

AMENDMENTS TO LB 861

Introduced by General Affairs.

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 2-1201, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           2-1201 (1) There hereby is created a State Racing  
6 Commission.

7           (2) Until the effective date of this act, the commission  
8 shall consist ~~consisting~~ of three members who shall be appointed  
9 by the Governor and subject to confirmation by a majority of the  
10 members elected to the Legislature and may be for cause removed by  
11 the Governor. One member shall be appointed each year for a term  
12 of three years. The members shall serve until their successors are  
13 appointed and qualified.

14           (3) On and after the effective date of this act, the  
15 commission shall consist of five members who shall be appointed  
16 by the Governor and subject to confirmation by a majority of the  
17 members elected to the Legislature and may be for cause removed by  
18 the Governor. One member of the commission shall be appointed from  
19 each congressional district, as such districts existed on January  
20 1, 2010, and two members of the commission shall be appointed at  
21 large for terms as follows:

22           (a) The member representing the second congressional  
23 district who is appointed on or after April 1, 2010, shall serve

1 until March 31, 2014, and until his or her successor is appointed  
2 and qualified. Thereafter the term of the member representing such  
3 district shall be four years and until his or her successor is  
4 appointed and qualified;

5 (b) The member representing the third congressional  
6 district who is appointed on or after April 1, 2011, shall serve  
7 until March 31, 2015, and until his or her successor is appointed  
8 and qualified. Thereafter the term of the member representing such  
9 district shall be four years and until his or her successor is  
10 appointed and qualified;

11 (c) The member representing the first congressional  
12 district who is appointed on or after April 1, 2012, shall serve  
13 until March 31, 2016, and until his or her successor is appointed  
14 and qualified. Thereafter the term of the member representing such  
15 district shall be four years and until his or her successor is  
16 appointed and qualified;

17 (d) Not later than sixty days after the effective date  
18 of this act, the Governor shall appoint one at-large member who  
19 shall serve until March 31, 2013, and until his or her successor is  
20 appointed and qualified. Thereafter the term of such member shall  
21 be four years and until his or her successor is appointed and  
22 qualified; and

23 (e) Not later than sixty days after the effective date  
24 of this act, the Governor shall appoint one at-large member who  
25 shall serve until March 31, 2014, and until his or her successor is  
26 appointed and qualified. Thereafter the term of such member shall  
27 be four years and until his or her successor is appointed and

1 qualified.

2           (4) Not more than ~~two~~ three members of the commission  
3 shall belong to the same political party. No more than ~~+~~ ~~no~~ two of  
4 the members shall reside, when appointed, in the same congressional  
5 district. No more than ~~+~~ ~~and~~ ~~no~~ two of the members shall reside  
6 in any one county. Any vacancy shall be filled by appointment  
7 by the Governor for the unexpired term. The members shall serve  
8 without compensation~~7~~ but shall be reimbursed for their actual  
9 expenses incurred in the performance of their duties as provided in  
10 sections 81-1174 to 81-1177. ~~for state employees.~~ The members of  
11 the commission shall be bonded or insured as required by section  
12 11-201.

13           Sec. 2. Section 2-1219, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           2-1219 (1) When any matter comes before the State Racing  
16 Commission that may cause financial benefit or detriment to a  
17 member of the commission, a member of his or her immediate family,  
18 or a business with which the member is associated, which is  
19 distinguishable from the effects of such matter on the public  
20 generally or a broad segment of the public, such member shall  
21 take the following actions as soon as he or she is aware of such  
22 potential conflict or should reasonably be aware of such potential  
23 conflict, whichever is sooner:

24           (a) Prepare a written statement describing the matter  
25 requiring action or decision and the nature of the potential  
26 conflict;

27           (b) Deliver a copy of the statement to the secretary of

1 the commission; and

2 (c) Recuse himself or herself from taking any action or  
3 making any decision relating to such matter in the discharge of his  
4 or her official duties as a member of the commission.

5 ~~(1)~~ (2) No horse in which any ~~member~~ employee of the  
6 State Racing Commission ~~or its employees~~ has any interest shall be  
7 raced at any meet under the jurisdiction of the commission.

8 ~~(2)~~ ~~No member~~ (3) No employee of the State Racing  
9 Commission ~~or its employees~~ shall have a pecuniary interest or  
10 engage in any private employment in a profession or business which  
11 is regulated by or interferes or conflicts with the performance or  
12 proper discharge of the duties of the commission.

13 ~~(3)~~ ~~No member~~ (4) No employee of the State Racing  
14 Commission ~~or its employees~~ shall wager or cause a wager to be  
15 placed on the outcome of any race at a race meeting which is under  
16 the jurisdiction and supervision of the commission.

17 ~~(4)~~ ~~No member~~ (5) No employee of the State Racing  
18 Commission ~~or its employees~~ shall have a pecuniary interest or  
19 engage in any private employment in a business which does business  
20 with any racing association licensed by the commission or in any  
21 business issued a concession operator license by the commission.

22 ~~(5)~~ (6) Any commission ~~member~~ ~~or~~ employee violating this  
23 section shall forfeit his or her ~~office.~~ employment.

24 ~~(6)~~ (7) The commission shall include in its rules  
25 and regulations prohibitions against actual or potential specific  
26 conflicts of interest on the part of racing officials and other  
27 individuals licensed by the commission.

1                   Sec. 3. Section 9-823, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   9-823 The Tax Commissioner shall adopt and promulgate  
4 rules and regulations necessary to carry out the State Lottery Act.  
5 The rules and regulations shall include provisions relating to the  
6 following:

7                   (1) The lottery games to be conducted subject to the  
8 following conditions:

9                   (a) No lottery game shall use the theme of dog racing or  
10 horseracing;

11                   (b) In any lottery game utilizing tickets, each ticket in  
12 such game shall bear a unique number distinguishing it from every  
13 other ticket in such lottery game;

14                   (c) No name of an elected official shall appear on the  
15 tickets of any lottery game; and

16                   (d) In any instant-win game, the overall estimated odds  
17 of winning some prize shall be printed on each ticket and shall  
18 also be available at the office of the division at the time such  
19 lottery game is offered for sale to the public;

20                   (2) The retail sales price for lottery tickets;

21                   (3) The types and manner of payment of prizes to be  
22 awarded for winning tickets in lottery games;

23                   (4) The method for determining winners, the frequency of  
24 drawings, if any, or other selection of winning tickets subject to  
25 the following conditions:

26                   (a) No lottery game shall be based on the results of a  
27 dog race, horserace, or other sports event;

1           (b) If the lottery game utilizes the drawing of winning  
2 numbers, a drawing among entries, or a drawing among finalists  
3 (i) the drawings shall be witnessed by an independent certified  
4 public accountant, (ii) any equipment used in the drawings shall  
5 be inspected by the independent certified public accountant and an  
6 employee of the division or designated agent both before and after  
7 the drawing, and (iii) the drawing shall be recorded on videotape  
8 with an audio track; and

9           (c) Drawings in an instant-win game, other than grand  
10 prize drawings or other runoff drawings, shall not be held more  
11 often than weekly. Drawings or selections in an on-line game shall  
12 not be held more often than daily;

13           (5) The validation and manner of payment of prizes to the  
14 holders of winning tickets subject to the following conditions:

15           (a) The prize shall be given to the person who presents  
16 a winning ticket, except that for awards in excess of five hundred  
17 dollars, the winner shall also provide his or her social security  
18 number or tax identification number;

19           (b) A prize may be given to only one person per winning  
20 ticket, except that a prize shall be divided between the holders of  
21 winning tickets if there is more than one winning ticket per prize;

22           (c) For the convenience of the public, the director may  
23 authorize lottery game retailers to pay winners of up to five  
24 hundred dollars after performing validation procedures on their  
25 premises appropriate to the lottery game involved;

26           (d) No prize shall be paid to any person under nineteen  
27 years of age, and any prize resulting from a lottery ticket held by

1 a person under nineteen years of age shall be awarded to the parent  
2 or guardian or custodian of the person under the Nebraska Uniform  
3 Transfers to Minors Act;

4 (e) No prize shall be paid for tickets that are stolen,  
5 counterfeit, altered, fraudulent, unissued, produced or issued in  
6 error, unreadable, not received or not recorded by the division by  
7 acceptable deadlines, lacking in captions that confirm and agree  
8 with the lottery play symbols as appropriate to the lottery game  
9 involved, or not in compliance with additional specific rules and  
10 regulations and public or confidential validation and security  
11 tests appropriate to the particular lottery game involved;

12 (f) No particular prize in any lottery game shall be paid  
13 more than once. In the event of a binding determination by the  
14 director that more than one claimant is entitled to a particular  
15 prize, the sole right of such claimants shall be the award to each  
16 of them of an equal share in the prize; and

17 (g) After the expiration of the claim period for prizes  
18 for each lottery game, the director shall make available a detailed  
19 tabulation of the total number of tickets actually sold in the  
20 lottery game and the total number of prizes of each prize  
21 denomination that were actually claimed and paid;

22 (6) Requirements for eligibility for participation  
23 in grand prize drawings or other runoff drawings, including  
24 requirements for submission of evidence of eligibility;

25 (7) The locations at which tickets may be sold except  
26 that no ticket may be sold at a retail liquor establishment  
27 holding a license for the sale of alcoholic liquor at retail for

1 consumption on the licensed premises unless the establishment holds  
2 a Class C liquor license with a sampling designation as provided in  
3 ~~subdivision (5)~~ subsection (6) of section 53-124;

4 (8) The method to be used in selling tickets;

5 (9) The contracting with persons as lottery game  
6 retailers to sell tickets and the manner and amount of compensation  
7 to be paid to such retailers;

8 (10) The form and type of marketing of informational and  
9 educational material;

10 (11) Any arrangements or methods to be used in providing  
11 proper security in the storage and distribution of tickets or  
12 lottery games; and

13 (12) All other matters necessary or desirable for the  
14 efficient and economical operation and administration of lottery  
15 games and for the convenience of the purchasers of tickets and the  
16 holders of winning tickets.

