



Dave Heineman
Governor

STATE OF NEBRASKA

NEBRASKA LIQUOR CONTROL COMMISSION
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November 24, 2014

The Honorable, Dave Heineman
Governor of Nebraska
and Senators of the Legislature
State Capitol Building
Lincoln NE 68509

Dear Governor Heineman and Senators:

Pursuant to Neb. Rev. Stat. §53-117(9) it is the duty of the Nebraska Liquor Control Commission "to investigate the administration of laws in relation to alcoholic liquor in this and other states and to recommend to the Governor and through him or her to the Legislature amendments to the Act". The following are our recommendations. Although listed numerically, we believe them to be equally important to further the health, safety, and welfare of the people of Nebraska through the regulation of alcoholic beverages.

1) **EXCISE TAXES**

The Commission believes that a review of the state excise taxes imposed on the manufacture and distribution of alcoholic liquors pursuant to Neb. Rev. Stat. §53-160 is warranted to insure that they are set at an appropriate level and comparable to similar taxes levied by states in the surrounding region. Special attention should be given to the current level of the state excise tax on farm wineries.

2) **MANDATORY SERVER TRAINING**

The Commission believes a statute requiring mandatory server training of employees of licensees should be enacted. Having all employees involved in the sale or serving of alcohol complete a certified training course would enhance the overall safety and welfare of the general public.

3) **ENHANCE PENALTIES FOR ADULTS PROCURING FOR MINORS**

The Commission believes that licensed individuals including parents who host house parties and allow consumption of alcohol by minors who are not their own children should face more significant criminal repercussions.

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Janice M. Wiebusch
Commissioner

Robert Batt
Chairman

William F. Austin
Commissioner

- 4) REVIEW OF CATERING LICENSE
The current class K catering license should be reviewed. The Commission has seen a significant increase in catering permits and is concerned that this is tending to dilute the activities and responsibilities of bona fide caterers.
- 5) SPECIAL DESIGNATED LICENSE'S ISSUED TO NON-LICENSEES
Currently, certain entities including non-profit, religious, and political organizations can apply for and receive special designated licenses for the sale and consumption of alcoholic beverages at events ranging from county fairs to community picnics to weddings. The Commission believes that the issuance of a special designated license should be limited to the holders of a retail liquor license as it would promote the public health, safety and welfare. This would insure a level of professionalism in the serving of liquor at these events. In the alternative, an annual certification system could be created to provide for preapproval of potential special designed licensees and allow adequate time to confirm that licensees meet the statutory qualifications for issuance of such a license.
- 6) PARTY BUS/LIMO LICENSE
With the statutory change allowing the consumption of alcohol on the highways, an unintended consequence has been a proliferation of what are fittingly denominated as "Party Buses". This has resulted in an increase of consumption by minors on these party buses. Currently they are unregulated by the Commission; however, the Commission believes that this activity should be licensed under the Liquor Control Act.
- 7) DELIVERY OF WINE & SPIRITS BY WHOLESALERS
The Commission is of the opinion that Neb. Rev. Stat. §53-123.02 relating to wine and spirits should be amended to allow for delivery by the wholesaler consistent with the ability of beer wholesalers to deliver beer under Neb. Rev. Stat. §53-123.03.
- 8) RECLASSIFY CIDER SIMILAR TO BEER
There has been a revival in the consumption and sale of hard cider. Under the current law hard cider is classified as a wine since they are manufactured from the fermentation of fruit juice. However, they are sold in a manner similar to beer in kegs and six packs and are primarily sold by beer wholesalers. They also have similar alcohol content to beer (5% ABV). Since they are currently considered a wine, they are taxed at a higher rate, incur delivery charges, and require a beer wholesaler to obtain an additional license in order to distribute them. A reclassification of hard cider to beer would be appropriate.

9) TECHNICAL UPDATES TO THE ACT

In an effort to modernize the act the Commission believes:

A) Neb. Rev. Stat. §53-177 needs to be updated. Currently §53-177 has a restriction on home for the aged. In 1935 a home for aged was defined as a place for indigent individuals. In today's society, many retirement facilities are requesting liquor licenses; therefore this wording should be stricken from the act.

B) Neb. Rev. Stat. §53-123.15 (2) needs to be updated. The Commission requests that the following language be stricken, "except that a licensed wholesaler may, without a shipping license and for the purposes of subdivision (2) of section §53-161, receive beer in this state which has been shipped from outside the state by a manufacturer in accordance with the Nebraska Liquor Control Act to the wholesaler, then transported by the wholesaler to another state for retail distribution, and then returned by the retailer to such wholesaler."

C) Neb. Rev. Stat. §53-167.02 needs to be updated. The Commission requests the language be changed to reflect the market for sales of all sources of alcohol, not just beer. Change; "When any person licensed to sell alcoholic liquor at retail sells alcohol".

10) CONTRABAND

The Commission has seen an increase of illegal importing and manufacturing of alcohol. Given the specific nature of the products, the Commission believes they should have a role in determining the fate of seized products, as the Commission is in the best position to regulate disposal of the regulated product.

11) POWDERED ALCOHOL

The Commission is concerned that technology advancements will result in an increase of products that are not clearly defined as beverage alcohol but result in the same type of usage. The Commission believes that its power to regulate these products needs to be clearly stated.

12) BREWPUB / MICROBREWERY

Currently the Class L liquor license is the type used by both brewpubs and microbreweries. That definition sufficed upon original definition; however the two referenced markets have diversified and are increasingly dissected. It is the position of the Commission that the two types should be bifurcated.

- 13) LATE RENEWALS
The practice of the Commission has been to allow licensees to renew their liquor licenses up to 30 days post expiration. Nebraska Liquor Control Chapter 53, said licenses faced a small suspension or fine for untimely renewal. The question has been raised whether the Commission's current practice is supported by this Act since the liquor license has a fixed expiration. The statute is currently silent on allowing late renewals. The Commission is requesting clarification.
- 14) ALCOHOL ENFORCEMENT
The Commission believes that Alcohol Enforcement needs to remain a priority. Although the recent creation of funding and of six Nebraska State Patrol Investigator positions has helped, the Commission believes that more State resources need to be allocated to Enforcement of the Nebraska Liquor Control Act.
- 15) AMENDMENT TO §53-177(2)
The Commission has been holding several unnecessary hearings in order to comply with §53-177(2). The Commission believes that hearings should be necessary if they receive notice of opposition from the affected Church.

Thank you for your consideration of our recommendations. We will work with you on the drafting of language or provide you with any further information that is requested.

Sincerely,

NEBRASKA LIQUOR CONTROL COMMISSION



Hobert B Rupe
Executive Director

pc: Robert Batt, Chairman
Janice M. Wiebusch, Commissioner