

LEGISLATIVE BILL 414

Approved by the Governor April 28, 1975

Introduced by Miscellaneous Subjects Committee, Anderson, 37, Chmn.; F. Lewis, 45; Skarda, 7; Barnett, 26; Murphy, 17

AN ACT to amend section 53-125, Reissue Revised Statutes of Nebraska, 1943, and section 53-124, Revised Statutes Supplement, 1974, relating to alcoholic liquors; to provide for the license fee and occupation tax when the expiration date of a class C license is converted; to provide for leases for less than the full period of the license; to provide for revocation; to specify certain requirements for licenses issued to municipal corporations or religious or fraternal nonprofit corporations; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 53-124, Revised Statutes Supplement, 1974, be amended to read as follows:

53-124. At the time application is made to the commission for a license of any class, the applicant shall pay the fee hereinafter provided. The fees for annual licenses finally issued by the commission shall be as follows:

- (1) For a license to manufacture alcohol and spirits ..... \$1,000.00;
- (2) For a license to manufacture beer and wine:
  - A. Beer, regardless of alcoholic content:
    - (a) 1 to 100 barrel daily capacity, or any part thereof ..... \$100.00
    - (b) 100 to 150 barrel daily capacity ..... 200.00
    - (c) 150 to 200 barrel daily capacity ..... 350.00
    - (d) 200 to 300 barrel daily capacity ..... 500.00
    - (e) 300 to 400 barrel daily capacity ..... 650.00
    - (f) 400 to 500 barrel daily capacity ..... 700.00
    - (g) 500 barrel daily capacity, or more ..... 800.00;

B. Wines ..... \$250.00;  
Provided, the words daily capacity, as used herein, shall mean the average daily barrel production for the previous twelve months of manufacturing operation; and provided further, if no such basis for comparison exists, the manufacturing licensee shall pay in advance for the first year's operation a fee of five hundred dollars;

- (3) Alcoholic liquor distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the same licensee and wholesaling or jobbing alcoholic liquors, except beer ..... \$500.00;
- (4) Beer distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the same licensee and wholesaling or jobbing beer only .....\$250.00;
- (5) For a retailer's license:

- A. Beer only, within the corporate limits of cities and villages, for consumption on the premises, regardless of alcoholic content, the sum of ten dollars in villages of five hundred population or less; twenty-five dollars in villages or cities, as the case may be, having a population of more than five hundred inhabitants and not more than twenty-five hundred inhabitants; fifty dollars in cities having a population of more than twenty-five hundred inhabitants and less than ten thousand inhabitants; and one hundred dollars in cities having a population of ten thousand inhabitants or more;
- B. Beer only, for consumption off the premises, regardless of alcoholic content, sales in the original packages only, the sum of twenty-five dollars;
- C. Alcoholic liquors within the corporate limits of cities and villages, for consumption on the premises and off the premises, sales in original packages only, the sum of two hundred and fifty dollars; Provided, this license held by a nonprofit corporation shall be restricted to consumption on the premises only;

- D. Alcoholic liquors, including beer, regardless of alcoholic content, within the corporate limits of cities and villages, for consumption off the premises, sales in the original packages only, the sum of one hundred and fifty dollars;
- E. Alcoholic liquors without the corporate limits of cities and villages, in counties mentioned in section 53-127, for consumption off the premises, sales in the original packages only, not less than one hundred and fifty dollars for each license;
- F. Beer only, regardless of alcoholic content, without the corporate limits of cities and villages, for consumption on the premises, not less than twenty-five dollars for each license, the precise amount in each case to be such sum as shall equal the amount of license fee herein fixed plus the occupation tax fixed by ordinance, if any, in the nearest incorporated city or village in the same county;
- G. Alcoholic liquors without the corporate limits of cities or villages in existing privately-owned recreation areas, on which are located hotels or motels to be licensed in which twenty-five or more rooms are used for the sleeping accommodations of guests and having one or more public dining rooms where meals are served and which are of sufficient size to serve at least one hundred patrons, which recreational areas shall have, after licensing, a principal business purpose or purposes other than the sale of alcoholic liquors and have at least one hundred sixty acres of real estate of the area under contiguous single ownership or lease, for consumption on the premises and off the premises, sales in original packages only, the sum of two hundred fifty dollars. The commission shall first find that the proposed licensed premises are a part of an existing recreational area of substantial size and operation and that such area does, in fact, have a recreational purpose; subsequent to this finding the commission shall then determine that the issuance of the proposed license would be in the public interest;

- H. Alcoholic liquors, including beer, issued to a nonprofit corporation, for consumption on the premises, which license shall not be issued to any corporation authorized by law to receive a license under the provisions of subdivision (5) C. of this section; Provided, that this provision shall not apply when the nonprofit corporation shall be open for sale of alcoholic liquors, including beer, for consumption on the premises not more than two days in any week:
- (a) Within the corporate limits of cities and villages, for consumption on the premises, regardless of alcoholic content, the sum of twenty dollars in villages of five hundred population or less; fifty dollars in villages or cities, as the case may be, having a population of more than five hundred inhabitants and not more than twenty-five hundred inhabitants; one hundred dollars in cities having a population of more than twenty-five hundred inhabitants and less than ten thousand inhabitants; and two hundred dollars in cities having a population of ten thousand inhabitants or more; and
- (b) Without the corporate limits of cities and villages, for consumption on the premises, not less than two hundred fifty dollars for each license, the precise amount in each case to be such sum as shall equal the amount of license fee herein fixed plus the occupation tax fixed by ordinance, if any, in the nearest incorporated city or village in the same county; Provided, that if the incorporated city or village does not have an occupation tax for nonprofit corporation licenses, then the licensee shall pay an amount equal to a class C license occupation tax for such city or village; and provided further, the applicable fee shall be paid by the applicant or licensee, as the case may be, directly to the city or village treasurer in the case of class A, C and H (a) licenses; directly to the city or village treasurer in the case of class B licenses within the corporate limits of cities and villages, directly to the county treasurer in the case of class B and H (b) licenses outside of the