17 Sec. 4. Section 28-421, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 28-421 The provisions of sections 28-419 to 28-424 shall  
20 not apply to the use or sale of such substances, as defined in  
21 sections 28-419 and 28-420, when such use or sale is administered  
22 or prescribed for medical or dental purposes, nor shall the  
23 provisions of sections 28-419 to 28-424 apply to the use or sale of  
24 alcoholic liquors as defined by section ~~53-103~~. 9 of this act.

25 Sec. 5. Section 48-1902, Revised Statutes Cumulative  
26 Supplement, 2008, is amended to read:

27 48-1902 For purposes of sections 48-1901 to 48-1910,



1 unless the context otherwise requires:

2 (1) Alcohol ~~shall mean~~ means any product of distillation  
3 of any fermented liquid, whether rectified or diluted, whatever may  
4 be the origin thereof, synthetic ethyl alcohol, the four varieties  
5 of liquor, ~~defined in subdivisions (1) through (4) of section~~  
6 ~~53-103,~~ alcohol, spirits, wine, and beer, as defined in sections  
7 8, 10, 45, and 49 of this act, every liquid or solid, patented  
8 or not, containing alcohol, spirits, wine, or beer, and alcohol  
9 used in the manufacture of denatured alcohol, flavoring extracts,  
10 syrups, or medicinal, mechanical, scientific, culinary, and toilet  
11 preparations;

12 (2) Breath-testing device ~~shall mean~~ means intoxilyzer  
13 model 4011AS or other scientific testing equivalent as approved  
14 by and operated in accordance with the department rules and  
15 regulations;

16 (3) Breath-testing-device operator ~~shall mean~~ means a  
17 person who has obtained or been issued a permit pursuant to the  
18 department rules and regulations;

19 (4) Department ~~shall mean~~ means the Department of Health  
20 and Human Services;

21 (5) Department rules and regulations ~~shall mean~~ means the  
22 techniques and methods authorized pursuant to section 60-6,201;

23 (6) Drug ~~shall mean~~ means any substance, chemical, or  
24 compound as described, defined, or delineated in sections 28-405  
25 and 28-419 or any metabolite or conjugated form thereof, except  
26 that any substance, chemical, or compound containing any product as  
27 defined in subdivision (1) of this section may also be defined as

1 alcohol;

2 (7) Employee ~~shall mean~~ means any person who receives any  
3 remuneration, commission, bonus, or other form of wages in return  
4 for such person's actions which directly or indirectly benefit an  
5 employer; and

6 (8) Employer ~~shall mean~~ means the State of Nebraska and  
7 its political subdivisions, all other governmental entities, or any  
8 individual, association, corporation, or other organization doing  
9 business in the State of Nebraska unless it, he, or she employs a  
10 total of less than six full-time and part-time employees at any one  
11 time.

12 Sec. 6. Section 53-101, Revised Statutes Supplement,  
13 2009, is amended to read:

14 53-101 Sections 53-101 to 53-1,122 and sections 8 to 49  
15 and 56 of this act shall be known and may be cited as the Nebraska  
16 Liquor Control Act.

17 Sec. 7. Section 53-103, Revised Statutes Supplement,  
18 2009, is amended to read:

19 53-103 For purposes of the Nebraska Liquor Control Act,  
20 the definitions found in sections 8 to 49 of this act apply. unless  
21 the context otherwise requires:

22 (1) Alcohol means the product of distillation of any  
23 fermented liquid, whether rectified or diluted, whatever the origin  
24 thereof, and includes synthetic ethyl alcohol and alcohol processed  
25 or sold in a gaseous form. Alcohol does not include denatured  
26 alcohol or wood alcohol;

27 (2) Spirits means any beverage which contains alcohol

1 obtained by distillation, mixed with water or other substance  
2 in solution, and includes brandy, rum, whiskey, gin, or other  
3 spirituous liquors and such liquors when rectified, blended, or  
4 otherwise mixed with alcohol or other substances;

5 (3) Wine means any alcoholic beverage obtained by the  
6 fermentation of the natural contents of fruits or vegetables,  
7 containing sugar, including such beverages when fortified by the  
8 addition of alcohol or spirits;

9 (4) Beer means a beverage obtained by alcoholic  
10 fermentation of an infusion or concoction of barley or other grain,  
11 malt, and hops in water and includes, but is not limited to, beer,  
12 ale, stout, lager beer, porter, and near beer;

13 (5) Alcoholic liquor includes alcohol, spirits, wine,  
14 beer, and any liquid or solid, patented or not, containing alcohol,  
15 spirits, wine, or beer and capable of being consumed as a beverage  
16 by a human being. Alcoholic liquor also includes confections or  
17 candy with alcohol content of more than one-half of one percent  
18 alcohol. The act does not apply to (a) alcohol used in the  
19 manufacture of denatured alcohol produced in accordance with acts  
20 of Congress and regulations adopted and promulgated pursuant to  
21 such acts, (b) flavoring extracts, syrups, medicinal, mechanical,  
22 scientific, culinary, or toilet preparations, or food products  
23 unfit for beverage purposes, but the act applies to alcoholic  
24 liquor used in the manufacture, preparation, or compounding of such  
25 products or confections or candy that contains more than one-half  
26 of one percent alcohol, or (c) wine intended for use and used by  
27 any church or religious organization for sacramental purposes;

1           ~~(6) Near beer means beer containing less than one-half of~~  
2           ~~one percent of alcohol by volume;~~

3           ~~(7) Original package means any bottle, flask, jug, can,~~  
4           ~~cask, barrel, keg, hogshead, or other receptacle or container~~  
5           ~~used, corked or capped, sealed, and labeled by the manufacturer of~~  
6           ~~alcoholic liquor to contain and to convey any alcoholic liquor;~~

7           ~~(8) Manufacturer means every brewer, fermenter,~~  
8           ~~distiller, rectifier, winemaker, blender, processor, bottler,~~  
9           ~~or person who fills or refills an original package and others~~  
10           ~~engaged in brewing, fermenting, distilling, rectifying, or bottling~~  
11           ~~alcoholic liquor, including a wholly owned affiliate or duly~~  
12           ~~authorized agent for a manufacturer;~~

13           ~~(9) Nonbeverage user means every manufacturer of any~~  
14           ~~of the products set forth and described in subsection (4) of~~  
15           ~~section 53-160, when such product contains alcoholic liquor, and~~  
16           ~~all laboratories, hospitals, and sanatoria using alcoholic liquor~~  
17           ~~for nonbeverage purposes;~~

18           ~~(10) Manufacture means to distill, rectify, ferment,~~  
19           ~~brew, make, mix, concoct, process, blend, bottle, or fill an~~  
20           ~~original package with any alcoholic liquor and includes blending~~  
21           ~~but does not include the mixing or other preparation of drinks for~~  
22           ~~selling by those persons authorized and permitted in the act to~~  
23           ~~serve drinks for consumption on the premises where sold;~~

24           ~~(11) Wholesaler means a person importing or causing to be~~  
25           ~~imported into the state or purchasing or causing to be purchased~~  
26           ~~within the state alcoholic liquor for sale or resale to retailers~~  
27           ~~licensed under the act, whether the business of the wholesaler is~~

1 conducted under the terms of a franchise or any other form of an  
2 agreement with a manufacturer or manufacturers, or who has caused  
3 alcoholic liquor to be imported into the state or purchased in  
4 the state from a manufacturer or manufacturers and was licensed  
5 to conduct such a business by the commission on May 1, 1970, or  
6 has been so licensed since that date. Wholesaler does not include  
7 any retailer licensed to sell alcoholic liquor for consumption off  
8 the premises who sells alcoholic liquor other than beer or wine  
9 to another retailer pursuant to section 53-175, except that any  
10 such retailer shall obtain the required federal wholesaler's basic  
11 permit and federal wholesale liquor dealer's special tax stamp.  
12 Wholesaler includes a distributor, distributorship, and jobber;

13           (12) Person means any natural person, trustee,  
14 corporation, partnership, or limited liability company;

15           (13) Retailer means a person who sells or offers for sale  
16 alcoholic liquor for use or consumption and not for resale in any  
17 form except as provided in section 53-175;

18           (14) Sell at retail and sale at retail means sale for use  
19 or consumption and not for resale in any form except as provided in  
20 section 53-175;

21           (15) Commission means the Nebraska Liquor Control  
22 Commission;

23           (16) Sale means any transfer, exchange, or barter in any  
24 manner or by any means for a consideration and includes any sale  
25 made by any person, whether principal, proprietor, agent, servant,  
26 or employee;

27           (17) To sell means to solicit or receive an order for, to

1 keep or expose for sale, or to keep with intent to sell,

2           (18) Restaurant means any public place (a) which is kept,  
3 used, maintained, advertised, and held out to the public as a place  
4 where meals are served and where meals are actually and regularly  
5 served, (b) which has no sleeping accommodations, and (c) which  
6 has adequate and sanitary kitchen and dining room equipment and  
7 capacity and a sufficient number and kind of employees to prepare,  
8 cook, and serve suitable food for its guests;

