

E & R AMENDMENTS TO LB 114

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 "Section 1. Section 53-101, Revised Statutes Supplement,
4 2000, is amended to read:

5 53-101. Sections 53-101 to 53-1,121 and section 6 of
6 this act shall be known and may be cited as the Nebraska Liquor
7 Control Act.

8 Sec. 2. Section 53-103, Revised Statutes Supplement,
9 2000, is amended to read:

10 53-103. For purposes of the Nebraska Liquor Control Act,
11 unless the context otherwise requires:

12 (1) Alcohol means the product of distillation of any
13 fermented liquid, whether rectified or diluted, whatever the origin
14 thereof, and includes synthetic ethyl alcohol. Alcohol does not
15 include denatured alcohol or wood alcohol;

16 (2) Spirits means any beverage which contains alcohol
17 obtained by distillation, mixed with water or other substance in
18 solution, and includes brandy, rum, whiskey, gin, or other
19 spirituous liquors and such liquors when rectified, blended, or
20 otherwise mixed with alcohol or other substances;

21 (3) Wine means any alcoholic beverage obtained by the
22 fermentation of the natural contents of fruits or vegetables,
23 containing sugar, including such beverages when fortified by the
24 addition of alcohol or spirits;

1 (4) Beer means a beverage obtained by alcoholic
2 fermentation of an infusion or concoction of barley or other grain,
3 malt, and hops in water and includes, but is not limited to, beer,
4 ale, stout, lager beer, porter, and near beer;

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

20 (6) Near beer means beer containing less than one-half of
21 one percent of alcohol by volume;

22 (7) Original package means any bottle, flask, jug, can,
23 cask, barrel, keg, hogshead, or other receptacle or container used,
24 corked or capped, sealed, and labeled by the manufacturer of
25 alcoholic liquor to contain and to convey any alcoholic liquor;

26 (8) Manufacturer means every brewer, fermenter,
27 distiller, rectifier, winemaker, blender, processor, bottler, or

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1 person who fills or refills an original package and others engaged
2 in brewing, fermenting, distilling, rectifying, or bottling
3 alcoholic liquor, including a wholly owned affiliate or duly
4 authorized agent for a manufacturer;

5 (9) Nonbeverage user means every manufacturer of any of
6 the products set forth and described in subsection (4) of section
7 53-160, when such product contains alcoholic liquor, and all
8 laboratories, hospitals, and sanatoria using alcoholic liquor for
9 nonbeverage purposes;

10 (10) Manufacture means to distill, rectify, ferment,
11 brew, make, mix, concoct, process, blend, bottle, or fill an
12 original package with any alcoholic liquor and includes blending
13 but does not include the mixing or other preparation of drinks for
14 serving by those persons authorized and permitted in the act to
15 serve drinks for consumption on the premises where sold;

16 (11) Wholesaler means a person importing or causing to be
17 imported into the state or purchasing or causing to be purchased
18 within the state alcoholic liquor for sale or resale to retailers
19 licensed under the act, whether the business of the wholesaler is
20 conducted under the terms of a franchise or any other form of an
21 agreement with a manufacturer or manufacturers, or who has caused
22 alcoholic liquor to be imported into the state or purchased in the
23 state from a manufacturer or manufacturers and was licensed to
24 conduct such a business by the commission on May 1, 1970, or has
25 been so licensed since that date. Wholesaler does not include any
26 retailer licensed to sell alcoholic liquor for consumption off the
27 premises who sells alcoholic liquor other than beer or wine to

1 another retailer pursuant to section 53-175, except that any such
2 retailer shall obtain the required federal wholesaler's basic
3 permit and federal wholesale liquor dealer's special tax stamp.

4 Wholesaler includes a distributor, distributorship, and jobber;

5 (12) Person means any natural person, trustee,
6 corporation, partnership, or limited liability company;

7 (13) Retailer means a person who sells or offers for sale
8 alcoholic liquor for use or consumption and not for resale in any
9 form except as provided in section 53-175;

10 (14) Sell at retail and sale at retail means sale for use
11 or consumption and not for resale in any form except as provided in
12 section 53-175;

13 (15) Commission means the Nebraska Liquor Control
14 Commission;

15 (16) Sale means any transfer, exchange, or barter in any
16 manner or by any means for a consideration and includes any sale
17 made by any person, whether principal, proprietor, agent, servant,
18 or employee;

19 (17) To sell means to solicit or receive an order for, to
20 keep or expose for sale, or to keep with intent to sell;

21 (18) Restaurant means any public place (a) which is kept,
22 used, maintained, advertised, and held out to the public as a place
23 where meals are served and where meals are actually and regularly
24 served, (b) which has no sleeping accommodations, and (c) which has
25 adequate and sanitary kitchen and dining room equipment and
26 capacity and a sufficient number and kind of employees to prepare,
27 cook, and serve suitable food for its guests;