corporate limits of cities and villages; directly to the commission in the case of class D and E licenses; and directly to the county treasurer in the case of class F and G licenses;

- I. Alcoholic liquors, including beer, issued for consumption on the premises, to a municipal corporation or religious or fraternal nonprofit corporation which has been exempted from payment of federal income taxes and does not hold a retail liquor license under this section. Such license shall be issued subject to the following conditions:
- (a) The license authorized in this subdivision shall not be applied for and used by the same municipal corporation or nonprofit corporation on more than three occasions in one calendar year;
  - (b) The license shall be valid only for the occasion or the date of such occasion indicated on the license and shall only be used on three calendar days in one calendar year;
  - (c) The fee for such license shall be twenty dollars for each such occasion and shall be submitted with the application for the license;
  - (d) The municipal corporation or nonprofit corporation seeking such license shall, at least thirty days prior to the occasion for which the license is required, file an application which shall include the date, time, and place of the occasion together with the required fee and such other information that may be required by the commission to determine if the applicant is qualified to receive such license; and
  - (e) The application shall be processed by the commission without the necessity of forwarding it to the local governing body or having a hearing thereon, nor shall the applicant be required to file a bond or lease. The application, if it meets the requirements of this subdivision, shall be approved and permission shall be granted and a license issued for use of the described premises, but all other statutory provisions and rules and regulations of the commission shall be applicable, except the provision of section 53-177

shall not apply to the applicant. If the application does not qualify for a license, it shall be denied by the commission.

- (6) For a railroad license ..... \$100.00  
and \$1.00 for each duplicate;
- (7) For a boating license ..... \$ 50.00
- (8) For a nonbeverage user's license:
  - Class 1 ..... \$ 5.00
  - Class 2 ..... 25.00
  - Class 3 ..... 50.00
  - Class 4 ..... 100.00
  - Class 5 ..... 250.00;
- (9) Bottle club license ..... \$250.00  
in any county having a population of less than five thousand five hundred inhabitants, and \$500.00 in any county having a population of five thousand five hundred inhabitants or more; provided, that no such license shall be issued within the corporate limits of any city or village when a license as provided in subdivision (5) C. of this section has been issued in such city or village; and
- (10) For an airline license ..... \$100.00  
and \$1.00 for each duplicate.

The license year, unless otherwise provided in this act, shall commence on May 1 of each year and shall end on the following April 30 except for class C licenses which shall commence on November 1 of each year and shall end on the following October 31. During the license year, no license shall be issued for a sum less than the amount of the annual license fee as fixed in this section, regardless of the time when the application for such license shall have been made, except that when a class C license is renewed only for the period of May 1 to October 31 to adjust the expiration date, only one half of the annual license fee shall be paid to the state and only one half of the local occupation tax shall be paid.

Sec. 2. That section 53-125, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-125. No license of any kind shall be issued to (1) a person who is not a resident of the county in which the premises covered by the license are located, except in case of railroad, airline, or boat licenses, (2) a person who is not of good character and reputation

in the community in which he resides, (3) a person who is not a citizen of the United States, (4) a person who has been convicted of or has pleaded guilty to a felony under the laws of the State of Nebraska, any other state, or of the United States, (5) a person who has been convicted of or has pleaded guilty to being the keeper of or is keeping a house of ill fame, (6) a person who has been convicted of or has pleaded guilty to being the proprietor of a gambling house, or of pandering or other crime or misdemeanor opposed to decency and morality, (7) a person whose license issued under this act has been revoked for cause, (8) a person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application, (9) a copartnership, unless one of the copartners is a resident of the county, in which the premises covered by the license is located, and unless all the members of such copartnership shall otherwise be qualified to obtain a license, (10) a corporation, if any officer, manager or director thereof, or any stockholder, owning in the aggregate more than twenty-five per cent of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship and residence within the governmental subdivision; provided, this subdivision shall not apply to railroad licenses; and provided further, that where the trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or a person who is mentally incompetent, (11) a person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee, (12) a person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued, but if, because of a change in the renewal period provided for in section 53-124, the lease is for less than the full period for which the license is to be issued, the license shall be issued and a new lease covering the remainder of the license period must be filed with the commission prior to expiration of the original lease or the license shall be revoked by the commission on ten days' written notice to the licensee, or (13) except for persons presently possessing a valid license issued by the commission, to a husband or wife, either as an individual, a partner, or as an officer or stockholder in a corporation if the spouse of such husband or wife is ineligible to secure a license in his or her own name.

Sec. 3. That original section 53-125, Reissue Revised Statutes of Nebraska, 1943, and section 53-124,

LB414

Revised Statutes Supplement, 1974, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.