9           (19) Club means a corporation (a) which is organized  
10 under the laws of this state, not for pecuniary profit, solely  
11 for the promotion of some common object other than the sale or  
12 consumption of alcoholic liquor, (b) which is kept, used, and  
13 maintained by its members through the payment of annual dues, (c)  
14 which owns, hires, or leases a building or space in a building  
15 suitable and adequate for the reasonable and comfortable use and  
16 accommodation of its members and their guests, and (d) which  
17 has suitable and adequate kitchen and dining room space and  
18 equipment and a sufficient number of servants and employees for  
19 cooking, preparing, and serving food and meals for its members  
20 and their guests. The affairs and management of such club shall  
21 be conducted by a board of directors, executive committee, or  
22 similar body chosen by the members at their annual meeting, and  
23 no member, officer, agent, or employee of the club shall be paid  
24 or shall directly or indirectly receive, in the form of salary or  
25 other compensation, any profits from the distribution or sale of  
26 alcoholic liquor to the club or the members of the club or its  
27 guests introduced by members other than any salary fixed and voted

1 at any annual meeting by the members or by the governing body of  
2 the club out of the general revenue of the club;

3 ~~(20)~~ Hotel means any building or other structure (a)  
4 which is kept, used, maintained, advertised, and held out to  
5 the public to be a place where food is actually served and  
6 consumed and sleeping accommodations are offered for adequate  
7 pay to travelers and guests, whether transient, permanent, or  
8 residential, (b) in which twenty-five or more rooms are used for  
9 the sleeping accommodations of such guests, and (c) which has one  
10 or more public dining rooms where meals are served to such guests,  
11 such sleeping accommodations and dining rooms being conducted in  
12 the same buildings in connection therewith and such building or  
13 buildings or structure or structures being provided with adequate  
14 and sanitary kitchen and dining room equipment and capacity;

15 ~~(21)~~ Nonprofit corporation means any corporation  
16 organized under the laws of this state, not for profit, which has  
17 been exempted from the payment of federal income taxes;

18 ~~(22)~~ Minor means any person, male or female, under  
19 twenty-one years of age, regardless of marital status;

20 ~~(23)~~ Brand means alcoholic liquor identified as the  
21 product of a specific manufacturer;

22 ~~(24)~~ Franchise or agreement, with reference to the  
23 relationship between a manufacturer and wholesaler, includes one or  
24 more of the following: (a) A commercial relationship of a definite  
25 duration or continuing indefinite duration which is not required  
26 to be in writing; (b) a relationship by which the wholesaler is  
27 granted the right to offer and sell the manufacturer's brands by

1 the manufacturer, (c) a relationship by which the franchise, as an  
2 independent business, constitutes a component of the manufacturer's  
3 distribution system, (d) a relationship by which the operation  
4 of the wholesaler's business is substantially associated with  
5 the manufacturer's brand, advertising, or other commercial symbol  
6 designating the manufacturer, and (e) a relationship by which the  
7 operation of the wholesaler's business is substantially reliant on  
8 the manufacturer for the continued supply of beer;

9           (25) Territory or sales territory means the wholesaler's  
10 area of sales responsibility for the brand or brands of the  
11 manufacturer;

12           (26) Suspend means to cause a temporary interruption of  
13 all rights and privileges of a license;

14           (27) Cancel means to discontinue all rights and  
15 privileges of a license;

16           (28) Revoke means to permanently void and recall all  
17 rights and privileges of a license;

18           (29) Generic label means a label which is not protected  
19 by a registered trademark, either in whole or in part, or to  
20 which no person has acquired a right pursuant to state or federal  
21 statutory or common law;

22           (30) Private label means a label which the purchasing  
23 wholesaler or retailer has protected, in whole or in part, by  
24 a trademark registration or which the purchasing wholesaler or  
25 retailer has otherwise protected pursuant to state or federal  
26 statutory or common law;

27           (31) Farm winery means any enterprise which produces and



1 sells wines produced from grapes, other fruit, or other suitable  
2 agricultural products of which at least seventy-five percent of  
3 the finished product is grown in this state or which meets the  
4 requirements of section 53-123.13;

5       (32) Campus, as it pertains to the southern boundary of  
6 the main campus of the University of Nebraska-Lincoln, means the  
7 south right-of-way line of R Street and abandoned R Street from  
8 10th to 17th streets and, as it pertains to the western boundary  
9 of the main campus of the University of Nebraska-Lincoln, means the  
10 east right-of-way line of 10th Street from R Street to Holdrege  
11 Street (Salt Creek Roadway);

12       (33) Brewpub means any restaurant or hotel which produces  
13 on its premises a maximum of ten thousand barrels of beer per year;

14       (34) Manager means a person appointed by a corporation to  
15 oversee the daily operation of the business licensed in Nebraska. A  
16 manager shall meet all the requirements of the act as though he or  
17 she were the applicant, except for residency and citizenship;

18       (35) Shipping license means a license granted pursuant to  
19 section 53-123.15;

20       (36) Sampling means consumption on the premises of a  
21 retail licensee of not more than five samples of one fluid ounce or  
22 less of alcoholic liquor by the same person in a twenty-four-hour  
23 period;

24       (37) Microbrewery means any small brewery producing a  
25 maximum of ten thousand barrels of beer per year;

26       (38) Craft brewery means a brewpub or a microbrewery;

27       (39) Local governing body means (a) the city council or

1 village board of trustees of a city or village within which the  
2 licensed premises are located or (b) if the licensed premises are  
3 not within the corporate limits of a city or village, the county  
4 board of the county within which the licensed premises are located;

5 (40) Consume means knowingly and intentionally drinking  
6 or otherwise ingesting alcoholic liquor;

7 (41) Microdistillery means a distillery located in  
8 Nebraska that is licensed to distill liquor on the premises of the  
9 distillery licensee and produces ten thousand or fewer gallons of  
10 liquor annually; and

11 (42) Cigar bar means an establishment operated by a  
12 holder of a Class C liquor license which:

13 (a) Does not sell food;

14 (b) In addition to selling alcohol, annually receives ten  
15 percent or more of its gross revenue from the sale of cigars and  
16 other tobacco products and tobacco-related products, except from  
17 the sale of cigarettes as defined in section 69-2702. A cigar bar  
18 shall not discount alcohol if sold in combination with cigars or  
19 other tobacco products and tobacco-related products;

20 (c) Has a walk-in humidor on the premises; and

21 (d) Does not permit the smoking of cigarettes.

22 Sec. 8. Alcohol means the product of distillation of any  
23 fermented liquid, whether rectified or diluted, whatever the origin  
24 thereof, and includes synthetic ethyl alcohol and alcohol processed  
25 or sold in a gaseous form. Alcohol does not include denatured  
26 alcohol or wood alcohol.

27 Sec. 9. (1) Alcoholic liquor includes alcohol, spirits,

1 wine, beer, and any liquid or solid, patented or not, containing  
2 alcohol, spirits, wine, or beer and capable of being consumed  
3 as a beverage by a human being. Alcoholic liquor also includes  
4 confections or candy that contains more than one-half of one  
5 percent alcohol.

6 (2) The Nebraska Liquor Control Act does not apply  
7 to (a) alcohol used in the manufacture of denatured alcohol  
8 produced in accordance with acts of Congress and regulations  
9 adopted and promulgated pursuant to such acts, (b) flavoring  
10 extracts, syrups, medicinal, mechanical, scientific, culinary, or  
11 toilet preparations, or food products unfit for beverage purposes,  
12 but the act applies to alcoholic liquor used in the manufacture,  
13 preparation, or compounding of such products or confections or  
14 candy that contains more than one-half of one percent alcohol, or  
15 (c) wine intended for use and used by any church or religious  
16 organization for sacramental purposes.

17 Sec. 10. Beer means a beverage obtained by alcoholic  
18 fermentation of an infusion or concoction of barley or other grain,  
19 malt, and hops in water and includes, but is not limited to, beer,  
20 ale, stout, lager beer, porter, and near beer.

21 Sec. 11. Brand means alcoholic liquor identified as the  
22 product of a specific manufacturer.

23 Sec. 12. Brewpub means any restaurant or hotel which  
24 produces on its premises a maximum of ten thousand barrels of beer  
25 per year.

26 Sec. 13. Campus, as it pertains to the southern boundary  
27 of the main campus of the University of Nebraska-Lincoln, means the

1 south right-of-way line of R Street and abandoned R Street from  
2 10th to 17th streets and, as it pertains to the western boundary  
3 of the main campus of the University of Nebraska-Lincoln, means the  
4 east right-of-way line of 10th Street from R Street to Holdrege  
5 Street (Salt Creek Roadway).

6           Sec. 14. Cancel means to discontinue all rights and  
7 privileges of a license.

8           Sec. 15. Cigar bar means an establishment operated by a  
9 holder of a Class C liquor license which:

10           (1) Does not sell food;

11           (2) In addition to selling alcohol, annually receives ten  
12 percent or more of its gross revenue from the sale of cigars and  
13 other tobacco products and tobacco-related products, except from  
14 the sale of cigarettes as defined in section 69-2702. A cigar bar  
15 shall not discount alcohol if sold in combination with cigars or  
16 other tobacco products and tobacco-related products;

17           (3) Has a walk-in humidor on the premises; and

18           (4) Does not permit the smoking of cigarettes.