1 (19) Club means a corporation (a) which is organized
2 under the laws of this state, not for pecuniary profit, solely for
3 the promotion of some common object other than the sale or
4 consumption of alcoholic liquor, (b) which is kept, used, and
5 maintained by its members through the payment of annual dues, (c)
6 which owns, hires, or leases a building or space in a building
7 suitable and adequate for the reasonable and comfortable use and
8 accommodation of its members and their guests, and (d) which has
9 suitable and adequate kitchen and dining room space and equipment
10 and a sufficient number of servants and employees for cooking,
11 preparing, and serving food and meals for its members and their
12 guests. The affairs and management of such club shall be conducted
13 by a board of directors, executive committee, or similar body
14 chosen by the members at their annual meeting, and no member,
15 officer, agent, or employee of the club shall be paid or shall
16 directly or indirectly receive, in the form of salary or other
17 compensation, any profits from the distribution or sale of
18 alcoholic liquor to the club or the members of the club or its
19 guests introduced by members other than any salary fixed and voted
20 at any annual meeting by the members or by the governing body of
21 the club out of the general revenue of the club;

22 (20) Hotel means any building or other structure (a)
23 which is kept, used, maintained, advertised, and held out to the
24 public to be a place where food is actually served and consumed and
25 sleeping accommodations are offered for adequate pay to travelers
26 and guests, whether transient, permanent, or residential, (b) in
27 which twenty-five or more rooms are used for the sleeping

1 accommodations of such guests, and (c) which has one or more public
2 dining rooms where meals are served to such guests, such sleeping
3 accommodations and dining rooms being conducted in the same
4 buildings in connection therewith and such building or buildings or
5 structure or structures being provided with adequate and sanitary
6 kitchen and dining room equipment and capacity;

7 (21) Nonprofit corporation means any corporation
8 organized under the laws of this state, not for profit, which has
9 been exempted from the payment of federal income taxes;

10 (22) Bottle club means an operation, whether formally
11 organized as a club having a regular membership list, dues,
12 officers, and meetings or not, keeping and maintaining premises
13 where persons who have made their own purchases of alcoholic liquor
14 congregate for the express purpose of consuming such alcoholic
15 liquor upon the payment of a fee or other consideration, including
16 among other services the sale of food, ice, mixes, or other fluids
17 for alcoholic drinks and the maintenance of space for the storage
18 of alcoholic liquor belonging to such persons and facilities for
19 the dispensing of such liquor through a locker system, card system,
20 or pool system, which shall not be deemed or considered a sale of
21 alcoholic liquor. Such operation may be conducted by a club, an
22 individual, a partnership, a limited liability company, or a
23 corporation. An accurate and current membership list shall be
24 maintained upon the premises which contains the names and
25 residences of its members. This section does not prohibit the sale
26 of alcoholic liquor for consumption on the premises to any person
27 who is not a current member of such bottle club;

1 (23) Minor means any person, male or female, under
2 twenty-one years of age, regardless of marital status;

3 (24) Brand means alcoholic liquor identified as the
4 product of a specific manufacturer;

5 (25) Franchise or agreement, with reference to the
6 relationship between a manufacturer and wholesaler, includes one or
7 more of the following: (a) A commercial relationship of a definite
8 duration or continuing indefinite duration which is not required to
9 be in writing; (b) a relationship by which the wholesaler is
10 granted the right to offer and sell the manufacturer's brands by
11 the manufacturer; (c) a relationship by which the franchise, as an
12 independent business, constitutes a component of the manufacturer's
13 distribution system; (d) a relationship by which the operation of
14 the wholesaler's business is substantially associated with the
15 manufacturer's brand, advertising, or other commercial symbol
16 designating the manufacturer; and (e) a relationship by which the
17 operation of the wholesaler's business is substantially reliant on
18 the manufacturer for the continued supply of beer;

19 (26) Territory or sales territory means the wholesaler's
20 area of sales responsibility for the brand or brands of the
21 manufacturer;

22 (27) Suspend means to cause a temporary interruption of
23 all rights and privileges of a license;

24 (28) Cancel means to discontinue all rights and
25 privileges of a license;

26 (29) Revoke means to permanently void and recall all
27 rights and privileges of a license;

1 (30) Generic label means a label which is not protected
2 by a registered trademark, either in whole or in part, or to which
3 no person has acquired a right pursuant to state or federal
4 statutory or common law;

