

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 460

Introduced by Nordquist, 7.

Read first time January 20, 2015

Committee:

1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 sections 53-117.07, 53-125, and 53-130, Reissue Revised Statutes of
3 Nebraska, and sections 53-101, 53-103, 53-117, 53-123, 53-124, and
4 53-124.01, Revised Statutes Cumulative Supplement, 2014; to provide
5 for licensure for charter bus services, limousine services, and
6 pedal-pub vehicles; to define a term; to provide for procedures and
7 fees; to harmonize provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

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

3 53-101 Sections 53-101 to 53-1,122 and sections 3, 7, and 8 of this
4 act shall be known and may be cited as the Nebraska Liquor Control Act.

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

7 53-103 For purposes of the Nebraska Liquor Control Act, the
8 definitions found in sections 53-103.01 to 53-103.43 and section 3 of
9 this act apply.

10 Sec. 3. Pedal-pub vehicle means a multi-passenger, human-powered
11 vehicle.

12 Sec. 4. Section 53-117, Revised Statutes Cumulative Supplement,
13 2014, is amended to read:

14 53-117 The commission has the following powers, functions, and
15 duties:

16 (1) To receive applications for and to issue licenses to and
17 suspend, cancel, and revoke licenses of manufacturers, wholesalers,
18 nonbeverage users, retailers, railroads including owners and lessees of
19 sleeping, dining, and cafe cars, airlines, ~~and~~ boats, charter bus
20 services, limousine services, and pedal-pub vehicles in accordance with
21 the Nebraska Liquor Control Act;

22 (2) To fix by rules and regulations the standards of manufacture of
23 alcoholic liquor not inconsistent with federal laws in order to insure
24 the use of proper ingredients and methods in the manufacture and
25 distribution thereof and to adopt and promulgate rules and regulations
26 not inconsistent with federal laws for the proper labeling of containers,
27 barrels, casks, or other bulk containers or of bottles of alcoholic
28 liquor manufactured or sold in this state. The Legislature intends, by
29 the grant of power to adopt and promulgate rules and regulations, that
30 the commission have broad discretionary powers to govern the traffic in
31 alcoholic liquor and to enforce strictly all provisions of the act in the

1 interest of sanitation, purity of products, truthful representations, and
2 honest dealings in a manner that generally will promote the public health
3 and welfare. All such rules and regulations shall be absolutely binding
4 upon all licensees and enforceable by the commission through the power of
5 suspension or cancellation of licenses, except that all rules and
6 regulations of the commission affecting a club possessing any form of
7 retail license shall have equal application to all such licenses or shall
8 be void;

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

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

22 (5) To inspect or cause to be inspected any premises where alcoholic
23 liquor is manufactured, distributed, or sold and, when sold on unlicensed
24 premises or on any premises in violation of law, to bring an action to
25 enjoin the use of the property for such purpose;

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

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

30 (8) In the conduct of any hearing or audit authorized to be held by
31 the commission (a) to examine or cause to be examined, under oath, any

1 licensee and to examine or cause to be examined the books and records of
2 such licensee, (b) to hear testimony and take proof material for its
3 information in the discharge of its duties under the act, and (c) to
4 administer or cause to be administered oaths;

5 (9) To investigate the administration of laws in relation to
6 alcoholic liquor in this and other states and to recommend to the
7 Governor and through him or her to the Legislature amendments to the act;
8 and

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

11 Sec. 5. Section 53-117.07, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 53-117.07 All proceedings for the suspension, cancellation, or
14 revocation of licenses of manufacturers, wholesalers, nonbeverage users,
15 craft breweries, microdistilleries, railroads, airlines, shippers, ~~and~~
16 boats, charter bus services, limousine services, and pedal-pub vehicles
17 shall be before the commission, and the proceedings shall be in
18 accordance with rules and regulations adopted and promulgated by it not
19 inconsistent with law. No such license shall be so suspended, canceled,
20 or revoked except after a hearing by the commission with reasonable
21 notice to the licensee and opportunity to appear and defend.

22 Sec. 6. Section 53-123, Revised Statutes Cumulative Supplement,
23 2014, is amended to read:

24 53-123 Licenses issued by the commission shall be of the following
25 types: (1) Manufacturer's license; (2) alcoholic liquor wholesale
26 license, except beer; (3) beer wholesale license; (4) retail license; (5)
27 railroad license; (6) airline license; (7) boat license; (8) nonbeverage
28 user's license; (9) farm winery license; (10) craft brewery license; (11)
29 shipping license; (12) special designated license; (13) catering license;
30 (14) microdistillery license; ~~and~~ (15) entertainment district license,
31 (16) charter bus service license, (17) limousine service license, and

1 (18) pedal-pub vehicle license.

2 Sec. 7. (1) The commission may issue a license to any person
3 holding a certificate of public convenience and necessity issued by the
4 Public Service Commission to operate a charter bus service or limousine
5 service which authorizes the holder thereof to allow the consumption of
6 alcoholic liquor in its charter buses or limousines by individuals who
7 are twenty-one years of age or older. Each licensee shall keep a
8 duplicate of such license posted in each charter bus or limousine where
9 such alcoholic liquor is consumed.