19           Sec. 16. (1) Club means a corporation (a) which is  
20 organized under the laws of this state, not for pecuniary profit,  
21 solely for the promotion of some common object other than the sale  
22 or consumption of alcoholic liquor, (b) which is kept, used, and  
23 maintained by its members through the payment of annual dues, (c)  
24 which owns, hires, or leases a building or space in a building  
25 suitable and adequate for the reasonable and comfortable use and  
26 accommodation of its members and their guests, and (d) which has  
27 suitable and adequate kitchen and dining room space and equipment

1 and a sufficient number of servants and employees for cooking,  
2 preparing, and serving food and meals for its members and their  
3 guests.

4 (2) The affairs and management of such club shall be  
5 conducted by a board of directors, executive committee, or similar  
6 body chosen by the members at their annual meeting, and no  
7 member, officer, agent, or employee of the club shall be paid or  
8 shall directly or indirectly receive, in the form of salary or  
9 other compensation, any profits from the distribution or sale of  
10 alcoholic liquor to the club or the members of the club or its  
11 guests introduced by members other than any salary fixed and voted  
12 at any annual meeting by the members or by the governing body of  
13 the club out of the general revenue of the club.

14 Sec. 17. Commission means the Nebraska Liquor Control  
15 Commission.

16 Sec. 18. Consume means knowingly and intentionally  
17 drinking or otherwise ingesting alcoholic liquor.

18 Sec. 19. Craft brewery means a brewpub or a microbrewery.

19 Sec. 20. Farm winery means any enterprise which produces  
20 and sells wines produced from grapes, other fruit, or other  
21 suitable agricultural products of which at least seventy-five  
22 percent of the finished product is grown in this state or which  
23 meets the requirements of section 53-123.13.

24 Sec. 21. Franchise or agreement, with reference to the  
25 relationship between a manufacturer and wholesaler, includes one or  
26 more of the following:

27 (1) A commercial relationship of a definite duration or

1 continuing indefinite duration which is not required to be in  
2 writing;

3 (2) A relationship by which the wholesaler is granted  
4 the right to offer and sell the manufacturer's brands by the  
5 manufacturer;

6 (3) A relationship by which the franchise, as an  
7 independent business, constitutes a component of the manufacturer's  
8 distribution system;

9 (4) A relationship by which the operation of the  
10 wholesaler's business is substantially associated with the  
11 manufacturer's brand, advertising, or other commercial symbol  
12 designating the manufacturer; and

13 (5) A relationship by which the operation of the  
14 wholesaler's business is substantially reliant on the manufacturer  
15 for the continued supply of beer.

16 Sec. 22. Generic label means a label which is not  
17 protected by a registered trademark, either in whole or in part,  
18 or to which no person has acquired a right pursuant to state or  
19 federal statutory or common law.

20 Sec. 23. Hotel means any building or other structure  
21 (1) which is kept, used, maintained, advertised, and held out  
22 to the public to be a place where food is actually served and  
23 consumed and sleeping accommodations are offered for adequate  
24 pay to travelers and guests, whether transient, permanent, or  
25 residential, (2) in which twenty-five or more rooms are used for  
26 the sleeping accommodations of such guests, and (3) which has one  
27 or more public dining rooms where meals are served to such guests,

1 such sleeping accommodations and dining rooms being conducted in  
2 the same buildings in connection therewith and such building or  
3 buildings or structure or structures being provided with adequate  
4 and sanitary kitchen and dining room equipment and capacity.

5       Sec. 24. Local governing body means (1) the city council  
6 or village board of trustees of a city or village within which the  
7 licensed premises are located or (2) if the licensed premises are  
8 not within the corporate limits of a city or village, the county  
9 board of the county within which the licensed premises are located.

10       Sec. 25. Manager means a person appointed by a  
11 corporation or limited liability company to oversee the daily  
12 operation of the business licensed in Nebraska. A manager shall  
13 meet all the requirements of the Nebraska Liquor Control Act as  
14 though he or she were the applicant, including residency and  
15 citizenship.

16       Sec. 26. Manufacture means to distill, rectify, ferment,  
17 brew, make, mix, concoct, process, blend, bottle, or fill an  
18 original package with any alcoholic liquor and includes blending  
19 but does not include the mixing or other preparation of drinks for  
20 selling by those persons authorized and permitted in the Nebraska  
21 Liquor Control Act to serve drinks for consumption on the premises  
22 where sold.

23       Sec. 27. Manufacturer means every brewer, fermenter,  
24 distiller, rectifier, winemaker, blender, processor, bottler, or  
25 person who fills or refills an original package and others  
26 engaged in brewing, fermenting, distilling, rectifying, or bottling  
27 alcoholic liquor, including a wholly owned affiliate or duly

1 authorized agent for a manufacturer.

2           Sec. 28. Microbrewery means any small brewery producing a  
3 maximum of ten thousand barrels of beer per year.

4           Sec. 29. Microdistillery means a distillery located in  
5 Nebraska that is licensed to distill liquor on the premises of the  
6 distillery licensee and produces ten thousand or fewer gallons of  
7 liquor annually.

8           Sec. 30. Minor means any person, male or female, under  
9 twenty-one years of age, regardless of marital status.

10           Sec. 31. Near beer means beer containing less than  
11 one-half of one percent of alcohol by volume.

12           Sec. 32. Nonbeverage user means every manufacturer of  
13 any of the products set forth and described in subsection (4) of  
14 section 53-160, when such product contains alcoholic liquor, and  
15 all laboratories, hospitals, and sanatoria using alcoholic liquor  
16 for nonbeverage purposes.

17           Sec. 33. Nonprofit corporation means any corporation  
18 organized under the laws of this state, not for profit, which has  
19 been exempted from the payment of federal income taxes.

20           Sec. 34. Original package means any bottle, flask, jug,  
21 can, cask, barrel, keg, hogshead, or other receptacle or container  
22 used, corked or capped, sealed, and labeled by the manufacturer of  
23 alcoholic liquor to contain and to convey any alcoholic liquor.

24           Sec. 35. Person means any natural person, trustee,  
25 corporation, partnership, or limited liability company.

26           Sec. 36. Private label means a label which the purchasing  
27 wholesaler or retailer has protected, in whole or in part, by



1 a trademark registration or which the purchasing wholesaler or  
2 retailer has otherwise protected pursuant to state or federal  
3 statutory or common law.

4           Sec. 37. Restaurant means any public place (1) which is  
5 kept, used, maintained, advertised, and held out to the public as  
6 a place where meals are served and where meals are actually and  
7 regularly served, (2) which has no sleeping accommodations, and (3)  
8 which has adequate and sanitary kitchen and dining room equipment  
9 and capacity and a sufficient number and kind of employees to  
10 prepare, cook, and serve suitable food for its guests.

11           Sec. 38. Retailer means a person who sells or offers for  
12 sale alcoholic liquor for use or consumption and not for resale in  
13 any form except as provided in section 53-175.

14           Sec. 39. Revoke means to permanently void and recall all  
15 rights and privileges of a license.

16           Sec. 40. Sale means any transfer, exchange, or barter  
17 in any manner or by any means for a consideration and includes  
18 any sale made by any person, whether principal, proprietor, agent,  
19 servant, or employee.

20           Sec. 41. Sampling means consumption on the premises of a  
21 retail licensee of not more than five samples of one fluid ounce or  
22 less of alcoholic liquor by the same person in a twenty-four-hour  
23 period.

24           Sec. 42. Sell means to solicit or receive an order for,  
25 to keep or expose for sale, or to keep with intent to sell.

26           Sec. 43. Sell at retail and sale at retail means sale  
27 for use or consumption and not for resale in any form except as

1 provided in section 53-175.

2           Sec. 44. Shipping license means a license granted  
3 pursuant to section 53-123.15.

4           Sec. 45. Spirits means any beverage which contains  
5 alcohol obtained by distillation, mixed with water or other  
6 substance in solution, and includes brandy, rum, whiskey, gin,  
7 or other spirituous liquors and such liquors when rectified,  
8 blended, or otherwise mixed with alcohol or other substances.

9           Sec. 46. Suspend means to cause a temporary interruption  
10 of all rights and privileges of a license.

11           Sec. 47. Territory or sales territory means the  
12 wholesaler's area of sales responsibility for the brand or brands  
13 of the manufacturer.

14           Sec. 48. Wholesaler means a person importing or causing  
15 to be imported into the state or purchasing or causing to be  
16 purchased within the state alcoholic liquor for sale or resale to  
17 retailers licensed under the Nebraska Liquor Control Act, whether  
18 the business of the wholesaler is conducted under the terms of a  
19 franchise or any other form of an agreement with a manufacturer or  
20 manufacturers, or who has caused alcoholic liquor to be imported  
21 into the state or purchased in the state from a manufacturer or  
22 manufacturers and was licensed to conduct such a business by the  
23 commission on May 1, 1970, or has been so licensed since that date.

24           Wholesaler does not include any retailer licensed to  
25 sell alcoholic liquor for consumption off the premises who sells  
26 alcoholic liquor other than beer or wine to another retailer  
27 pursuant to section 53-175, except that any such retailer shall

1 obtain the required federal wholesaler's basic permit and federal  
2 wholesale liquor dealer's special tax stamp. Wholesaler includes a  
3 distributor, distributorship, and jobber.

4           Sec. 49. Wine means any alcoholic beverage obtained by  
5 the fermentation of the natural contents of fruits or vegetables,  
6 containing sugar, including such beverages when fortified by the  
7 addition of alcohol or spirits.

