

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1002

Introduced by Louden, 49; Ashford, 20; Coash, 27; Rogert, 16.

Read first time January 20, 2010

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue; to authorize state sales tax
2 revenue assistance derived from the sale of alcoholic
3 liquor for certain political subdivisions as prescribed;
4 to provide powers and duties for the Nebraska Liquor
5 Control Commission, the Tax Commissioner, the Department
6 of Revenue, and the State Treasurer; to define terms; and
7 to provide an operative date.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 7 of this act:

2 (1) Alcoholic liquor includes alcohol, spirits, wine,
3 and beer, as such terms are defined in section 53-103, and any
4 liquid or solid, patented or not, containing alcohol, spirits,
5 wine, or beer and capable of being consumed as a beverage by
6 a human being. Alcoholic liquor also includes confections or
7 candy with alcohol content of more than one-half of one percent
8 alcohol. Alcoholic liquor does not include (a) alcohol used in the
9 manufacture of denatured alcohol produced in accordance with acts
10 of Congress and regulations adopted and promulgated pursuant to
11 such acts, (b) flavoring extracts, syrups, medicinal, mechanical,
12 scientific, culinary, or toilet preparations, or food products
13 unfit for beverage purposes, except that alcoholic liquor used
14 in the manufacture, preparation, or compounding of such products
15 or confections or candy that contains more than one-half of one
16 percent alcohol shall be deemed to be alcoholic liquor, or (c)
17 wine purchased for use by any church or religious organization for
18 sacramental purposes;

19 (2) Census-designated place means a concentration of
20 population identified by the United States Department of Commerce,
21 Bureau of the Census, that lacks a separate municipal government
22 but otherwise physically resembles an incorporated city or village
23 and that is associated with an Indian reservation;

24 (3) Commission means the Nebraska Liquor Control
25 Commission;

1 (4) Indian reservation means a tract of land set apart by
2 the federal government for the use of the Native American people;
3 and

4 (5) Political subdivision means a city, village, or
5 county.

6 Sec. 2. Any political subdivision within a thirty-mile
7 radius of a census-designated place may annually apply to the
8 commission for state assistance under sections 1 to 7 of this act.
9 The state assistance shall be used for economic development, health
10 care, and law enforcement needs in such political subdivision. The
11 state assistance shall be derived from the state sales tax revenue
12 collected from retailers on the sale of alcoholic liquor within a
13 thirty-mile radius of the census-designated place.

14 Sec. 3. (1) All applications for state assistance under
15 sections 1 to 7 of this act shall be in writing, include a
16 certified copy of the approving action of the governing body of the
17 applicant describing the proposed use for the state assistance, and
18 be of such form and contain the content as the commission shall
19 prescribe.

20 (2) Upon receiving an application for state assistance,
21 the commission shall review the application and notify the
22 applicant of any additional information needed for a proper
23 evaluation of the application.

24 (3) Any state assistance received pursuant to sections 1
25 to 7 of this act shall be used only for public purposes.

1 Sec. 4. (1) After reviewing an application submitted
2 under section 3 of this act and upon reasonable notice to the
3 applicant, the commission shall hold a public hearing on the
4 application.

5 (2) The commission shall give notice of the time, place,
6 and purpose of the public hearing by publication three times in a
7 newspaper of statewide circulation. Such publication shall be not
8 less than ten days prior to the hearing. The notice shall describe
9 generally the use for which state assistance has been requested.
10 The applicant shall pay the cost of the notice.

11 (3) At the public hearing, representatives of the
12 applicant and any other interested persons may appear and present
13 evidence and argument in support of or in opposition to the
14 application or neutral testimony. The commission may seek expert
15 testimony and may require testimony of persons whom the commission
16 desires to comment on the application. The commission may provide
17 for the acceptance of additional evidence after conclusion of the
18 public hearing.

19 Sec. 5. (1) After consideration of the application and
20 the evidence, the commission shall issue a finding of whether the
21 use described in the application is eligible for state assistance.

22 (2) If the commission finds that the use described in the
23 application is a legitimate use and that state assistance is in the
24 best interest of the state, the application shall be approved.

25 (3) A majority of the commission members constitutes a

1 quorum for the purpose of conducting business. All actions of the
2 commission shall be made by a majority vote of all the members.

3 Sec. 6. (1) If an application is approved, the Tax
4 Commissioner shall:

5 (a) Audit or review audits of any retailer within the
6 thirty-mile radius of the census-designated place to determine the
7 state sales tax revenue collected by such retailers on the sale of
8 alcoholic liquor; and

9 (b) Certify annually the amount of state sales tax
10 revenue collected by such retailers to the State Treasurer.

11 (2) State sales tax revenue collected by retailers
12 pursuant to sections 1 to 7 of this act shall be reported on
13 information returns developed by the Department of Revenue. The
14 informational returns shall be submitted to the department by the
15 retailer by the twenty-fifth day of the month following the month
16 the sales taxes are collected. The Tax Commissioner shall use the
17 data from the informational returns to determine the appropriate
18 amount of state sales tax revenue.

19 Sec. 7. (1) Upon the annual certification under section
20 6 of this act, the State Treasurer shall transfer after the audit
21 the amount certified to the Liquor Sales Tax Collection Fund, which
22 is hereby created. Any money in the fund available for investment
23 shall be invested by the state investment officer pursuant to
24 the Nebraska Capital Expansion Act and the Nebraska State Funds
25 Investment Act.

1 (2) It is the intent of the Legislature to appropriate
2 from the fund to any political subdivision for which an application
3 for state assistance under sections 1 to 7 of this act has been
4 approved an amount not to exceed seventy percent of the state
5 sales tax revenue collected on the sale of alcoholic liquor by
6 retailers within the thirty-mile radius of the census-designated
7 place within which such political subdivision is located. If more
8 than one applicant is approved and each applicant is eligible to
9 receive assistance from state sales tax revenue derived from the
10 same retailer, the assistance shall be distributed to an applicant
11 on a first-come, first-served basis.

12 Sec. 8. This act becomes operative on October 1, 2010.