

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1171

Introduced by Dickey, 18; Aguilar, 35; Cudaback, 36; Dierks, 40;
Jensen, 20; Jones, 43; Kremer, 34; Dw. Pedersen, 39;
Price, 26; Redfield, 12; Schrock, 38; Smith, 48

Read first time January 10, 2000

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 section 53-1,104, Revised Statutes Supplement, 1999; to
3 change provisions relating to licensee violations; to
4 provide penalties; to provide duties; to harmonize
5 provisions; and to repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-1,104, Revised Statutes
2 Supplement, 1999, is amended to read:

3 53-1,104. (1) Any licensee which sells or permits the
4 sale of any alcoholic liquor not authorized under the terms of such
5 license on the licensed premises or in connection with such
6 licensee's business or otherwise shall be subject to suspension,
7 cancellation, or revocation of such license by the commission.

8 (2) When an order suspending a retail license to sell
9 alcoholic liquor becomes final, the licensee may elect to pay a
10 cash penalty to the commission in lieu of suspending sales of
11 alcoholic liquor for the designated period if such election is not
12 prohibited by order of the commission. For the first such
13 suspension for any licensee, the penalty shall be fifty dollars per
14 day. For a second or any subsequent suspension, the penalty shall
15 be one hundred dollars per day, except that:

16 (a) For a ~~second suspension for~~ violation of section
17 53-180 or 53-180.02 or a violation of section 28-416 occurring on
18 the licensed premises, occurring within four years after the date
19 of the first suspension, the commission, ~~in its discretion,~~ may
20 shall order that the licensee be required to suspend sales of
21 alcoholic liquor for a ~~period of time not to exceed forty-eight~~
22 ~~hours~~ seven days and that the licensee may not elect to pay a cash
23 penalty. The commission may use the required suspension of sales
24 of alcoholic liquor penalty either alone or in conjunction with
25 suspension periods for which the licensee may elect to pay a cash
26 penalty; and ~~For purposes of this subsection, second suspension~~
27 ~~for violation of section 53-180 shall include suspension for a~~
28 ~~violation of section 53-180.02 following suspension for a violation~~

1 of section ~~53-180~~ and second suspension for violation of section
2 ~~53-180.02~~ shall include suspension for a violation of section
3 ~~53-180~~ following suspension for a violation of section ~~53-180.02~~,
4 and

5 (b) For a ~~third~~ second or subsequent suspension for
6 violation of section 53-180 or 53-180.02 or a violation of section
7 28-416 occurring on the licensed premises occurring within four
8 years after the date of the first suspension, the commission, ~~in~~
9 ~~its discretion~~, ~~may~~ shall order that the licensee be required to
10 suspend sales of alcoholic liquor for a period of time not to
11 ~~exceed~~ fifteen days and that the licensee may not elect to pay a
12 cash penalty. The commission may use the required suspension of
13 sales of alcoholic liquor penalty either alone or in conjunction
14 with suspension periods for which the licensee may elect to pay a
15 cash penalty. For purposes of this subsection, ~~third~~ second or
16 subsequent suspension for violation of section 53-180 shall include
17 suspension for a violation of section 53-180.02 following
18 suspension for a violation of section 53-180 and ~~third~~ second or
19 subsequent suspension for violation of section 53-180.02 shall
20 include suspension for a violation of section 53-180 following
21 suspension for a violation of section 53-180.02.

22 For any licensee which has no violation for a period of
23 four years consecutively, any suspension shall be treated as a new
24 first suspension.

25 The election provided for in this subsection shall be
26 filed with the commission in writing one week before the suspension
27 is ordered to commence and shall be accompanied by payment in full
28 of the sum required by this section. If such election has not been

1 received by the commission by the close of business one week before
2 the day such suspension is ordered to commence, it shall be
3 conclusively presumed that the licensee has elected to close for
4 the period of the suspension and any election received later shall
5 be absolutely void and the payment made shall be returned to the
6 licensee. The election shall be made on a form prescribed by the
7 commission. All funds received under this section shall be
8 remitted to the State Treasurer for credit to the temporary school
9 fund.

10 Sec. 2. Original section 53-1,104, Revised Statutes
11 Supplement, 1999, is repealed.