8           Sec. 50. Section 53-122, Revised Statutes Cumulative  
9 Supplement, 2008, is amended to read:

10           53-122 (1) The commission may issue licenses for the sale  
11 of alcoholic liquor, except beer, by the drink subject to all the  
12 terms and conditions of the Nebraska Liquor Control Act in all  
13 cities and villages in this state, except in those cases when it  
14 affirmatively appears that the issuance will render null and void  
15 prior conveyances of land to such city or village for public uses  
16 and purposes by purchase, gift, or devise, under the conditions and  
17 in the manner provided in this section.

18           (2) If (a) a sufficient petition is signed by the  
19 registered voters of any such city or village of such number  
20 as equals twenty percent of the votes cast at the last general  
21 election held in such city or village, which petition requests  
22 that the question of licensing the sale of alcoholic liquor, except  
23 beer, by the drink in the city or village be submitted to the  
24 registered voters of the city or village at a special election  
25 to be called for that purpose and (b) such petition is presented  
26 to the clerk of the city or village, the clerk shall cause to  
27 be published one time in a legal newspaper published in or of

1 general circulation in the city or village a notice of a special  
2 election to be held not less than ten days nor more than twenty  
3 days after the date of such publication. The notice shall state the  
4 proposition to be submitted at such special election.

5 (3) The question of licensing the sale of alcoholic  
6 liquor either by the drink or in the original package, or both  
7 by the drink and in the original package, may also be submitted  
8 at any general municipal election, except as otherwise provided in  
9 section 53-121, in any city or village in this state subject to the  
10 following:

11 (a) Upon the filing with the clerk of the city or village  
12 of a petition signed by registered voters of the city or village  
13 in a number equal to twenty percent of the votes cast at the last  
14 general election held in the city or village, such proposition or  
15 propositions shall be submitted;

16 (b) Each petition shall conform to the requirements of  
17 section 32-628;

18 (c) At the top of each sheet shall be stated the  
19 proposition or propositions to be submitted and the date of the  
20 general municipal election at which it is proposed to be submitted;

21 (d) No signature on the petition shall be valid unless  
22 appended to the petition within the last ninety days prior to the  
23 date of filing the petition with the clerk of the city or village;  
24 and

25 (e) The petition shall be filed thirty days prior to the  
26 day of the general municipal election at which the proposition is  
27 to be submitted, and during such thirty-day period no signature

1 shall be withdrawn and no signature shall be added.

2 (4) Any person who signs any proposal or petition  
3 contemplated under this section knowing that he or she is not  
4 a registered voter in the place where such proposal or petition is  
5 made, who signs any name other than his or her own to such proposal  
6 or petition, or who aids or abets any other person in doing any of  
7 the acts mentioned is guilty of a Class I misdemeanor. Any person  
8 who bribes or gives or pays any money or thing of value to any  
9 person directly or indirectly to induce him or her to sign such  
10 proposal or petition, who accepts money for signing such proposal  
11 or petition, or who aids or abets any other person in doing any of  
12 such acts is guilty of a Class IV felony.

13 (5) Upon the ballot either at the special election or  
14 at any general municipal election, the proposition or propositions  
15 shall be stated as follows:

16 Shall the sale of alcoholic liquor, except beer, by the  
17 drink be licensed in (here insert the name of the city or village)?

18 .... For license to sell by drink.

19 .... Against license to sell by drink.

20 Shall the sale of alcoholic liquor, except beer, by the  
21 package be licensed in (here insert the name of the city or  
22 village)?

23 .... For license to sell by the package.

24 .... Against license to sell by the package.

25 The provisions of the Election Act relating to election  
26 officers, voting places, election apparatus and blanks, preparation  
27 and form of ballots, information to voters, delivery of ballots,

1 calling of elections, conduct of elections, manner of voting,  
2 counting of votes, records and certificates of elections, and  
3 recounts of votes, so far as applicable, shall apply to voting on  
4 the proposition or propositions under the Nebraska Liquor Control  
5 Act, and a majority vote of those voting on the question shall be  
6 mandatory upon the commission.

7 (6) If the question is to be submitted at a statewide  
8 primary or general election, the petitions shall be filed with the  
9 clerk of the city or village not less than sixty days prior to  
10 the election. The provisions for the required number of signers and  
11 the form of petition shall be the same as for a special election.  
12 The clerk of the city or village shall verify the signatures on  
13 the petitions with the voter registration records in the office  
14 of the county clerk or election commissioner. During the ten-day  
15 period while the petitions are being checked, no signatures shall  
16 be withdrawn and no signatures shall be added.

17 If the clerk of the city or village finds the petitions  
18 to be valid, he or she shall, not less than fifty days prior to  
19 the statewide primary or general election, give notice in writing  
20 to the county clerk or election commissioner that the question is  
21 to be submitted at the time of the statewide primary or general  
22 election. The election notices, issuing of the official ballots on  
23 election day, issuing of the ballots for early voting, and counting  
24 and canvassing of the ballots shall be conducted by the county  
25 clerk or election commissioner as provided in the Election Act and  
26 the official results certified to the clerk of the city or village.

27 (7) An election may not be held in the same city or

1 village under this section more often than once every twenty-three  
2 months. ~~Subdivision (5)(e)~~ A Class I retail license under  
3 subdivision (6)(a)(v) of section 53-124 is not subject to this  
4 section.

5 Sec. 51. Section 53-123.11, Revised Statutes Cumulative  
6 Supplement, 2008, is amended to read:

7 53-123.11 (1) A farm winery license shall entitle the  
8 holder to:

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

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

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

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

26 (d) Ship wines produced at the farm winery by common  
27 carrier and sold at retail to recipients in and outside the State

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

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

11 (f) Sell wines produced at the farm winery to other  
12 Nebraska farm winery licensees, in bulk, bottled, labeled, or  
13 unlabeled, in accordance with 27 C.F.R. 24.308, 27 C.F.R. 24.309,  
14 and 27 C.F.R. 24.314, as such regulations existed on January 1,  
15 2008; ~~and~~

16 (g) Purchase distilled spirits from licensed  
17 microdistilleries in Nebraska, in bulk or bottled, made  
18 entirely from Nebraska-licensed farm winery wine to be used in  
19 the production of fortified wine at the purchasing licensed farm  
20 winery; ~~and-~~

21 (h) Store and warehouse products produced at the farm  
22 winery in a designated, secure, offsite storage facility if the  
23 holder of the farm winery license notifies the commission of the  
24 location of the facility and maintains, at the farm winery and at  
25 the facility, a separate perpetual inventory of the product stored  
26 at the facility. Consumption of alcoholic liquor at the facility is  
27 strictly prohibited.



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

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

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

7           Sec. 52. Section 53-123.12, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           53-123.12 (1) Any person desiring to obtain a new license  
10 to operate a farm winery shall:

11           ~~(1)~~ (a) File an application with the commission in  
12 triplicate original upon such forms as the commission from time to  
13 time prescribes;

14           ~~(2)~~ (b) Pay the license fee to the commission under  
15 ~~subdivision (2) of section 53-124 and section 56 of this act,~~  
16 which fee shall be returned to the applicant if the application is  
17 denied; and

18           ~~(3)~~ (c) Pay the ~~state registration~~ nonrefundable  
19 application fee to the commission in the sum of ~~forty-five~~ four  
20 hundred dollars.

21           (2) To renew a farm winery license, a farm winery  
22 licensee shall file an application with the commission, pay the  
23 license fee under section 53-124 and section 56 of this act, and  
24 pay the renewal fee of forty-five dollars.

25           (3) License fees, application fees, and renewal and  
26 ~~registration~~ fees may be paid to the commission by certified or  
27 cashier's check of a bank within this state, personal or business

1 check, United States post office money order, or cash in the full  
2 amount of such fees.

3 (4) For a new license, the ~~The~~ commission shall then  
4 notify, by registered or certified mail marked return receipt  
5 requested with postage prepaid, the municipal clerk of the city  
6 or incorporated village where such license is sought or, if the  
7 license is not sought within a city or incorporated village, the  
8 county clerk of the county where such license is sought of the  
9 receipt of the application and shall enclose with such notice one  
10 copy of the application. No such license shall then be issued by  
11 the commission until the expiration of at least forty-five days  
12 from the date of mailing such application by the commission. Within  
13 thirty-five days from the date of receipt of such application  
14 from the commission, the local governing bodies of nearby cities  
15 or villages or the county may make and submit to the commission  
16 recommendations relative to the granting of or refusal to grant  
17 such license to the applicant.

18 Sec. 53. Section 53-123.13, Revised Statutes Cumulative  
19 Supplement, 2008, is amended to read:

20 53-123.13 (1) If the operator of a farm winery is  
21 unable to produce or purchase seventy-five percent of the grapes,  
22 fruit, or other suitable agricultural products used in the farm  
23 winery from within the state due to natural disaster which  
24 causes substantial loss to the Nebraska-grown crop, such operator  
25 may petition the commission to waive the seventy-five-percent  
26 requirement prescribed in ~~subdivision (31) of section 53-103~~  
27 section 20 of this act for one year.

1           (2) It shall be within the discretion of the commission  
2 to waive the seventy-five-percent requirement taking into  
3 consideration the availability of products used in farm wineries in  
4 this area and the ability of such operator to produce wine from  
5 products that are abundant within the state.

6           (3) If the operator of a farm winery is granted a  
7 waiver, any product purchased as concentrated juice from grapes  
8 or other fruits from outside of Nebraska, when reconstituted from  
9 concentrate, may not exceed in total volume along with other  
10 products purchased the total percentage allowed by the waiver.

11           (4) Any product purchased under the waiver or as part  
12 of the twenty-five percent of allowable product purchased that is  
13 not Nebraska-grown for the production of wine shall not exceed  
14 the twenty-five percent volume allowed under state law if made  
15 from concentrated grapes or other fruit, when reconstituted. The  
16 concentrate shall not be reduced to less than twenty-two degrees  
17 Brix in accordance with 27 C.F.R. 24.180.

