may prescribe by rule and regulation.~~

20           (3) No licensed organization conducting a raffle or lottery pursuant  
21 to a special permit shall pay persons selling tickets or stubs for the  
22 raffle or lottery, except that nothing in this subsection shall prohibit  
23 the awarding of prizes to such persons based on ticket or stub sales.

24           Sec. 2. Section 9-429, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26           9-429 Any licensed organization or any other organization or person

1 conducting a lottery or raffle activity required to be licensed pursuant  
2 to the Nebraska Lottery and Raffle Act shall pay to the department a tax  
3 of two percent of the gross proceeds of each lottery having gross  
4 proceeds of more than one thousand dollars or raffle having gross  
5 proceeds of more than five thousand dollars. Such tax shall be remitted  
6 ~~annually by September 30 each year quarterly, within thirty days of the~~  
7 ~~end of the quarter,~~ on forms approved and provided by the department. The  
8 department shall remit the tax to the State Treasurer for credit to the  
9 Charitable Gaming Operations Fund. All deficiencies of the tax imposed by  
10 this section shall accrue interest and be subject to a penalty as  
11 provided for sales and use taxes in the Nebraska Revenue Act of 1967.

12 Sec. 3. Section 9-431, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 9-431 Each licensed organization conducting a lottery or raffle  
15 conducted pursuant to the Nebraska Lottery and Raffle Act shall have its  
16 name and identification number clearly printed on each lottery or raffle  
17 ticket or stub used in such lottery or raffle. No such ticket or stub  
18 shall be sold unless such name and identification number is so printed  
19 thereon. In addition, all lottery or raffle tickets or stubs shall bear a  
20 number, which numbers shall be in sequence and clearly printed on the  
21 ticket or stub.

22 Each ticket or stub shall have an equal chance of being chosen in  
23 the drawing. Each ticket or stub shall be constructed of the same  
24 material, shall have the same surface, and shall be substantially the  
25 same shape, size, form and weight.

26 Each licensed organization conducting a lottery or raffle shall keep  
27 a record of all locations where its tickets or stubs are sold. In  
28 addition to other authorized sales, a licensed organization conducting a  
29 raffle conducted pursuant to the Nebraska Lottery and Raffle Act may also  
30 sell tickets or stubs for such raffles on its web site and at events, and  
31 such tickets or stubs may be purchased using a debit card online on the

1 web site and at events in addition to other authorized methods of  
2 payment.

3 Sec. 4. Section 53-123.11, Revised Statutes Supplement, 2019, is  
4 amended to read:

5 53-123.11 (1) A farm winery license shall entitle the holder to:

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

9 (b) Sell wines produced at the farm winery at retail for consumption  
10 on the premises as designated pursuant to section 53-123.12;

11 (c) Permit a customer to remove one unsealed bottle of wine for  
12 consumption off the premises. The licensee or his or her agent shall (i)  
13 securely reseal such bottle and place the bottle in a bag designed so  
14 that it is visibly apparent that the resealed bottle of wine has not been  
15 opened or tampered with and (ii) provide a dated receipt to the customer  
16 and attach to such bag a copy of the dated receipt for the resealed  
17 bottle of wine. If the resealed bottle of wine is transported in a motor  
18 vehicle, it must be placed in the trunk of the motor vehicle or the area  
19 behind the last upright seat of such motor vehicle if the area is not  
20 normally occupied by the driver or a passenger and the motor vehicle is  
21 not equipped with a trunk;

22 (d) Ship wines produced at the farm winery by common carrier and  
23 sold at retail to recipients in and outside the State of Nebraska, if the  
24 output of such farm winery for each calendar year as reported to the  
25 commission by December 31 of each year does not exceed thirty thousand  
26 gallons. In the event such amount exceeds thirty thousand gallons, the  
27 farm winery shall be required to use a licensed wholesaler to distribute  
28 its wines for the following calendar year, except that this requirement  
29 shall not apply to wines produced and sold onsite at the farm winery  
30 pursuant to subdivision (1)(a) of this section;

31 (e) Allow sampling and sale of the wine at the farm winery and at

1 four branch outlets in the state in reasonable amounts;

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

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

10 (h) Store and warehouse products produced at the farm winery in a  
11 designated, secure, offsite storage facility if the holder of the farm  
12 winery license notifies the commission of the location of the facility  
13 and maintains, at the farm winery and at the facility, a separate  
14 perpetual inventory of the product stored at the facility. Consumption of  
15 alcoholic liquor at the facility is strictly prohibited.

