

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 845

FINAL READING

Introduced by Landis, 46; Aguilar, 35

Read first time January 4, 2006

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 sections 53-101 and 53-132, Reissue Revised Statutes
3 of Nebraska; to change provisions relating to issuance
4 of retail licenses; to provide for beverage-server
5 and licensee training and certification; to harmonize
6 provisions; and to repeal the original sections.

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

1 Section 1. Section 53-101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 53-101 Sections 53-101 to 53-1,122 and section 3 of this
4 act shall be known and may be cited as the Nebraska Liquor Control
5 Act.

6 Sec. 2. Section 53-132, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 53-132 (1) If no hearing is required pursuant to
9 subdivision (1)(a) or (b) of section 53-133 and the commission
10 has no objections pursuant to subdivision (1)(c) of such section,
11 the commission may waive the forty-five-day objection period and,
12 if not otherwise prohibited by law, cause a retail license or craft
13 brewery license to be signed by its chairperson, attested by its
14 executive director over the seal of the commission, and issued in
15 the manner provided in subsection (4) of this section as a matter
16 of course.

17 (2) A retail license or craft brewery license ~~shall~~ may
18 be issued to any qualified applicant if the commission finds that
19 (a) the applicant is fit, willing, and able to properly provide
20 the service proposed within the city, village, or county where
21 the premises described in the application are located, (b) the
22 applicant can conform to all provisions and requirements of and
23 rules and regulations adopted pursuant to the Nebraska Liquor
24 Control Act, (c) the applicant has demonstrated that the type of
25 management and control to be exercised over the premises described

1 in the application will be sufficient to insure that the licensed
2 business can conform to all provisions and requirements of and
3 rules and regulations adopted pursuant to the act, and (d) the
4 issuance of the license is or will be required by the present or
5 future public convenience and necessity.

6 (3) In making its determination pursuant to subsection
7 (2) of this section the commission shall consider:

8 (a) The recommendation of the local governing body;

9 (b) The existence of a citizens' protest made in
10 accordance with section 53-133;

11 (c) The existing population of the city, village, or
12 county and its projected growth;

13 (d) The nature of the neighborhood or community of the
14 location of the proposed licensed premises;

15 (e) The existence or absence of other retail licenses
16 or craft brewery licenses with similar privileges within the
17 neighborhood or community of the location of the proposed licensed
18 premises and whether, as evidenced by substantive, corroborative
19 documentation, the issuance of such license would result in or
20 add to an undue concentration of licenses with similar privileges
21 and, as a result, require the use of additional law enforcement
22 resources;

23 (f) The existing motor vehicle and pedestrian traffic
24 flow in the vicinity of the proposed licensed premises;

25 (g) The adequacy of existing law enforcement;

1 (h) Zoning restrictions;

2 (i) The sanitation or sanitary conditions on or about the
3 proposed licensed premises; and

4 (j) Whether the type of business or activity proposed to
5 be operated in conjunction with the proposed license is and will be
6 consistent with the public interest.

7 (4) Retail licenses or craft brewery licenses issued or
8 renewed by the commission shall be mailed or delivered to the clerk
9 of the city, village, or county who shall deliver the same to the
10 licensee upon receipt from the licensee of proof of payment of
11 (a) the license fee if by the terms of subdivision (5) of section
12 53-124 the fee is payable to the treasurer of such city, village,
13 or county, (b) any fee for publication of notice of hearing before
14 the local governing body upon the application for the license,
15 (c) the fee for publication of notice of renewal as provided in
16 section 53-135.01, and (d) occupation taxes, if any, imposed by
17 such city, village, or county. Notwithstanding any ordinance or
18 charter power to the contrary, no city, village, or county shall
19 impose an occupation tax on the business of any person, firm, or
20 corporation licensed under the act and doing business within the
21 corporate limits of such city or village or within the boundaries
22 of such county in any sum which exceeds two times the amount of
23 the license fee required to be paid under the act to obtain such
24 license.

25 (5) Each license shall designate the name of the

1 licensee, the place of business licensed, and the type of license
2 issued.

3 Sec. 3. (1) On or before January 1, 2007, the commission
4 shall adopt and promulgate rules and regulations governing programs
5 which provide training for persons employed in the sale and service
6 of alcoholic liquor and management of licensed premises. Such rules
7 and regulations may include, but need not be limited to:

8 (a) Minimum standards governing training of beverage
9 servers, including standards and requirements governing curriculum,
10 program trainers, and certification requirements;

11 (b) Minimum standards governing training in management of
12 licensed premises, including standards and requirements governing
13 curriculum, program trainers, and certification requirements;

14 (c) Minimum standards governing the methods allowed for
15 training programs which may include the Internet, interactive
16 video, live training in various locations across the state, and
17 other means deemed appropriate by the commission;

18 (d) Methods for approving beverage-server training
19 organizations and programs. All beverage-server training programs
20 approved by the commission shall issue a certificate of completion
21 to all persons who successfully complete the program and shall
22 provide the names of all persons completing the program to the
23 commission;

24 (e) Enrollment fees in an amount determined by the
25 commission to be necessary to cover the expense of enrolling in a

1 training program offered by the commission pursuant to subsection
2 (2) of this section, but not to exceed thirty dollars; and

3 (f) Procedures and fees for certification, which fees
4 shall be in an amount determined by the commission to be
5 sufficient to defray the expenses associated with maintaining a
6 list of persons certified under this section and issuing proof of
7 certification to eligible individuals but shall not exceed twenty
8 dollars.

9 (2) The commission may create a program to provide
10 training for persons employed in the sale and service of alcoholic
11 liquor and management of licensed premises. The program shall
12 include training on the issues of sales and service of alcoholic
13 liquor to minors and to visibly inebriated purchasers. The
14 commission may charge each person enrolling in the program an
15 enrollment fee as provided in the rules and regulations, but
16 such fee shall not exceed thirty dollars. All such fees shall be
17 collected by the commission and remitted to the State Treasurer
18 for credit to the Nebraska Liquor Control Commission Rule and
19 Regulation Cash Fund.

20 (3) A person who has completed a training program which
21 complies with the rules and regulations, whether such program is
22 offered by the commission or by another organization, may become
23 certified by the commission upon the commission receiving evidence
24 that he or she has completed such program and the person seeking
25 certification paying the certification fee established under this

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1 section.

2 Sec. 4. Original sections 53-101 and 53-132, Reissue

3 Revised Statutes of Nebraska, are repealed.