18           Sec. 54. Section 53-123.15, Revised Statutes Cumulative  
19 Supplement, 2008, is amended to read:

20           53-123.15 (1) No person shall order or receive alcoholic  
21 liquor in this state which has been shipped directly to him or her  
22 from outside this state by any person other than a holder of a  
23 shipping license issued by the commission, except that a licensed  
24 wholesaler may receive not more than three gallons of wine in any  
25 calendar year from any person who is not a holder of a shipping  
26 license.

27           (2) The commission may issue a shipping license to

1 a manufacturer. Such license shall allow the licensee to ship  
2 alcoholic liquor only to a licensed wholesaler, except that a  
3 licensed wholesaler may, without a shipping license and for the  
4 purposes of subdivision (2) of section 53-161, receive beer in  
5 this state which has been shipped from outside the state by a  
6 manufacturer in accordance with the Nebraska Liquor Control Act to  
7 the wholesaler, then transported by the wholesaler to another state  
8 for retail distribution, and then returned by the retailer to such  
9 wholesaler.

10 (3) The commission may issue a shipping license to  
11 any person who deals with vintage wines, which shipping license  
12 shall allow the licensee to distribute such wines to a licensed  
13 wholesaler in the state. For purposes of distributing vintage  
14 wines, a licensed shipper must utilize a designated wholesaler if  
15 the manufacturer has a designated wholesaler. For purposes of this  
16 section, vintage wine shall mean a wine verified to be ten years  
17 of age or older and not available from a primary American source  
18 of supply.

19 (4) The commission may issue a shipping license to any  
20 person who sells and ships alcoholic liquor from another state  
21 directly to a consumer in this state. A person who receives a  
22 license pursuant to this subsection shall pay the fee required in  
23 ~~subdivision (11) of section 53-124~~ and section 56 of this act for a  
24 direct sales shipping license. Until April 30, 2012, such fee shall  
25 be collected by the commission and remitted to the State Treasurer  
26 for credit to the Winery and Grape Producers Promotional Fund.

27 (5) The application for a shipping license shall be

1 in such form as the commission prescribes. The application shall  
2 contain all provisions the commission deems proper and necessary to  
3 effectuate the purpose of any section of the act and the rules and  
4 regulations of the commission that apply to manufacturers and shall  
5 include, but not be limited to, provisions that the applicant, in  
6 consideration of the issuance of such shipping license, agrees:

7 (a) To comply with and be bound by section 53-164.01 in  
8 making and filing reports, paying taxes, penalties, and interest,  
9 and keeping records;

10 (b) To permit and be subject to all of the powers granted  
11 by section 53-164.01 to the commission or its duly authorized  
12 employees or agents for inspection and examination of the  
13 applicant's premises and records and to pay the actual expenses,  
14 excluding salary, reasonably attributable to such inspections and  
15 examinations made by duly authorized employees of the commission  
16 if within the United States; and

17 (c) That if the applicant violates any of the provisions  
18 of the application or the license, any section of the act, or  
19 any of the rules and regulations of the commission that apply to  
20 manufacturers, the commission may revoke or suspend such shipping  
21 license for such period of time as it may determine.

22 Sec. 55. Section 53-124, Revised Statutes Supplement,  
23 2009, is amended to read:

24 53-124 (1) At the time application is made to the  
25 commission for a license of any type, the applicant shall pay the  
26 fee provided in ~~this~~ section 56 of this act and, if the applicant  
27 is an individual, provide the applicant's social security number.

1 ~~The fees for annual licenses finally issued by the commission shall~~  
2 ~~be as follows: The commission shall issue the types of licenses~~  
3 ~~described in this section.~~

4 (2) There shall be an airline license, a boat license,  
5 and a railroad license. The commission shall charge one dollar for  
6 each duplicate of an airline license or a railroad license.

7 (3)(a) There shall be a manufacturer's license for  
8 alcohol and spirits, for beer, and for wine. The annual fee  
9 for a manufacturer's license for beer shall be based on the barrel  
10 daily capacity as follows:

11 ~~(1)(a) For a license to manufacture alcohol and~~  
12 ~~spirits.....\$1,000.00;~~

13 ~~(b) For a license to operate a~~  
14 ~~microdistillery.....\$250.00;~~

15 ~~(2) For a license to manufacture beer and wine or to~~  
16 ~~operate a farm winery or craft brewery;~~

17 ~~(a) Manufacture of beer, excluding beer produced by a~~  
18 ~~craft brewery;~~

19 ~~(i) 1 to 100 barrel daily capacity, or any part thereof,~~  
20 ~~tier one;.....\$100.00~~

21 ~~(ii) 100 to 150 barrel daily capacity, tier~~  
22 ~~two;.....200.00~~

23 ~~(iii) 150 to 200 barrel daily capacity, tier~~  
24 ~~three;.....350.00~~

25 ~~(iv) 200 to 300 barrel daily capacity, tier~~  
26 ~~four;.....500.00~~

27 ~~(v) 300 to 400 barrel daily capacity, tier~~

1 ~~five;.....650.00~~

2 (vi) 400 to 500 barrel daily capacity, tier

3 ~~six;.....700.00~~

4 (vii) 500 barrel daily capacity, or more, tier

5 ~~seven.....800.00;~~

6 ~~(b) Operation of a craft brewery.....\$250.00;~~

7 ~~(c) Manufacture of wines.....\$250.00;~~

8 ~~(d) Operation of a farm winery.....\$250.00.~~

9 ~~(b) For purposes of subdivision (2)(a) of this section,~~

10 this subsection, daily capacity shall mean means the average

11 daily barrel production for the previous twelve months of

12 manufacturing operation. If no such basis for comparison exists,

13 the manufacturing licensee shall pay in advance for the first

14 year's operation a fee of five hundred dollars.

15 ~~(3) Alcoholic liquor wholesale license, for the first and~~

16 ~~each additional wholesale place of business operated in this state~~

17 ~~by the same licensee and wholesaling alcoholic liquor, except beer~~

18 ~~and wines produced from farm wineries.....\$750.00;~~

19 ~~(4) Beer wholesale license, for the first and each~~

20 ~~additional wholesale place of business operated in this state by~~

21 ~~the same licensee and wholesaling beer only.....\$500.00;~~

22 ~~(5) For a retail license:~~

23 (4) There shall be five classes of nonbeverage users'

24 licenses: Class 1, Class 2, Class 3, Class 4, and Class 5.

25 (5) In lieu of a manufacturer's, a retailer's, or a

26 wholesaler's license, there shall be a license to operate issued

27 for a craft brewery, a farm winery, or a microdistillery.

1           (6) (a) There shall be five classes of retail licenses:

2           ~~(a) (i) Class A: Beer only, except for craft breweries,~~  
3 for consumption on the premises; ~~the sum of one hundred dollars;~~

4           ~~(b) (ii) Class B: Beer only, except for craft breweries,~~  
5 for consumption off the premises, sales in the original packages  
6 only; ~~the sum of one hundred dollars;~~

7           ~~(c) (iii) Class C: Alcoholic liquor, for consumption on~~  
8 the premises and off the premises, sales in original packages  
9 only. ~~the sum of three hundred dollars, except for farm winery,~~  
10 microdistillery, or craft brewery sales outlets. If the applicant  
11 is making application to operate a cigar bar, the initial,  
12 nonrefundable application fee shall be one thousand dollars, the  
13 annual fee thereafter shall be as specified in this subdivision,  
14 and the application shall meet the requirements of section 53-131.  
15 If a Class C license is held by a nonprofit corporation, it shall  
16 be restricted to consumption on the premises only. A Class C  
17 license may have a sampling designation restricting consumption on  
18 the premises to sampling, but such designation shall not affect  
19 sales for consumption off the premises under such license;

20           ~~(d) (iv) Class D: Alcoholic liquor, including beer,~~  
21 for consumption off the premises, sales in the original packages  
22 only, except as provided in subsection (2) of section 53-123.04;  
23 ~~and the sum of two hundred dollars, except for farm winery,~~  
24 microdistillery, or craft brewery sales outlets; and

25           ~~(e) (v) Class I: Alcoholic liquor, for consumption on the~~  
26 premises. ~~the sum of two hundred fifty dollars, except for farm~~  
27 winery, microdistillery, or craft brewery sales outlets.



1           **(b)** All applicable license fees shall be paid by the  
2 applicant or licensee directly to the city or village treasurer  
3 in the case of premises located inside the corporate limits of a  
4 city or village and directly to the county treasurer in the case  
5 of premises located outside the corporate limits of a city or  
6 village.~~;~~

7           ~~(6) For a railroad license.....\$100.00 and \$1.00 for each~~  
8 ~~duplicate;~~

9           ~~(7) For a boat license.....\$50.00;~~

10           ~~(8) For a nonbeverage user's license:~~

11           Class 1.....\$5.00

12           Class 2.....25.00

13           Class 3.....50.00

14           Class 4.....100.00

15           Class 5.....250.00;

16           ~~(9) For an airline license.....\$100.00 and \$1.00 for each~~  
17 ~~duplicate;~~

18           ~~(10) For a shipping license, except a shipping license~~  
19 ~~issued pursuant to subsection (4) of section 53-123.15.....\$200.00;~~  
20 ~~and~~

21           ~~(11) For a shipping license issued pursuant to subsection~~  
22 ~~(4) of section 53-123.15.....\$500.00.~~

23           **(7) There shall be three types of shipping licenses as**  
24 **described in section 53-123.15: Manufacturers, vintage wines, and**  
25 **direct sales.**

26           **(8) There shall be two types of wholesale licenses:**  
27 **Alcoholic liquor and beer only. The annual fee shall be paid for**

1 the first and each additional wholesale place of business operated  
2 in this state by the same licensee and wholesaling the same  
3 product.

