

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1046

Introduced by Ebke, 32.

Read first time January 20, 2016

Committee: General Affairs

1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 sections 53-103.18, 53-125, and 53-131.01, Reissue Revised Statutes
3 of Nebraska; to change a requirement for eligibility to obtain a
4 license; to harmonize provisions; and to repeal the original
5 sections.

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

1 Section 1. Section 53-103.18, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 53-103.18 Manager means a person appointed by a corporation or
4 limited liability company to oversee the daily operation of the business
5 licensed in Nebraska. A manager shall meet all the requirements of the
6 Nebraska Liquor Control Act as though he or she were the applicant,
7 including residency and citizenship.

8 Sec. 2. Section 53-125, Reissue Revised Statutes of Nebraska, is
9 amended to read:

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24 license issued under the Nebraska Liquor Control Act has been revoked for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

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

1 participating in any manner in the management or administration of a
2 nonprofit organization, or (16) a person less than twenty-one years of
3 age.

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

8 Sec. 3. Section 53-131.01, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 53-131.01 (1) The application for a new license shall be submitted
11 upon such forms as the commission may prescribe. Such forms shall contain
12 (a) the name and residence of the applicant and how long he or she has
13 resided within the State of Nebraska, (b) the particular premises for
14 which a license is desired designating the same by street and number if
15 practicable or, if not, by such other description as definitely locates
16 the premises, (c) the name of the owner of the premises upon which the
17 business licensed is to be carried on, (d) a statement that the applicant
18 is a resident of Nebraska and legally able to work in Nebraska citizen of
19 ~~the United States~~, that the applicant and the spouse of the applicant are
20 not less than twenty-one years of age, and that such applicant has never
21 been convicted of or pleaded guilty to a felony or been adjudged guilty
22 of violating the laws governing the sale of alcoholic liquor or the law
23 for the prevention of gambling in the State of Nebraska, except that a
24 manager for a corporation applying for a license shall qualify with all
25 provisions of this subdivision as though the manager were the applicant,
26 except that the provisions of this subdivision shall not apply to the
27 spouse of a manager-applicant, (e) a statement that the applicant intends
28 to carry on the business authorized by the license for himself or herself
29 and not as the agent of any other persons and that if licensed he or she
30 will carry on such business for himself or herself and not as the agent
31 for any other person, (f) a statement that the applicant intends to

1 superintend in person the management of the business licensed and that if
2 so licensed he or she will superintend in person the management of the
3 business, and (g) such other information as the commission may from time
4 to time direct. The applicant shall also submit two legible sets of
5 fingerprints to be furnished to the Federal Bureau of Investigation
6 through the Nebraska State Patrol for a national criminal history record
7 check and the fee for such record check payable to the patrol.

8 (2) The application shall be verified by the affidavit of the
9 petitioner made before a notary public or other person duly authorized by
10 law to administer oaths. If any false statement is made in any part of
11 such application, the applicant or applicants shall be deemed guilty of
12 perjury, and upon conviction thereof the license shall be revoked and the
13 applicant subjected to the penalties provided by law for that crime.

14 Sec. 4. Original sections 53-103.18, 53-125, and 53-131.01, Reissue
15 Revised Statutes of Nebraska, are repealed.