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

18 (3) A farm winery may manufacture and sell hard cider on its  
19 licensed premises. A farm winery shall not otherwise distribute the hard  
20 cider it manufactures except by sale to a wholesaler licensed under the  
21 Nebraska Liquor Control Act.

22 (4) A holder of a farm winery license may obtain a special  
23 designated license pursuant to section 53-124.11.

24 (5) A holder of a farm winery license may obtain an annual catering  
25 license pursuant to section 53-124.12.

26 Sec. 5. Section 53-123.12, Revised Statutes Cumulative Supplement,  
27 2018, is amended to read:

28 53-123.12 (1) Any person desiring to obtain a new license to operate  
29 a farm winery shall:

30 (a) File an application with the commission in triplicate original  
31 upon such forms as the commission from time to time prescribes;

1 (b) Pay the license fee to the commission under sections 53-124 and  
2 53-124.01, which fee shall be returned to the applicant if the  
3 application is denied; and

4 (c) Pay the nonrefundable application fee to the commission in the  
5 sum of four hundred dollars.

6 (2) To renew a farm winery license, a farm winery licensee shall  
7 file an application with the commission, pay the license fee under  
8 sections 53-124 and 53-124.01, and pay the renewal fee of forty-five  
9 dollars.

10 (3) License fees, application fees, and renewal fees may be paid to  
11 the commission by certified or cashier's check of a bank within this  
12 state, personal or business check, United States post office money order,  
13 or cash in the full amount of such fees.

14 (4) For a new license, the commission shall then notify the  
15 municipal clerk of the city or incorporated village where such license is  
16 sought or, if the license is not sought within a city or incorporated  
17 village, the county clerk of the county where such license is sought of  
18 the receipt of the application and shall include with such notice one  
19 copy of the application. No such license shall then be issued by the  
20 commission until the expiration of at least forty-five days from the date  
21 of receipt by mail or electronic delivery of such application from the  
22 commission. Within thirty-five days from the date of receipt of such  
23 application from the commission, the local governing bodies of nearby  
24 cities or villages or the county may make and submit to the commission  
25 recommendations relative to the granting of or refusal to grant such  
26 license to the applicant.

27 (5)(a) A farm winery licensee may apply to the local governing body  
28 for a temporary expansion of the licensed premises to an immediately  
29 adjacent area owned or leased by the licensee or to an immediately  
30 adjacent street, parking lot, or alley, not to exceed fifteen days per  
31 calendar year. The temporary area shall comply with the Nebraska Liquor

1 Control Act for consumption on the premises and shall be subject to the  
2 following conditions: (i) The temporary area shall be enclosed during the  
3 temporary expansion by a temporary fence or other means approved by the  
4 county, city, or village; (ii) the temporary area shall have easily  
5 identifiable entrances and exits; and (iii) the licensee shall ensure  
6 that the area meets all sanitation requirements for a licensed premises.  
7 The local governing body shall electronically notify the commission  
8 within five days after the authorization of any temporary expansion  
9 pursuant to this subsection.

10 (b) The licensee shall file an application with the local governing  
11 body which shall contain (i) the name of the applicant, (ii) the premises  
12 for which a temporary expansion is requested, identified by street and  
13 number if practicable and, if not, by some other appropriate description  
14 which definitely locates the premises, (iii) the name of the owner or  
15 lessee of the premises for which the temporary expansion is requested,  
16 (iv) sufficient evidence that the licensee will carry on the activities  
17 and business authorized by the license for himself, herself, or itself  
18 and not as the agent of any other person, group, organization, or  
19 corporation, for profit or not for profit, (v) a statement of the type of  
20 activity to be carried on during the time period for which a temporary  
21 expansion is requested, and (vi) sufficient evidence that the temporary  
22 expansion will be supervised by persons or managers who are agents of and  
23 directly responsible to the licensee.

24 (c) No temporary expansion provided for by this subsection shall be  
25 granted without the approval of the local governing body. The local  
26 governing body may establish criteria for approving or denying a  
27 temporary expansion. The local governing body may designate an agent to  
28 determine whether a temporary expansion is to be approved or denied. Such  
29 agent shall follow criteria established by the local governing body in  
30 making the determination. The determination of the agent shall be  
31 considered the determination of the local governing body unless otherwise

1 provided by the local governing body.

2 (d) For purposes of this section, the local governing body shall be  
3 that of the city or village within which the premises for which the  
4 temporary expansion is requested are located or, if such premises are not  
5 within the corporate limits of a city or village, then the local  
6 governing body shall be that of the county within which the premises for  
7 which the temporary expansion is requested are located.

8 (e) The decision of the local governing body shall be final. If the  
9 applicant does not qualify for a temporary expansion, the temporary  
10 expansion shall be denied by the local governing body.