4       (9) The license year, unless otherwise provided in the  
5 Nebraska Liquor Control Act, shall commence on May 1 of each year  
6 and shall end on the following April 30, except that the license  
7 year for a Class C license shall commence on November 1 of each  
8 year and shall end on the following October 31. During the license  
9 year, no license shall be issued for a sum less than the amount  
10 of the annual license fee as fixed in ~~this section~~, section 56  
11 of this act, regardless of the time when the application for such  
12 license has been made, except that (a) when there is a purchase  
13 of an existing licensed business and a new license of the same  
14 class is issued or (b) upon the issuance of a new license for a  
15 location which has not been previously licensed, the license fee  
16 and occupation taxes shall be prorated on a quarterly basis as of  
17 the date of issuance.

18       Sec. 56. (1) The fees for annual licenses finally issued  
19 by the commission shall be as provided in this section and section  
20 53-124.

21       (2) Airline license ... \$100.

22       (3) Boat license ... \$50.

23       (4) Manufacturer's license:

<u>Class</u>	<u>Fee - In Dollars</u>
<u>Alcohol and spirits</u>	<u>1,000</u>
<u>Beer - tier one</u>	<u>100</u>
<u>Beer - tier two</u>	<u>200</u>

1	<u>Beer - tier three</u>	<u>350</u>
2	<u>Beer - tier four</u>	<u>500</u>
3	<u>Beer - tier five</u>	<u>650</u>
4	<u>Beer - tier six</u>	<u>700</u>
5	<u>Beer - tier seven</u>	<u>800</u>
6	<u>Wine</u>	<u>250</u>

7           (5) Nonbeverage user's license:

8	<u>Class</u>	<u>Fee - In Dollars</u>
9	<u>Class I</u>	<u>5</u>
10	<u>Class II</u>	<u>25</u>
11	<u>Class III</u>	<u>50</u>
12	<u>Class IV</u>	<u>100</u>
13	<u>Class V</u>	<u>250</u>

14           (6) Operator's license:

15	<u>Class</u>	<u>Fee - In Dollars</u>
16	<u>Craft brewery</u>	<u>250</u>
17	<u>Farm winery</u>	<u>250</u>
18	<u>Microdistillery</u>	<u>250</u>

19           (7) Railroad license ... \$100.

20           (8) Retail license:

21	<u>Class</u>	<u>Fee - In Dollars</u>
22	<u>Class A</u>	<u>100</u>
23	<u>Class B</u>	<u>100</u>
24	<u>Class C</u>	<u>300</u>
25	<u>Class D</u>	<u>200</u>
26	<u>Class I</u>	<u>250</u>

27           (9) Shipping license:

<u>1</u>	<u>Class</u>	<u>Fee - In Dollars</u>
<u>2</u>	<u>Manufacturer</u>	<u>200</u>
<u>3</u>	<u>Vintage wines</u>	<u>200</u>
<u>4</u>	<u>Direct Sales</u>	<u>500</u>

5           (10) Wholesale license:

<u>6</u>	<u>Class</u>	<u>Fee - In Dollars</u>
<u>7</u>	<u>Alcoholic liquor</u>	<u>750</u>
<u>8</u>	<u>Beer</u>	<u>500</u>

9           Sec. 57. Section 53-124.11, Revised Statutes Cumulative  
10 Supplement, 2008, is amended to read:

11           53-124.11 (1) The commission may issue a special  
12 designated license for sale or consumption of alcoholic liquor  
13 at a designated location to a retail licensee, a craft brewery  
14 licensee, a microdistillery licensee, a farm winery licensee,  
15 a municipal corporation, a fine arts museum incorporated as a  
16 nonprofit corporation, a religious nonprofit corporation which  
17 has been exempted from the payment of federal income taxes, a  
18 political organization which has been exempted from the payment  
19 of federal income taxes, or any other nonprofit corporation the  
20 purpose of which is fraternal, charitable, or public service and  
21 which has been exempted from the payment of federal income taxes,  
22 under conditions specified in this section. The applicant shall  
23 demonstrate meeting the requirements of this subsection.

24           (2) No retail licensee, craft brewery licensee,  
25 microdistillery licensee, farm winery licensee, organization, or  
26 corporation enumerated in subsection (1) of this section may be  
27 issued a special designated license under this section for more

1 than six calendar days in any one calendar year. Only one special  
2 designated license shall be required for any application for two  
3 or more consecutive days. This subsection shall not apply to any  
4 holder of a catering license.

5 (3) Except for any special designated license issued  
6 to a holder of a catering license, there shall be a fee of  
7 forty dollars for each day identified in the special designated  
8 license. Such fee shall be submitted with the application for  
9 the special designated license, collected by the commission,  
10 and remitted to the State Treasurer for credit to the General  
11 Fund. The applicant shall be exempt from the provisions of the  
12 Nebraska Liquor Control Act requiring a ~~registration~~ an application  
13 or renewal fee and the provisions of the act requiring the  
14 expiration of forty-five days from the time the application  
15 is received by the commission prior to the issuance of a  
16 license, if granted by the commission. The retail licensees,  
17 craft brewery licensees, microdistillery licensees, farm winery  
18 licensees, municipal corporations, organizations, and nonprofit  
19 corporations enumerated in subsection (1) of this section seeking  
20 a special designated license shall file an application on such  
21 forms as the commission may prescribe. Such forms shall contain,  
22 along with other information as required by the commission, (a)  
23 the name of the applicant, (b) the premises for which a special  
24 designated license is requested, identified by street and number  
25 if practicable and, if not, by some other appropriate description  
26 which definitely locates the premises, (c) the name of the owner or  
27 lessee of the premises for which the special designated license is

1 requested, (d) sufficient evidence that the holder of the special  
2 designated license, if issued, will carry on the activities and  
3 business authorized by the license for himself, herself, or itself  
4 and not as the agent of any other person, group, organization,  
5 or corporation, for profit or not for profit, (e) a statement  
6 of the type of activity to be carried on during the time period  
7 for which a special designated license is requested, and (f)  
8 sufficient evidence that the activity will be supervised by persons  
9 or managers who are agents of and directly responsible to the  
10 holder of the special designated license.

11 (4) No special designated license provided for by this  
12 section shall be issued by the commission without the approval of  
13 the local governing body. The local governing body may establish  
14 criteria for approving or denying a special designated license. The  
15 local governing body may designate an agent to determine whether a  
16 special designated license is to be approved or denied. Such agent  
17 shall follow criteria established by the local governing body in  
18 making his or her determination. The determination of the agent  
19 shall be considered the determination of the local governing body  
20 unless otherwise provided by the local governing body. For purposes  
21 of this section, the local governing body shall be the city or  
22 village within which the premises for which the special designated  
23 license is requested are located or, if such premises are not  
24 within the corporate limits of a city or village, then the local  
25 governing body shall be the county within which the premises for  
26 which the special designated license is requested are located.

27 (5) If the applicant meets the requirements of this

1 section, a special designated license shall be granted and issued  
2 by the commission for use by the holder of the special designated  
3 license. All statutory provisions and rules and regulations of the  
4 commission that apply to a retail licensee shall apply to the  
5 holder of a special designated license with the exception of such  
6 statutory provisions and rules and regulations of the commission  
7 so designated by the commission and stated upon the issued special  
8 designated license, except that the commission may not designate  
9 exemption of sections 53-180 to 53-180.07. The decision of the  
10 commission shall be final. If the applicant does not qualify for a  
11 special designated license, the application shall be denied by the  
12 commission.

13 (6) A special designated license issued by the commission  
14 shall be mailed or delivered to the city, village, or county clerk  
15 who shall deliver such license to the licensee upon receipt of any  
16 fee or tax imposed by such city, village, or county.

17 Sec. 58. Section 53-124.12, Revised Statutes Cumulative  
18 Supplement, 2008, is amended to read:

19 53-124.12 (1) The holder of a license to sell alcoholic  
20 liquor at retail issued under ~~subdivision (5)~~ subsection (6) of  
21 section 53-124, a craft brewery license, a microdistillery license,  
22 or a farm winery license may obtain an annual catering license as  
23 prescribed in this section. The catering license shall be issued  
24 for the same period and may be renewed in the same manner as the  
25 retail license, craft brewery license, microdistillery license, or  
26 farm winery license.

27 (2) Any person desiring to obtain a catering license

1 shall file with the commission:

2 (a) An application in triplicate original upon such forms  
3 as the commission prescribes; and

4 (b) A license fee of one hundred dollars payable to the  
5 commission, which fee shall be returned to the applicant if the  
6 application is denied.

7 (3) When an application for a catering license is filed,  
8 the commission shall notify, by registered or certified mail,  
9 return receipt requested with postage prepaid, (a) the clerk of the  
10 city or incorporated village in which such applicant is located or  
11 (b) if the applicant is not located within a city or incorporated  
12 village, the county clerk of the county in which such applicant is  
13 located, of the receipt of the application. The commission shall  
14 enclose with such notice one copy of the application. The local  
15 governing body and the commission shall process the application in  
16 the same manner as provided in section 53-132.

