

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 578

Introduced by McDonald, 41

Read first time January 17, 2007

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 section 53-134, Reissue Revised Statutes of Nebraska,
3 and section 53-123.11, Revised Statutes Cumulative
4 Supplement, 2006; to change provisions relating to
5 licenses; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-123.11, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 53-123.11 (1) A farm winery license shall entitle the
4 holder to:

5 (a) Sell wines produced at the farm winery onsite at
6 wholesale and retail and to sell wines produced at the farm winery
7 at off-premises sites holding the appropriate retail license;

8 (b) Sell wines produced at the farm winery at retail for
9 consumption on the premises;

10 (c) (i) Permit a customer to remove one unsealed bottle of
11 wine for consumption off the premises. The licensee or his or her
12 agent shall (A) securely reseal such bottle and place the bottle
13 in a bag designed so that it is visibly apparent that the resealed
14 bottle of wine has not been opened or tampered with and (B) provide
15 a dated receipt which confirms the purchase of the resealed bottle
16 of wine to the customer and attach to such bag a copy of the dated
17 same receipt for the resealed bottle of wine.

18 (ii) If the resealed bottle of wine is transported in a
19 motor vehicle, it must be placed in the trunk of the motor vehicle
20 or the area behind the last upright seat of such motor vehicle if
21 the area is not normally occupied by the driver or a passenger and
22 the motor vehicle is not equipped with a trunk;

23 (d) Ship wines produced at the farm winery by common
24 carrier and sold at retail to recipients in and outside the State
25 of Nebraska, if the output of such farm winery for each calendar

1 year as reported to the commission by December 31 of each year
2 does not exceed thirty thousand gallons. In the event such amount
3 exceeds thirty thousand gallons, the farm winery shall be required
4 to use a licensed wholesaler to distribute its wines for the
5 following calendar year, except that this requirement shall not
6 apply to wines produced and sold onsite at the farm winery pursuant
7 to subdivision (1) (a) of this section; and

8 (e) Allow sampling of the wine at the farm winery and at
9 one branch outlet in the state in reasonable amounts.

10 (2) No farm winery shall manufacture wine in excess of
11 fifty thousand gallons per year.

12 (3) A holder of a farm winery license may obtain a
13 special designated license pursuant to section 53-124.11.

14 (4) A holder of a farm winery license may obtain an
15 annual catering license pursuant to section 53-124.12.

16 Sec. 2. Section 53-134, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 53-134 The local governing body of any city or village
19 with respect to licenses within its corporate limits and the local
20 governing body of any county with respect to licenses not within
21 the corporate limits of any city or village but within the county
22 shall have the following powers, functions, and duties with respect
23 to retail and craft brewery licenses:

24 (1) To cancel or revoke for cause retail or craft brewery
25 licenses to sell or dispense alcoholic liquor issued to persons for

1 premises within its jurisdiction, subject to the right of appeal to
2 the commission;

3 (2) To enter or to authorize any law enforcement officer
4 to enter at any time upon any premises licensed under the Nebraska
5 Liquor Control Act to determine whether any provision of the act,
6 any rule or regulation adopted and promulgated pursuant to the act,
7 or any ordinance, resolution, rule, or regulation adopted by the
8 local governing body has been or is being violated and at such
9 time examine the premises of such licensee in connection with such
10 determination;

11 (3) To receive a signed complaint from any citizen within
12 its jurisdiction that any provision of the act, any rule or
13 regulation adopted and promulgated pursuant to the act, or any
14 ordinance, resolution, rule, or regulation relating to alcoholic
15 liquor has been or is being violated and to act upon such
16 complaints in the manner provided in the act;

17 (4) To receive retail license fees and craft brewery
18 license fees as provided in section 53-124 and ~~pay the same,~~
19 disburse such fees, after the license has been delivered to the
20 applicant, to the city, village, or county treasurer;

21 (5) To examine or cause to be examined any applicant or
22 any retail licensee or craft brewery licensee upon whom notice of
23 cancellation or revocation has been served as provided in the act,
24 to examine or cause to be examined the books and records of any
25 applicant or licensee, and to hear testimony and to take proof for

1 its information in the performance of its duties. For purposes of
2 obtaining any of the information desired, the local governing body
3 may authorize its agent or attorney to act on its behalf;

4 (6) To cancel or revoke on its own motion any license if,
5 upon the same notice and hearing as provided in section 53-134.04,
6 it determines that the licensee has violated any of the provisions
7 of the act or any valid and subsisting ordinance, resolution, rule,
8 or regulation duly enacted, adopted, and promulgated relating to
9 alcoholic liquor. Such order of cancellation or revocation may
10 be appealed to the commission within thirty days after the date
11 of the order by filing a notice of appeal with the commission.
12 The commission shall handle the appeal in the manner provided for
13 hearing on an application in section 53-133; and

14 (7) Upon receipt from the commission of the notice and
15 copy of application as provided in section 53-131, to fix a time
16 and place for a hearing at which the local governing body shall
17 receive evidence, either orally or by affidavit from the applicant
18 and any other person, bearing upon the propriety of the issuance
19 of a license. Notice of the time and place of such hearing shall
20 be published in a legal newspaper in or of general circulation in
21 such city, village, or county one time not less than seven and not
22 more than fourteen days before the time of the hearing. Such notice
23 shall include, but not be limited to, a statement that all persons
24 desiring to give evidence before the local governing body in
25 support of or in protest against the issuance of such license may

1 do so at the time of the hearing. Such hearing shall be held not
2 more than forty-five days after the date of receipt of the notice
3 from the commission, and after such hearing the local governing
4 body shall cause to be recorded in the minute record of their
5 proceedings a resolution recommending either issuance or refusal of
6 such license. The clerk of such city, village, or county shall mail
7 to the commission by first-class mail, postage prepaid, a copy of
8 the resolution which shall state the cost of the published notice,
9 except that failure to comply with this provision shall not void
10 any license issued by the commission. If the commission refuses to
11 issue such a license, the cost of publication of notice shall be
12 paid by the commission from the security for costs.

13 Sec. 3. Original section 53-134, Reissue Revised Statutes
14 of Nebraska, and section 53-123.11, Revised Statutes Cumulative
15 Supplement, 2006, are repealed.