

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 578

FINAL READING

Introduced by McDonald, 41

Read first time January 17, 2007

Committee: General Affairs

A BILL

1 FOR AN ACT relating to alcohol and drugs; to amend section
2 53-169.01, Reissue Revised Statutes of Nebraska, and
3 sections 53-101 and 60-6,197.03, Revised Statutes
4 Cumulative Supplement, 2006; to provide for the rounding
5 of amounts relating to state alcohol excise tax laws;
6 to change provisions relating to prohibited interests
7 in wholesalers and business premises by manufacturers;
8 to change penalty provisions relating to driving under
9 the influence of alcoholic liquor or drugs; to harmonize
10 provisions; and to repeal the original sections.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-101, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 53-101 Sections 53-101 to 53-1,122 and section 2 of this
4 act shall be known and may be cited as the Nebraska Liquor Control
5 Act.

6 Sec. 2. When the commission finds that the administration
7 of the state alcohol excise tax laws might be more efficiently
8 and economically conducted, the commission may require or allow for
9 rounding of all amounts on returns or reports, including amounts of
10 tax. Amounts shall be rounded to the nearest dollar with amounts
11 ending in fifty cents or more rounded to the next highest dollar.

12 Sec. 3. Section 53-169.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 53-169.01 No manufacturer of alcoholic liquor holding a
15 manufacturer's license under section 53-123.01 and no manufacturer
16 of alcoholic liquor outside this state manufacturing alcoholic
17 liquor, except beer, ~~for distribution and sale within this~~
18 ~~state~~ shall, directly or indirectly, as owner or part owner,
19 or through a subsidiary or affiliate, or by any officer, director,
20 or employee thereof, or by stock ownership, interlocking directors,
21 trusteeship, loan, mortgage, or lien on any personal or real
22 property, or as guarantor, endorser, or surety, be interested in
23 the ownership, conduct, operation, or management of any alcoholic
24 liquor wholesaler holding an alcoholic liquor wholesale license,
25 except beer, under section 53-123.02 unless such interest in the

1 licensed wholesaler was acquired or became effective prior to
2 January 1, 2007.

3 No manufacturer of alcoholic liquor holding a
4 manufacturer's license under section 53-123.01 and no manufacturer
5 of alcoholic liquor outside this state manufacturing alcoholic
6 liquor, except beer, ~~for distribution and sale within this state~~
7 shall be interested directly or indirectly, as lessor or lessee, as
8 owner or part owner, or through a subsidiary or affiliate, or by
9 any officer, director, or employee thereof, or by stock ownership,
10 interlocking directors, or trusteeship in the premises upon which
11 the place of business of an alcoholic liquor wholesaler holding
12 an alcoholic liquor wholesale license, except beer, under section
13 53-123.02 is located, established, conducted, or operated in whole
14 or in part unless such interest was acquired or became effective
15 prior to April 17, 1947.

16 Sec. 4. Section 60-6,197.03, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 60-6,197.03 Any person convicted of a violation of
19 section 60-6,196 or 60-6,197 shall be punished as follows:

20 (1) Except as provided in subdivision (2) of this
21 section, if such person has not had a prior conviction, such
22 person shall be guilty of a Class W misdemeanor, and the court
23 shall, as part of the judgment of conviction, order that the
24 operator's license of such person be revoked or impounded for a
25 period of six months from the date ordered by the court. Such

1 revocation or impoundment shall be administered upon sentencing,
2 upon final judgment of any appeal or review, or upon the date that
3 any probation is revoked.

4 If the court places such person on probation or suspends
5 the sentence for any reason, the court shall, as one of the
6 conditions of probation or sentence suspension, order that the
7 operator's license of such person be revoked or impounded for
8 a period of sixty days from the date ordered by the court
9 unless otherwise authorized by an order issued pursuant to section
10 60-6,211.05, and such order of probation or sentence suspension
11 shall also include, as one of its conditions, the payment of a
12 four-hundred-dollar fine;

13 (2) If such person has not had a prior conviction
14 and, as part of the current violation, had a concentration of
15 fifteen-hundredths of one gram or more by weight of alcohol per
16 one hundred milliliters of his or her blood or fifteen-hundredths
17 of one gram or more by weight of alcohol per two hundred ten
18 liters of his or her breath, such person shall be guilty of
19 a Class W misdemeanor, and the court shall, as part of the
20 judgment of conviction, revoke the operator's license of such
21 person for a period of one year from the date ordered by the
22 court. Such revocation shall be administered upon sentencing, upon
23 final judgment of any appeal or review, or upon the date that any
24 probation is revoked.