11 (f) The city, village, or county clerk shall deliver confirmation of  
12 the temporary expansion to the licensee upon receipt of any fee or tax  
13 imposed by such city, village, or county.

14 Sec. 6. Section 53-129, Revised Statutes Cumulative Supplement,  
15 2018, is amended to read:

16 53-129 (1) Except as otherwise provided in subsection (3) of this  
17 section, retail Retail, bottle club, craft brewery, and microdistillery  
18 licenses issued under the Nebraska Liquor Control Act apply only to that  
19 part of the premises described in the application approved by the  
20 commission and in the license issued on the application. For retail,  
21 bottle club, and microdistillery licenses, only one location shall be  
22 described in each license. For craft brewery licenses, up to five  
23 separate physical locations may be described in each license.

24 (2) After such license has been granted for the particular premises,  
25 the commission, with the approval of the local governing body and upon  
26 proper showing, may endorse upon the license permission to add to, delete  
27 from, or abandon the premises described in such license and, if  
28 applicable, to move from the premises to other premises approved by the  
29 local governing body. In it, ~~but in~~ order to obtain such approval, the  
30 retail, bottle club, craft brewery, or microdistillery licensee shall  
31 file with the local governing body a request in writing and a statement

1 under oath which shows that the premises, as added to or deleted from or  
2 to which such move is to be made, comply in all respects with the  
3 requirements of the act. No such addition, deletion, or move shall be  
4 made by any such licensee until the license has been endorsed to that  
5 effect in writing by the local governing body and by the commission and  
6 the licensee furnishes proof of payment of the renewal fee prescribed in  
7 subsection (4) of section 53-131.

8 (3)(a) A retail, bottle club, craft brewery, or microdistillery  
9 licensee may apply to the local governing body for a temporary expansion  
10 of its licensed premises to an immediately adjacent area owned or leased  
11 by the licensee or to an immediately adjacent street, parking lot, or  
12 alley, not to exceed fifteen days per calendar year. The temporary area  
13 shall otherwise comply with all requirements of the Nebraska Liquor  
14 Control Act.

15 (b) The licensee shall file an application with the local governing  
16 body which shall contain (i) the name of the applicant, (ii) the premises  
17 for which a temporary expansion is requested, identified by street and  
18 number if practicable and, if not, by some other appropriate description  
19 which definitely locates the premises, (iii) the name of the owner or  
20 lessee of the premises for which the temporary expansion is requested,  
21 (iv) sufficient evidence that the licensee will carry on the activities  
22 and business authorized by the license for himself, herself, or itself  
23 and not as the agent of any other person, group, organization, or  
24 corporation, for profit or not for profit, (v) a statement of the type of  
25 activity to be carried on during the time period for which a temporary  
26 expansion is requested, and (vi) sufficient evidence that the temporary  
27 expansion will be supervised by persons or managers who are agents of and  
28 directly responsible to the licensee.

29 (c) No temporary expansion provided for by this subsection shall be  
30 granted without the approval of the local governing body. The local  
31 governing body may establish criteria for approving or denying a



1 temporary expansion. The local governing body may designate an agent to  
2 determine whether a temporary expansion is to be approved or denied. Such  
3 agent shall follow criteria established by the local governing body in  
4 making the determination. The determination of the agent shall be  
5 considered the determination of the local governing body unless otherwise  
6 provided by the local governing body.

7 (d) For purposes of this section, the local governing body shall be  
8 that of the city or village within which the premises for which the  
9 temporary expansion is requested are located or, if such premises are not  
10 within the corporate limits of a city or village, then the local  
11 governing body shall be that of the county within which the premises for  
12 which the temporary expansion is requested are located.

13 (e) The decision of the local governing body shall be final. If the  
14 applicant does not qualify for a temporary expansion, the temporary  
15 expansion shall be denied by the local governing body.

16 (f) The city, village, or county clerk shall deliver confirmation of  
17 the temporary expansion to the licensee upon receipt of any fee or tax  
18 imposed by such city, village, or county.