10 (2) Each license shall expire on April 30 of each year. Each license
11 shall be good throughout this state as a state license. Only one license
12 shall be required for all charter buses or limousines operated in this
13 state by the same owner. No further license shall be required or tax
14 levied by any county, city, or village for the privilege of allowing
15 consumption of alcoholic liquor in such buses or limousines.

16 Sec. 8. (1) The commission may issue a license to a person to
17 operate a pedal-pub vehicle in this state which authorizes the holder
18 thereof to allow customers who are twenty-one years of age or older to
19 consume alcohol while they are operating a pedal-pub vehicle or
20 immediately prior to embarking on or after disembarking from a pedal-pub
21 vehicle. Each pedal-pub vehicle operator shall keep a duplicate of such
22 license posted in each pedal-pub vehicle where such alcoholic liquor is
23 consumed.

24 (2) Each license shall expire on April 30 of each year. Each license
25 shall be good throughout this state as a state license. Only one license
26 shall be required for all pedal-pub vehicles operated in this state by
27 the same owner. No further license shall be required or tax levied by any
28 county, city, or village for the privilege of operating a pedal-pub
29 vehicle for the purpose of allowing the consumption of alcoholic liquor
30 while operating a pedal-pub vehicle or immediately prior to embarking on
31 or after disembarking from a pedal-pub vehicle.

1 Sec. 9. Section 53-124, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 53-124 (1) At the time application is made to the commission for a
4 license of any type, the applicant shall pay the fee provided in section
5 53-124.01 and, if the applicant is an individual, provide the applicant's
6 social security number. The commission shall issue the types of licenses
7 described in this section.

8 (2) There shall be an airline license, a boat license, a charter bus
9 service license, a limousine service license, a pedal-pub vehicle
10 license, and a railroad license. The commission shall charge one dollar
11 for each duplicate of an airline license, a charter bus service license,
12 a limousine service license, a pedal-pub vehicle license, or a railroad
13 license.

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

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

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

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

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

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

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

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

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

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

31 (5) In lieu of a manufacturer's, a retailer's, or a wholesaler's

1 license, there shall be a license to operate issued for a craft brewery,
2 a farm winery, or a microdistillery.

3 (6)(a) There shall be five classes of retail licenses:

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

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

7 (iii) Class C: Alcoholic liquor, for consumption on the premises and
8 off the premises, sales in original packages only. If a Class C license
9 is held by a nonprofit corporation, it shall be restricted to consumption
10 on the premises only. A Class C license may have a sampling designation
11 restricting consumption on the premises to sampling, but such designation
12 shall not affect sales for consumption off the premises under such
13 license;

14 (iv) Class D: Alcoholic liquor, including beer, for consumption off
15 the premises, sales in the original packages only, except as provided in
16 subsection (2) of section 53-123.04; and

17 (v) Class I: Alcoholic liquor, for consumption on the premises.

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

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

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

30 (9) The license year, unless otherwise provided in the Nebraska
31 Liquor Control Act, shall commence on May 1 of each year and shall end on

1 the following April 30, except that the license year for a Class C
2 license shall commence on November 1 of each year and shall end on the
3 following October 31. During the license year, no license shall be issued
4 for a sum less than the amount of the annual license fee as fixed in
5 section 53-124.01, regardless of the time when the application for such
6 license has been made, except that (a) when there is a purchase of an
7 existing licensed business and a new license of the same class is issued
8 or (b) upon the issuance of a new license for a location which has not
9 been previously licensed, the license fee and occupation taxes shall be
10 prorated on a quarterly basis as of the date of issuance.

11 Sec. 10. Section 53-124.01, Revised Statutes Cumulative Supplement,
12 2014, is amended to read:

13 53-124.01 (1) The fees for annual licenses finally issued by the
14 commission shall be as provided in this section and section 53-124.

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

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

17 (4) Charter bus service license ... \$75

18 (5) Limousine service license ... \$75

19 (~~6~~ 4) Manufacturer's license:

20 Class	Fee - In Dollars
21 Alcohol and spirits	1,000
22 Beer - tier one	100
23 Beer - tier two	200
24 Beer - tier three	350
25 Beer - tier four	500
26 Beer - tier five	650
27 Beer - tier six	700
28 Beer - tier seven	800
29 Wine	250

30 (~~7~~ 5) Nonbeverage user's license:

31 Class	Fee - In Dollars
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1	Class 1	5
2	Class 2	25
3	Class 3	50
4	Class 4	100
5	Class 5	250
6	(8 6) Operator's license:	
7	Class	Fee - In Dollars
8	Craft brewery	250
9	Farm winery	250
10	Microdistillery	250
11	(9) Pedal-pub vehicle license ... \$50	
12	(10 7) Railroad license ... \$100	
13	(11 8) Retail license:	
14	Class	Fee - In Dollars
15	Class A	100
16	Class B	100
17	Class C	300
18	Class D	200
19	Class I	250
20	(12 9) Shipping license:	
21	Class	Fee - In Dollars
22	Manufacturer	1,000
23	Vintage wines	1,000
24	Manufacture direct sales	500
25	Retail direct sales	500
26	(13 10) Wholesale license:	
27	Class	Fee - In Dollars
28	Alcoholic liquor	750
29	Beer	500
30	Sec. 11. Section 53-125, Reissue Revised Statutes of Nebraska, is	

