

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 811

Introduced by Landis, 46

Read first time January 4, 2006

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to
2 amend sections 53-164.01 and 53-165, Reissue Revised
3 Statutes of Nebraska; to change provisions relating to
4 tax reports; to harmonize provisions; to provide an
5 operative date; to repeal the original sections; and to
6 declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-164.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 53-164.01 Payment of the tax provided for in section
4 53-160 on alcoholic liquor shall be paid by the manufacturer or
5 wholesaler as follows:

6 (1)(a) All manufacturers or wholesalers, except farm
7 winery producers, whether inside or outside this state shall, on
8 or before the twenty-fifth day of each calendar month following
9 the month in which shipments were made, submit a report ~~under~~
10 ~~eath or affirmation~~ to the commission upon forms furnished by
11 the commission showing the total amount of alcoholic liquor in
12 gallons or fractional parts thereof shipped by such manufacturer
13 or wholesaler, whether inside or outside this state, during the
14 preceding calendar month;

15 (b) All beer wholesalers shall, on or before the
16 twenty-fifth day of each calendar month following the month
17 in which shipments were made, submit a report ~~under eath or~~
18 ~~affirmation~~ to the commission upon forms furnished by the
19 commission showing the total amount of beer in gallons or
20 fractional parts thereof shipped by all manufacturers, whether
21 inside or outside this state, during the preceding calendar month
22 to such wholesaler;

23 (c) Farm winery producers shall, on or before the
24 twenty-fifth day of each calendar month following the month in
25 which wine was packaged or bottled for sale, submit a report

1 ~~under oath or affirmation~~ to the commission upon forms furnished
2 by the commission showing the total amount of wine in gallons
3 or fractional parts thereof packaged or bottled by such producer
4 during the preceding calendar month;

5 (d) A craft brewery shall, on or before the twenty-fifth
6 day of each calendar month following the month in which the beer
7 was produced for sale, submit a report ~~under oath or affirmation~~
8 to the commission on forms furnished by the commission showing
9 the total amount of beer in gallons or fractional parts thereof
10 produced for sale by the craft brewery during the preceding
11 calendar month; and

12 (e) Reports submitted pursuant to subdivision (a), (b),
13 or (c) of this subdivision shall also contain a statement of
14 the total amount of alcoholic liquor, except beer, in gallons or
15 fractional parts thereof shipped to licensed retailers inside this
16 state and such other information as the commission may require;

17 (2) The wholesaler or farm winery producer shall at the
18 time of the filing of the report pay to the commission the tax
19 due on alcoholic liquor, except beer, shipped to licensed retailers
20 inside this state at the rate fixed in accordance with section
21 53-160. The tax due on beer shall be paid by the wholesaler on beer
22 shipped from all manufacturers;

23 (3) The tax imposed pursuant to section 53-160 shall be
24 due on the date the report is due less a discount of one percent
25 of the tax on alcoholic liquor for submitting the report and paying

1 the tax in a timely manner. The discount shall be deducted from the
2 payment of the tax before remittance to the commission and shall be
3 shown in the report to the commission as required in this section.
4 If the tax is not paid within the time provided in this section,
5 the discount shall not be allowed and shall not be deducted from
6 the tax;

7 (4) If the report is not submitted by the twenty-fifth
8 day of the calendar month or if the tax is not paid to the
9 commission by the twenty-fifth day of the calendar month, the
10 following penalties shall be assessed on the amount of the tax:
11 One to five days late, three percent; six to ten days late, six
12 percent; and over ten days late, ten percent. In addition, interest
13 on the tax shall be collected at the rate of one percent per month,
14 or fraction of a month, from the date the tax became due until
15 paid;

16 (5) No tax shall be levied or collected on alcoholic
17 liquor manufactured inside this state and shipped or transported
18 outside this state for sale and consumption outside this state;

19 (6) In order to insure the payment of all state taxes
20 on alcoholic liquor, together with interest and penalties, persons
21 required to submit reports and payment of the tax shall, at the
22 time of application for a license under section 53-124, enter
23 into a surety bond with corporate surety, both the bond form and
24 surety to be approved by the commission. Subject to the limitations
25 specified in this subdivision, the amount of the bond required of

1 any taxpayer shall be fixed by the commission and may be increased
2 or decreased by the commission at any time. In fixing the amount of
3 the bond, the commission shall require a bond equal to the amount
4 of the taxpayer's estimated maximum monthly excise tax ascertained
5 in a manner as determined by the commission. Nothing in this
6 section shall prevent or prohibit the commission from accepting
7 and approving bonds which run for a term longer than the license
8 period. The amount of a bond required of any one taxpayer shall
9 not be less than one thousand dollars. The bonds required by this
10 section shall be filed with the commission; and

11 (7) When a manufacturer or wholesaler sells and delivers
12 alcoholic liquor upon which the tax has been paid to any
13 instrumentality of the armed forces of the United States engaged
14 in resale activities as provided in section 53-160.01, the
15 manufacturer or wholesaler shall be entitled to a credit in
16 the amount of the tax paid in the event no tax is due on such
17 alcoholic liquor as provided in such section. The amount of the
18 credit, if any, shall be deducted from the tax due on the following
19 monthly report and subsequent reports until liquidated.

20 Sec. 2. Section 53-165, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 53-165 (1) Every manufacturer and wholesaler shall,
23 between the first and fifteenth day of each calendar month,
24 make return ~~under oath~~ to the commission of all alcoholic liquor
25 manufactured and sold by such manufacturer or wholesaler in the

1 course of such business during the preceding calendar month.
2 Such return shall be made upon forms prescribed and furnished by
3 the commission and shall contain such other information as the
4 commission may reasonably require.

5 (2) Every manufacturer or shipper of beer on filing
6 notice of intention to commence or continue business pursuant to
7 section 53-130.01 shall certify that such manufacturer or shipper
8 will keep or cause to be kept books and records and make reports in
9 the manner and for the purposes specified by rules and regulations
10 of the commission, which books, records, and reports shall be open
11 to inspection by the proper officers of the commission, and that
12 such manufacturer or shipper will in all respects faithfully comply
13 with all of the requirements of the laws of this state and the
14 rules and regulations of the commission relating to the manufacture
15 and shipping to licensed retail beer dealers in this state.

16 (3) Each manufacturer and wholesaler shall keep complete
17 and accurate records of all sales of liquor, wine, or beer
18 and complete and accurate records of all such alcoholic liquor
19 produced, manufactured, compounded, or imported.

20 Sec. 3. This act becomes operative on July 1, 2006.

21 Sec. 4. Original sections 53-164.01 and 53-165, Reissue
22 Revised Statutes of Nebraska, are repealed.

23 Sec. 5. Since an emergency exists, this act takes effect
24 when passed and approved according to law.