19 Sec. 7. Section 53-134, Revised Statutes Cumulative Supplement,  
20 2018, is amended to read:

21 53-134 The local governing body of any city or village with respect  
22 to licenses within its corporate limits and the local governing body of  
23 any county with respect to licenses not within the corporate limits of  
24 any city or village but within the county shall have the following  
25 powers, functions, and duties with respect to retail, bottle club, craft  
26 brewery, microdistillery, and entertainment district licenses:

27 (1) To cancel or revoke for cause retail, craft brewery,  
28 microdistillery, or entertainment district licenses to sell or dispense  
29 alcoholic liquor or bottle club licenses, issued to persons for premises  
30 within its jurisdiction, subject to the right of appeal to the  
31 commission;

1           (2) To enter or to authorize any law enforcement officer to enter at  
2 any time upon any premises licensed under the Nebraska Liquor Control Act  
3 to determine whether any provision of the act, any rule or regulation  
4 adopted and promulgated pursuant to the act, or any ordinance,  
5 resolution, rule, or regulation adopted by the local governing body has  
6 been or is being violated and at such time examine the premises of such  
7 licensee in connection with such determination. Any law enforcement  
8 officer who determines that any provision of the act, any rule or  
9 regulation adopted and promulgated pursuant to the act, or any ordinance,  
10 resolution, rule, or regulation adopted by the local governing body has  
11 been or is being violated shall report such violation in writing to the  
12 executive director of the commission (a) within thirty days after  
13 determining that such violation has occurred, (b) within thirty days  
14 after the conclusion of an ongoing police investigation, or (c) within  
15 thirty days after the verdict in a prosecution related to such an ongoing  
16 police investigation if the prosecuting attorney determines that  
17 reporting such violation prior to the verdict would jeopardize such  
18 prosecution, whichever is later;

19           (3) To receive a signed complaint from any citizen within its  
20 jurisdiction that any provision of the act, any rule or regulation  
21 adopted and promulgated pursuant to the act, or any ordinance,  
22 resolution, rule, or regulation relating to alcoholic liquor has been or  
23 is being violated and to act upon such complaints in the manner provided  
24 in the act;

25           (4) To receive retail license fees, bottle club license fees, craft  
26 brewery license fees, and microdistillery license fees as provided in  
27 sections 53-124 and 53-124.01 and entertainment district license fees as  
28 provided in section 53-123.17 and pay the same, after the license has  
29 been delivered to the applicant, to the city, village, or county  
30 treasurer;

31           (5) To examine or cause to be examined any applicant or any retail

1 licensee, bottle club licensee, craft brewery licensee, microdistillery  
2 licensee, or entertainment district licensee upon whom notice of  
3 cancellation or revocation has been served as provided in the act, to  
4 examine or cause to be examined the books and records of any applicant or  
5 licensee except as otherwise provided for bottle club licensees in  
6 section 53-123.08, and to hear testimony and to take proof for its  
7 information in the performance of its duties. For purposes of obtaining  
8 any of the information desired, the local governing body may authorize  
9 its agent or attorney to act on its behalf;

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

19 (7) Upon receipt from the commission of the notice and copy of  
20 application as provided in section 53-131, to fix a time and place for a  
21 hearing at which the local governing body shall receive evidence, either  
22 orally or by affidavit from the applicant and any other person, bearing  
23 upon the propriety of the issuance of a license. Notice of the time and  
24 place of such hearing shall be published in a legal newspaper in or of  
25 general circulation in such city, village, or county one time not less  
26 than seven and not more than fourteen days before the time of the  
27 hearing. Such notice shall include, but not be limited to, a statement  
28 that all persons desiring to give evidence before the local governing  
29 body in support of or in protest against the issuance of such license may  
30 do so at the time of the hearing. Such hearing shall be held not more  
31 than forty-five days after the date of receipt of the notice from the

1 commission, and after such hearing the local governing body shall cause  
2 to be recorded in the minute record of their proceedings a resolution  
3 recommending either issuance or refusal of such license. The clerk of  
4 such city, village, or county shall mail to the commission by first-class  
5 mail, postage prepaid, a copy of the resolution which shall state the  
6 cost of the published notice, except that failure to comply with this  
7 provision shall not void any license issued by the commission. If the  
8 commission refuses to issue such a license, the cost of publication of  
9 notice shall be paid by the commission from the security for costs; and -

10 (8) To review and authorize an application by a retail, bottle club,  
11 craft brewery, farm winery, or microdistillery licensee for a temporary  
12 expansion of its licensed premises within the jurisdiction of the local  
13 governing body to an immediately adjacent area owned or leased by the  
14 licensee or to an immediately adjacent street, parking lot, or alley, not  
15 to exceed fifteen days per calendar year, as provided in sections  
16 53-123.12 and 53-129.

17 Sec. 8. Original sections 9-426, 9-429, and 9-431, Reissue Revised  
18 Statutes of Nebraska, sections 53-123.12, 53-129, and 53-134, Revised  
19 Statutes Cumulative Supplement, 2018, and section 53-123.11, Revised  
20 Statutes Supplement, 2019, are repealed.