25 If the court places such person on probation or suspends

1 the sentence for any reason, the court shall, as one of the
2 conditions of probation or sentence suspension, order that the
3 operator's license of such person be revoked or impounded for
4 a period of one year from the date ordered by the court
5 unless otherwise authorized by an order issued pursuant to
6 section 60-6,211.05, and such order of probation or sentence
7 suspension shall also include, as conditions, the payment of a
8 five-hundred-dollar fine and either confinement in the city or
9 county jail for two days or the imposition of not less than one
10 hundred twenty hours of community service;

11 (3) Except as provided in subdivision (5) of this
12 section, if such person has had one prior conviction, such person
13 shall be guilty of a Class W misdemeanor, and the court shall,
14 as part of the judgment of conviction, order that the operator's
15 license of such person be revoked for a period of one year from
16 the date ordered by the court and shall issue an order pursuant
17 to section 60-6,197.01. Such orders shall be administered upon
18 sentencing, upon final judgment of any appeal or review, or upon
19 the date that any probation is revoked.

20 If the court places such person on probation or
21 suspends the sentence for any reason, the court shall, as
22 one of the conditions of probation or sentence suspension,
23 order that the operator's license of such person be revoked or
24 impounded for a period of one year from the date ordered by the
25 court unless otherwise authorized by an order issued pursuant

1 to section 60-6,211.05 and shall issue an order pursuant to
2 section 60-6,197.01, and such order of probation or sentence
3 suspension shall also include, as conditions, the payment of a
4 five-hundred-dollar fine and either confinement in the city or
5 county jail for ten days or the imposition of not less than two
6 hundred forty hours of community service;

7 (4) Except as provided in subdivision (6) of this
8 section, if such person has had two prior convictions, such person
9 shall be guilty of a Class W misdemeanor, and the court shall,
10 as part of the judgment of conviction, order that the operator's
11 license of such person be revoked for a period of fifteen years
12 from the date ordered by the court and shall issue an order
13 pursuant to section 60-6,197.01. Such orders shall be administered
14 upon sentencing, upon final judgment of any appeal or review, or
15 upon the date that any probation is revoked.

16 If the court places such person on probation or suspends
17 the sentence for any reason, the court shall, as one of the
18 conditions of probation or sentence suspension, order that the
19 operator's license of such person be revoked for a period of at
20 least two years but not more than fifteen years from the date
21 ordered by the court unless otherwise authorized by an order issued
22 pursuant to section 60-6,211.05 and shall issue an order pursuant
23 to section 60-6,197.01, and such order of probation or sentence
24 suspension shall also include, as conditions, the payment of a
25 six-hundred-dollar fine and confinement in the city or county jail

1 for thirty days;

2 (5) If such person has had one prior conviction
3 and, as part of the current violation, had a concentration of
4 fifteen-hundredths of one gram or more by weight of alcohol per
5 one hundred milliliters of his or her blood or fifteen-hundredths
6 of one gram or more by weight of alcohol per two hundred ten
7 liters of his or her breath or refused to submit to a test as
8 required under section 60-6,197, such person shall be guilty of a
9 Class I misdemeanor, and the court shall, as part of the judgment
10 of conviction, revoke the operator's license of such person for
11 a period of at least one year but not more than fifteen years
12 from the date ordered by the court and shall issue an order
13 pursuant to section 60-6,197.01. Such revocation and order shall be
14 administered upon sentencing, upon final judgment of any appeal or
15 review, or upon the date that any probation is revoked. The court
16 shall also sentence such person to serve at least ninety days'
17 imprisonment in the city or county jail or an adult correctional
18 facility.

19 If the court places such person on probation or suspends
20 the sentence for any reason, the court shall, as one of the
21 conditions of probation or sentence suspension, order that the
22 operator's license of such person be revoked or impounded for a
23 period of at least one year but not more than fifteen years from
24 the date ordered by the court unless otherwise authorized by an
25 order issued pursuant to section 60-6,211.05 and shall issue an

1 order pursuant to section 60-6,197.01, and such order of probation
2 or sentence suspension shall also include, as conditions, the
3 payment of a one-thousand-dollar fine and confinement in the city
4 or county jail for thirty days;

5 (6) If such person has had two prior convictions
6 and, as part of the current violation, had a concentration of
7 fifteen-hundredths of one gram or more by weight of alcohol per one
8 hundred milliliters of his or her blood or fifteen-hundredths of
9 one gram or more by weight of alcohol per two hundred ten liters
10 of his or her breath or refused to submit to a test as required
11 under section 60-6,197, such person shall be guilty of a Class IIIA
12 felony, and the court shall, as part of the judgment of conviction,
13 revoke the operator's license of such person for a period of
14 fifteen years from the date ordered by the court and shall issue
15 an order pursuant to section 60-6,197.01. Such revocation and order
16 shall be administered upon sentencing, upon final judgment of any
17 appeal or review, or upon the date that any probation is revoked.
18 The court shall also sentence such person to serve at least one
19 hundred eighty days' imprisonment in the city or county jail or an
20 adult correctional facility.

