

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 388

Introduced by Mines, 18

Read first time January 12, 2005

Committee: General Affairs

A BILL

1 FOR AN ACT relating to alcoholic liquor; to amend sections 53-101
2 and 60-6,211.08, Reissue Revised Statutes of Nebraska; to
3 permit removal of resealed bottles of wine from licensed
4 premises as prescribed; to redefine a term; to harmonize
5 provisions; and to repeal the original sections.
6 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 2 of
4 this act shall be known and may be cited as the Nebraska Liquor
5 Control Act.

6 Sec. 2. (1) A restaurant holding a license to sell
7 alcoholic liquor at retail for consumption on the licensed premises
8 may permit a customer to remove one unsealed bottle of wine for
9 consumption off the premises if the customer has purchased a
10 full-course meal and consumed a portion of the bottle of wine with
11 such full-course meal on the licensed premises. The licensee or
12 his or her agent shall (a) securely reseal such bottle in a bag
13 designed so that it is visibly apparent that the resealed bottle of
14 wine has not been tampered with and (b) provide a dated receipt for
15 the resealed bottle of wine and the full-course meal to the
16 customer.

17 (2) A bottle resealed pursuant to subsection (1) of this
18 section shall not be deemed an open container for purposes of
19 section 60-6,211.08.

20 (3) For purposes of this section, full-course meal means
21 a diversified selection of food which is ordinarily consumed with
22 the use of tableware and cannot conveniently be consumed while
23 standing or walking.

24 Sec. 3. Section 60-6,211.08, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 60-6,211.08. (1) For purposes of this section:

27 (a) Alcoholic beverage means (i) beer, ale porter, stout,
28 and other similar fermented beverages, including sake or similar

1 products, of any name or description containing one-half of one
2 percent or more of alcohol by volume, brewed or produced from malt,
3 wholly or in part, or from any substitute therefor, (ii) wine of
4 not less than one-half of one percent of alcohol by volume, or
5 (iii) distilled spirits which is that substance known as ethyl
6 alcohol, ethanol, or spirits of wine in any form, including all
7 dilutions and mixtures thereof from whatever source or by whatever
8 process produced. Alcoholic beverage does not include trace
9 amounts not readily consumable as a beverage;

10 (b) Highway means a road or street including the entire
11 area within the right-of-way;

12 (c) Open alcoholic beverage container, except as provided
13 in section 2 of this act, means any bottle, can, or other
14 receptacle:

15 (i) That contains any amount of alcoholic beverage; and

16 (ii) (A) That is open or has a broken seal or (B) the
17 contents of which are partially removed; and

18 (d) Passenger area means the area designed to seat the
19 driver and passengers while the motor vehicle is in operation and
20 any area that is readily accessible to the driver or a passenger
21 while in their seating positions, including any compartments in
22 such area. Passenger area does not include the area behind the
23 last upright seat of such motor vehicle if the area is not normally
24 occupied by the driver or a passenger and the motor vehicle is not
25 equipped with a trunk.

26 (2) It is unlawful for any person in the passenger area
27 of a motor vehicle to possess an open alcoholic beverage container
28 while the motor vehicle is located in a public parking area or on

1 any highway in this state.

2 (3) Except as provided in section 53-186, it is unlawful
3 for any person to consume an alcoholic beverage (a) in a public
4 parking area or on any highway in this state or (b) inside a motor
5 vehicle while in a public parking area or on any highway in this
6 state.

7 Sec. 4. Original sections 53-101 and 60-6,211.08,
8 Reissue Revised Statutes of Nebraska, are repealed.