1 amended to read:

2 53-125 No license of any kind shall be issued to (1) a person who is
3 not a resident of Nebraska, except in case of railroad, airline, ~~or boat,~~
4 charter bus service, or limousine service licenses, (2) a person who is
5 not of good character and reputation in the community in which he or she
6 resides, (3) a person who is not a citizen of the United States, (4) a
7 person who has been convicted of or has pleaded guilty to a felony under
8 the laws of this state, any other state, or the United States, (5) a
9 person who has been convicted of or has pleaded guilty to any Class I
10 misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10, 11, or 12, or
11 any similar offense under a prior criminal statute or in another state,
12 except that any additional requirements imposed by this subdivision on
13 May 18, 1983, shall not prevent any person holding a license on such date
14 from retaining or renewing such license if the conviction or plea
15 occurred prior to May 18, 1983, (6) a person whose license issued under
16 the Nebraska Liquor Control Act has been revoked for cause, (7) a person
17 who at the time of application for renewal of any license issued under
18 the act would not be eligible for such license upon initial application,
19 (8) a partnership, unless one of the partners is a resident of Nebraska
20 and unless all the members of such partnership are otherwise qualified to
21 obtain a license, (9) a limited liability company, if any officer or
22 director of the limited liability company or any member having an
23 ownership interest in the aggregate of more than twenty-five percent of
24 such company would be ineligible to receive a license under this section
25 for any reason other than the reasons stated in subdivisions (1) and (3)
26 of this section, or if a manager of a limited liability company licensee
27 would be ineligible to receive a license under this section for any
28 reason, (10) a corporation, if any officer or director of the corporation
29 or any stockholder owning in the aggregate more than twenty-five percent
30 of the stock of such corporation would be ineligible to receive a license
31 under this section for any reason other than the reasons stated in

1 subdivisions (1) and (3) of this section, or if a manager of a corporate
2 licensee would be ineligible to receive a license under this section for
3 any reason. This subdivision shall not apply to railroad licenses, (11) a
4 person whose place of business is conducted by a manager or agent unless
5 such manager or agent possesses the same qualifications required of the
6 licensee, (12) a person who does not own the premises for which a license
7 is sought or does not have a lease or combination of leases on such
8 premises for the full period for which the license is to be issued, (13)
9 except as provided in this subdivision, an applicant whose spouse is
10 ineligible under this section to receive and hold a liquor license. Such
11 applicant shall become eligible for a liquor license only if the
12 commission finds from the evidence that the public interest will not be
13 infringed upon if such license is granted. It shall be prima facie
14 evidence that when a spouse is ineligible to receive a liquor license the
15 applicant is also ineligible to receive a liquor license. Such prima
16 facie evidence shall be overcome if it is shown to the satisfaction of
17 the commission (a) that the licensed business will be the sole property
18 of the applicant and (b) that such licensed premises will be properly
19 operated, (14) a person seeking a license for premises which do not meet
20 standards for fire safety as established by the State Fire Marshal, (15)
21 a law enforcement officer, except that this subdivision shall not
22 prohibit a law enforcement officer from holding membership in any
23 nonprofit organization holding a liquor license or from participating in
24 any manner in the management or administration of a nonprofit
25 organization, or (16) a person less than twenty-one years of age.

26 When a trustee is the licensee, the beneficiary or beneficiaries of
27 the trust shall comply with the requirements of this section, but nothing
28 in this section shall prohibit any such beneficiary from being a minor or
29 a person who is mentally incompetent.

30 Sec. 12. Section 53-130, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 53-130 (1) New licenses to manufacturers, wholesalers, railroads,
2 airlines, boats, charter bus services, limousine services, pedal-pub
3 vehicles, and nonbeverage users of alcoholic liquor may be issued by the
4 commission upon (a) written application in duplicate filed in the manner
5 and on such forms as the commission prescribes and in which the applicant
6 for a beer wholesale license sets forth the sales territory in Nebraska
7 in which it is authorized by a manufacturer or manufacturers to sell
8 their brand or brands and the name of such brand or brands, (b) receipt
9 of bond, (c) payment in advance of the nonrefundable application fee of
10 forty-five dollars and the license fee, and (d) such notice and hearing
11 as the commission fixes by its own order.

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

16 (3) A license so issued may be renewed without formal application
17 upon payment of license fees and a renewal fee of forty-five dollars. The
18 payment of such fees shall be an affirmative representation and
19 certification by the licensee that all answers contained in an
20 application, if submitted, would be the same in all material respects as
21 the answers contained in the last previous application. The commission
22 may at any time require a licensee to submit an application.

23 Sec. 13. Original sections 53-117.07, 53-125, and 53-130, Reissue
24 Revised Statutes of Nebraska, and sections 53-101, 53-103, 53-117,
25 53-123, 53-124, and 53-124.01, Revised Statutes Cumulative Supplement,
26 2014, are repealed.