

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 592**

Introduced by Briese, 41.

Read first time January 23, 2019

Committee: General Affairs

- 1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Commission; to
- 2 amend section 53-1,104, Revised Statutes Cumulative Supplement,
- 3 2018; to provide additional powers to suspend sales of alcoholic
- 4 liquor; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-1,104, Revised Statutes Cumulative Supplement,  
2 2018, is amended to read:

3 53-1,104 (1) Any licensee which sells or permits the sale of any  
4 alcoholic liquor not authorized under the terms of such license on the  
5 licensed premises or in connection with such licensee's business or  
6 otherwise shall be subject to suspension, cancellation, or revocation of  
7 such license by the commission.

8 (2) When an order suspending a license to sell alcoholic liquor  
9 becomes final, the licensee may elect to pay a cash penalty to the  
10 commission in lieu of suspending sales of alcoholic liquor for the  
11 designated period if such election is not prohibited by order of the  
12 commission. Except as otherwise provided in subsection (3) of this  
13 section, for the first such suspension for any licensee, the penalty  
14 shall be fifty dollars per day, and for a second or any subsequent  
15 suspension, the penalty shall be one hundred dollars per day.

16 (3)(a) For a second suspension for violation of the Nebraska Liquor  
17 Control Act section 53-180 or 53-180.02 occurring within four years after  
18 the date of the first suspension, the commission, in its discretion, may  
19 order that the licensee be required to suspend sales of alcoholic liquor  
20 for a period of time not to exceed forty-eight hours and that the  
21 licensee may not elect to pay a cash penalty. The commission may use the  
22 required suspension of sales of alcoholic liquor penalty either alone or  
23 in conjunction with suspension periods for which the licensee may elect  
24 to pay a cash penalty. ~~For purposes of this subsection, second suspension~~  
25 ~~for violation of section 53-180 shall include suspension for a violation~~  
26 ~~of section 53-180.02 following suspension for a violation of section~~  
27 ~~53-180 and second suspension for violation of section 53-180.02 shall~~  
28 ~~include suspension for a violation of section 53-180 following suspension~~  
29 ~~for a violation of section 53-180.02;~~

30 (b) For a third or subsequent suspension for violation of section  
31 53-180 or 53-180.02 occurring within four years after the date of the

1 first suspension, the commission, in its discretion, may order that the  
2 licensee be required to suspend sales of alcoholic liquor for a period of  
3 time not to exceed fifteen days and that the licensee may not elect to  
4 pay a cash penalty. The commission may use the required suspension of  
5 sales of alcoholic liquor penalty either alone or in conjunction with  
6 suspension periods for which the licensee may elect to pay a cash  
7 penalty. For purposes of this subsection, third or subsequent suspension  
8 for violation of section 53-180 shall include suspension for a violation  
9 of section 53-180.02 following suspension for a violation of section  
10 53-180 and third or subsequent suspension for violation of section  
11 53-180.02 shall include suspension for a violation of section 53-180  
12 following suspension for a violation of section 53-180.02; and

13 (c) For a first suspension based upon a finding that a licensee or  
14 an employee or agent of the licensee has been convicted of possession of  
15 a gambling device on a licensee's premises in violation of sections  
16 28-1107 to 28-1111, the commission, in its discretion, may order that the  
17 licensee be required to suspend sales of alcoholic liquor for thirty days  
18 and that the licensee may not elect to pay a cash penalty. For a second  
19 or subsequent suspension for such a violation of sections 28-1107 to  
20 28-1111 occurring within four years after the date of the first  
21 suspension, the commission shall order that the license be canceled.

22 (4) For any licensee which has no violation for a period of four  
23 years consecutively, any suspension shall be treated as a new first  
24 suspension.

25 (5) The election provided for in subsection (2) of this section  
26 shall be filed with the commission in writing one week before the  
27 suspension is ordered to commence and shall be accompanied by payment in  
28 full of the sum required by this section. If such election has not been  
29 received by the commission by the close of business one week before the  
30 day such suspension is ordered to commence, it shall be conclusively  
31 presumed that the licensee has elected to close for the period of the

1 suspension and any election received later shall be absolutely void and  
2 the payment made shall be returned to the licensee. The election shall be  
3 made on a form prescribed by the commission. The commission shall remit  
4 all funds collected under this section to the State Treasurer for  
5 distribution in accordance with Article VII, section 5, of the  
6 Constitution of Nebraska.

7 (6) Recognizing that suspension of the license of a licensee  
8 domiciled outside of the state poses unique enforcement difficulties, the  
9 commission may, at its discretion, mandate that a licensee domiciled  
10 outside of the state pay the cash penalty found in subsection (2) of this  
11 section rather than serve the suspension.

12 Sec. 2. Original section 53-1,104, Revised Statutes Cumulative  
13 Supplement, 2018, is repealed.