5 (31) Private label means a label which the purchasing
6 wholesaler, retailer, or bottle club licensee has protected, in
7 whole or in part, by a trademark registration or which the
8 purchasing wholesaler, retailer, or bottle club licensee has
9 otherwise protected pursuant to state or federal statutory or
10 common law;

11 (32) Farm winery means any enterprise which produces and
12 sells wines produced from grapes, other fruit, or other suitable
13 agricultural products of which at least seventy-five percent is
14 grown in this state;

15 (33) Campus, as it pertains to the southern boundary of
16 the main campus of the University of Nebraska-Lincoln, means the
17 south right-of-way line of R Street and abandoned R Street from
18 10th to 17th streets;

19 (34) Brewpub means any restaurant or hotel which produces
20 on its premises a maximum of ten thousand barrels of beer per year;

21 (35) Manager means a person appointed by a corporation to
22 oversee the daily operation of the business licensed in Nebraska.
23 A manager shall meet all the requirements of the act as though he
24 or she were the applicant, except for residency and citizenship;

25 (36) Shipping license means a license granted pursuant to
26 section 53-123.15;

27 (37) Sampling means consumption on the premises of a

1 retail licensee of not more than five samples of one fluid ounce or
2 less of alcoholic liquor by the same person in a twenty-four-hour
3 period;

4 (38) Microbrewery means any small brewery producing a
5 maximum of ten thousand barrels of beer per year;

6 (39) Craft brewery means a brewpub or a microbrewery; ~~and~~

7 (40) Local governing body means the city council or
8 village board of trustees of a city or village within which the
9 licensed premises are located or, if such premises are not within
10 the corporate limits of a city or village, the county board of the
11 county within which the licensed premises are located; and

12 (41) Consume means knowingly and intentionally drinking
13 or otherwise ingesting alcoholic liquor.

14 Sec. 3. Section 53-180.02, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 53-180.02. Except as provided in section 53-168.06, no
17 minor may sell, ~~or~~ dispense, consume, or have in his or her
18 possession or physical control any alcoholic liquor in any tavern
19 or in any other place, including public streets, alleys, roads, or
20 highways, upon property owned by the State of Nebraska or any
21 subdivision thereof, or inside any vehicle while in or on any other
22 place, including, but not limited to, the public streets, alleys,
23 roads, or highways, or upon property owned by the State of Nebraska
24 or any subdivision thereof, except that a minor may consume,
25 possess, or have physical control of alcoholic liquor in his or her
26 permanent place of residence or on the premises of a place of
27 religious worship on which premises alcoholic liquor is consumed as

1 ~~subsection, may be sentenced to work on public streets, in parks,~~
2 ~~or on other public property for a period not exceeding ten working~~
3 ~~days. Such work shall be under the supervision of the county~~
4 ~~sheriff. Upon the written certification by the county sheriff of~~
5 ~~the performance of such work, the sentence shall be satisfied.~~

6 (2) Any person who knowingly manufactures, creates, or
7 alters any form of identification for the purpose of sale or
8 delivery of such form of identification to a person under the age
9 of twenty-one years shall be guilty of a Class I misdemeanor. For
10 purposes of this subsection, form of identification shall mean
11 means any card, paper, or legal document that may be used to
12 establish the age of the person named thereon for the purpose of
13 purchasing alcoholic liquor.

14 (3) When a minor is arrested for a violation of sections
15 53-180 to 53-180.02 or subsection (2) of this section, the law
16 enforcement agency employing the arresting peace officer shall make
17 a reasonable attempt to notify such minor's parent or guardian of
18 the arrest.

19 Sec. 6. In order to further the public policy of
20 detering minors from illegally obtaining or consuming alcoholic
21 liquor, persons under twenty-one years of age may be authorized to
22 assist duly authorized law enforcement officers to determine
23 compliance with sections 53-180 and 53-180.02. Such compliance
24 checks shall be conducted pursuant to guidelines adopted and
25 promulgated by the Nebraska State Patrol with input from the
26 commission. Unless a person is an emancipated minor at least
27 eighteen years of age, no person under twenty-one years of age

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1 shall be authorized to participate or assist law enforcement
2 officers in such compliance checks without the written consent of
3 his or her parents or legal guardian.

4 Sec. 7. Original sections 53-180.02, 53-180.04, and
5 53-180.05, Reissue Revised Statutes of Nebraska, and sections
6 53-101 and 53-103, Revised Statutes Supplement, 2000, are
7 repealed.".

8 2. On page 1, line 3, after "Nebraska" insert ", and
9 sections 53-101 and 53-103, Revised Statutes Supplement, 2000"; and
10 strike beginning with "and" in line 4 through "sales" in line 5 and
11 insert "; to authorize minors to assist law enforcement officers as
12 prescribed".