21 If the court places such person on probation or suspends
22 the sentence for any reason, the court shall, as one of the
23 conditions of probation or sentence suspension, order that the
24 operator's license of such person be revoked for a period of at
25 least five years but not more than fifteen years from the date

1 ordered by the court unless otherwise authorized by an order issued
2 pursuant to section 60-6,211.05 and shall issue an order pursuant
3 to section 60-6,197.01, and such order of probation or sentence
4 suspension shall also include, as conditions, the payment of a
5 one-thousand-dollar fine and confinement in the city or county jail
6 for sixty days;

7 (7) Except as provided in subdivision (8) of this
8 section, if such person has had three prior convictions, such
9 person shall be guilty of a Class IIIA felony, and the court shall,
10 as part of the judgment of conviction, order that the operator's
11 license of such person be revoked for a period of fifteen years
12 from the date ordered by the court and shall issue an order
13 pursuant to section 60-6,197.01. Such orders shall be administered
14 upon sentencing, upon final judgment of any appeal or review, or
15 upon the date that any probation is revoked. The court shall also
16 sentence such person to serve at least one hundred eighty days'
17 imprisonment in the city or county jail or an adult correctional
18 facility.

19 If the court places such person on probation or suspends
20 the sentence for any reason, the court shall, as one of the
21 conditions of probation or sentence suspension, order that the
22 operator's license of such person be revoked for a period of
23 fifteen years from the date ordered by the court unless otherwise
24 authorized by an order issued pursuant to section 60-6,211.05 and
25 shall issue an order pursuant to section 60-6,197.01, and such

1 order of probation or sentence suspension shall also include,
2 as conditions, the payment of a one-thousand-dollar fine and
3 confinement in the city or county jail for ninety days;

4 (8) If such person has had three prior convictions
5 and, as part of the current violation, had a concentration of
6 fifteen-hundredths of one gram or more by weight of alcohol per one
7 hundred milliliters of his or her blood or fifteen-hundredths of
8 one gram or more by weight of alcohol per two hundred ten liters
9 of his or her breath or refused to submit to a test as required
10 under section 60-6,197, such person shall be guilty of a Class III
11 felony, and the court shall, as part of the judgment of conviction,
12 revoke the operator's license of such person for a period of
13 fifteen years from the date ordered by the court and shall issue
14 an order pursuant to section 60-6,197.01. Such revocation and order
15 shall be administered upon sentencing, upon final judgment of any
16 appeal or review, or upon the date that any probation is revoked.

17 If the court places such person on probation or suspends
18 the sentence for any reason, the court shall, as one of the
19 conditions of probation or sentence suspension, order that the
20 operator's license of such person be revoked for a period of
21 fifteen years from the date ordered by the court unless otherwise
22 authorized by an order issued pursuant to section 60-6,211.05 and
23 shall issue an order pursuant to section 60-6,197.01, and such
24 order of probation or sentence suspension shall also include,
25 as conditions, the payment of a one-thousand-dollar fine and

1 confinement in the city or county jail for one hundred twenty days;

2 (9) Except as provided in subdivision (10) of this
3 section, if such person has had four or more prior convictions,
4 such person shall be guilty of a Class III felony, and the court
5 shall, as part of the judgment of conviction, order that the
6 operator's license of such person be revoked for a period of
7 fifteen years from the date ordered by the court and shall issue
8 an order pursuant to section 60-6,197.01. Such orders shall be
9 administered upon sentencing, upon final judgment of any appeal or
10 review, or upon the date that any probation is revoked.

11 If the court places such person on probation or suspends
12 the sentence for any reason, the court shall, as one of the
13 conditions of probation or sentence suspension, order that the
14 operator's license of such person be revoked for a period of
15 fifteen years from the date ordered by the court unless otherwise
16 authorized by an order issued pursuant to section 60-6,211.05 and
17 shall issue an order pursuant to section 60-6,197.01, and such
18 order of probation or sentence suspension shall also include,
19 as conditions, the payment of a one-thousand-dollar fine and
20 confinement in the city or county jail for one hundred eighty days;
21 and

22 (10) If such person has had four or more prior
23 convictions and, as part of the current violation, had a
24 concentration of fifteen-hundredths of one gram or more by weight
25 of alcohol per one hundred milliliters of his or her blood or

1 fifteen-hundredths of one gram or more by weight of alcohol per
2 two hundred ten liters of his or her breath or refused to submit
3 to a test as required under section 60-6,197, such person shall
4 be guilty of a Class II felony and the court shall, as part of
5 the judgment of conviction, revoke the operator's license of such
6 person for a period of fifteen years from the date ordered by the
7 court and shall issue an order pursuant to section 60-6,197.01.
8 Such revocation and order shall be administered upon sentencing,
9 upon final judgment of any appeal or review, or upon the date that
10 any probation is revoked.

11 If the court places such person on probation or suspends
12 the sentence for any reason, the court shall, as one of the
13 conditions of probation or sentence suspension, order that the
14 operator's license of such person be revoked for a period of
15 fifteen years from the date ordered by the court unless otherwise
16 authorized by an order issued pursuant to section 60-6,211.05 and
17 shall issue an order pursuant to section 60-6,197.01, and such
18 order of probation or sentence suspension shall also include,
19 as conditions, the payment of a one-thousand-dollar fine and
20 confinement in the city or county jail for one hundred eighty days.

21 Sec. 5. Original section 53-169.01, Reissue Revised
22 Statutes of Nebraska, and sections 53-101 and 60-6,197.03, Revised
23 Statutes Cumulative Supplement, 2006, are repealed.