17 (4) The local governing body with respect to catering  
18 licensees within its liquor license jurisdiction as provided in  
19 subsection (5) of this section may cancel a catering license for  
20 cause for the remainder of the period for which such catering  
21 license is issued. Any person whose catering license is canceled  
22 may appeal to the district court of the county in which the local  
23 governing body is located.

24 (5) For purposes of this section, local governing body  
25 means (a) the governing body of the city or village in which the  
26 catering licensee is located or (b) if such licensee is not located  
27 within a city or village, the governing body of the county in which



1 such licensee is located.

2 (6) The local governing body may impose an occupation tax  
3 on the business of a catering licensee doing business within the  
4 liquor license jurisdiction of the local governing body as provided  
5 in subsection (5) of this section. Such tax may not exceed double  
6 the license fee to be paid under this section.

7 Sec. 59. Section 53-124.13, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 53-124.13 (1) The holder of a catering license may  
10 deliver, sell, or dispense alcoholic liquor, including beer, for  
11 consumption at premises designated in a special designated license  
12 issued pursuant to section 53-124.11.

13 (2) At least twenty-one days prior to the event for  
14 which the special designated license is to be used, the holder of  
15 the catering license shall file an application seeking a special  
16 designated license for the event. In addition to the information  
17 required by subsection (3) of section 53-124.11, the applicant  
18 shall inform the commission of (a) the time of the event, (b)  
19 the name of the person or organization requesting the applicant's  
20 services, (c) the opening and closing dates of the event, and (d)  
21 any other information the commission or local governing body deems  
22 necessary. A holder of a catering license shall not cater an event  
23 unless such licensee receives a special designated license for the  
24 event.

25 (3) If the organization for which the holder of a  
26 catering license is catering is a nonprofit organization exempted  
27 from the payment of federal income taxes, such organization may

1 share with such licensee a part or all of the proceeds from the  
2 sale of any alcoholic liquor sold and dispensed pursuant to this  
3 section.

4 (4) For purposes of this section, local governing body  
5 shall mean the governing body of the city or village in which the  
6 event will be held or, if the event will not be held within the  
7 corporate limits of a city or village, the governing body of the  
8 county in which such event will be held.

9 (5) Only the holder of a special designated license or  
10 employees of such licensee may dispense alcoholic liquor at the  
11 event which is being catered. Violation of any provision of this  
12 section or section 53-124.12 or any rules or regulations adopted  
13 and promulgated pursuant to such sections occurring during an event  
14 being catered by such licensee may be cause to revoke, cancel, or  
15 suspend the class of retail license issued under section 53-124  
16 held by such licensee.

17 Sec. 60. Section 53-124.14, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 53-124.14 (1) The commission may license the sale of  
20 alcoholic liquor at retail in the original package to applicants  
21 who reside in any county in which there is no incorporated city  
22 or village or in which the county seat is not located in an  
23 incorporated city or village if the licensed premises are situated  
24 in an unincorporated village having a population of twenty-five  
25 inhabitants or more.

26 (2) The commission may license the sale of beer at retail  
27 in any county outside the corporate limits of any city or village

1 therein and license the sale of alcoholic liquor at retail for  
2 consumption on the premises and off the premises, sales in the  
3 original package only.

4 (3) The commission may license the sale of alcoholic  
5 liquor for consumption on the premises as provided in subdivision  
6 ~~(5)(e)~~ (6)(a)(iii) of section 53-124 on lands controlled by  
7 airport authorities when such land is located on and under county  
8 jurisdiction or by the Nebraska State Fair Board.

9 Sec. 61. Section 53-125, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 53-125 No license of any kind shall be issued to (1)  
12 a person who is not a resident of Nebraska, except in case of  
13 railroad, airline, or boat licenses, (2) a person who is not of  
14 good character and reputation in the community in which he or  
15 she resides, (3) a person who is not a citizen of the United  
16 States, (4) a person who has been convicted of or has pleaded  
17 guilty to a felony under the laws of this state, any other state,  
18 or the United States, (5) a person who has been convicted of or  
19 has pleaded guilty to any Class I misdemeanor pursuant to Chapter  
20 28, article 3, 4, 7, 8, 10, 11, or 12, or any similar offense  
21 under a prior criminal statute or in another state, except that  
22 any additional requirements imposed by this subdivision on May  
23 18, 1983, shall not prevent any person holding a license on such  
24 date from retaining or renewing such license if the conviction or  
25 plea occurred prior to May 18, 1983, (6) a person whose license  
26 issued under the Nebraska Liquor Control Act has been revoked for  
27 cause, (7) a person who at the time of application for renewal of

1 any license issued under the act would not be eligible for such  
2 license upon initial application, (8) a partnership, unless one of  
3 the partners is a resident of Nebraska and unless all the members  
4 of such partnership are otherwise qualified to obtain a license,  
5 (9) a limited liability company, ~~unless one of the members is a~~  
6 ~~resident of Nebraska and unless all the members of such company are~~  
7 ~~otherwise qualified to obtain a license,~~ if any officer or director  
8 of the limited liability company or any member having an ownership  
9 interest in the aggregate of more than twenty-five percent of such  
10 company would be ineligible to receive a license under this section  
11 for any reason other than the reasons stated in subdivisions (1)  
12 and (3) of this section, or if a manager of a limited liability  
13 company licensee would be ineligible to receive a license under  
14 this section for any reason, (10) a corporation, if any officer,  
15 manager, or director of the corporation or any stockholder owning  
16 in the aggregate more than twenty-five percent of the stock of  
17 such corporation would be ineligible to receive a license under  
18 this section for any reason other than the reasons stated in  
19 subdivisions (1) and (3) of this section, except that a manager  
20 of a corporate licensee shall be a resident of Nebraska. This  
21 subdivision shall not apply to railroad licenses, (11) a person  
22 whose place of business is conducted by a manager or agent unless  
23 such manager or agent possesses the same qualifications required of  
24 the licensee, (12) a person who does not own the premises for which  
25 a license is sought or does not have a lease or combination of  
26 leases on such premises for the full period for which the license  
27 is to be issued, (13) except as provided in this subdivision,

1 an applicant whose spouse is ineligible under this section to  
2 receive and hold a liquor license. Such applicant shall become  
3 eligible for a liquor license only if the commission finds from the  
4 evidence that the public interest will not be infringed upon if  
5 such license is granted. It shall be prima facie evidence that when  
6 a spouse is ineligible to receive a liquor license the applicant  
7 is also ineligible to receive a liquor license. Such prima facie  
8 evidence shall be overcome if it is shown to the satisfaction of  
9 the commission (a) that the licensed business will be the sole  
10 property of the applicant and (b) that such licensed premises will  
11 be properly operated, (14) a person seeking a license for premises  
12 which do not meet standards for fire safety as established by the  
13 State Fire Marshal, (15) a law enforcement officer, except that  
14 this subdivision shall not prohibit a law enforcement officer from  
15 holding membership in any nonprofit organization holding a liquor  
16 license or from participating in any manner in the management or  
17 administration of a nonprofit organization, or (16) a person less  
18 than twenty-one years of age.

19 When a trustee is the licensee, the beneficiary or  
20 beneficiaries of the trust shall comply with the requirements  
21 of this section, but nothing in this section shall prohibit any  
22 such beneficiary from being a minor or a person who is mentally  
23 incompetent.

24 Sec. 62. Section 53-129, Revised Statutes Cumulative  
25 Supplement, 2008, is amended to read:

26 53-129 Retail, craft brewery, and microdistillery  
27 licenses issued under the Nebraska Liquor Control Act apply only to

1 that part of the premises described in the application approved by  
2 the commission and in the license issued on the application, and  
3 only one location shall be described in each license. After such  
4 license has been granted for particular premises, the commission,  
5 with the approval of the local governing body and upon proper  
6 showing, may endorse upon the license permission to add to, delete  
7 from, or abandon the premises described in such license and, if  
8 applicable, to move from the premises to other premises approved by  
9 it, but in order to obtain such approval the retail, craft brewery,  
10 or microdistillery licensee shall file with the local governing  
11 body a request in writing and a statement under oath which shows  
12 that the premises as added to or deleted from or to which such  
13 move is to be made comply in all respects with the requirements of  
14 the act. No such addition, deletion, or move shall be made by any  
15 such licensee until the license has been endorsed to that effect  
16 in writing by the local governing body and by the commission and  
17 the licensee furnishes proof of payment of the ~~state registration~~  
18 renewal fee prescribed in subsection (4) of section 53-131.

19           Sec. 63. Section 53-130, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           53-130 (1) New licenses to manufacturers, wholesalers,  
22 railroads, airlines, boats, and nonbeverage users of alcoholic  
23 liquor may be issued by the commission upon ~~(1)~~ (a) written  
24 application in duplicate filed in the manner and on such forms  
25 as the commission prescribes and in which the applicant for a  
26 beer wholesale license sets forth the sales territory in Nebraska  
27 in which it is authorized by a manufacturer or manufacturers to

1 sell their brand or brands and the name of such brand or brands,  
2 ~~(2)~~ (b) receipt of bond, ~~(3)~~ (c) payment in advance of the  
3 ~~state registration nonrefundable application fee~~ of ~~forty-five~~ four  
4 hundred dollars and the license fee, and ~~(4)~~ (d) such notice and  
5 hearing as the commission fixes by its own order.

6 (2) A notice of such application shall be served upon the  
7 manufacturer or manufacturers listed in any application for a beer  
8 wholesale license and upon any existing wholesaler licensed to sell  
9 the brand or brands in the described sales territory.

10 (3) A license so issued may be renewed without formal  
11 application upon payment of license fees and ~~registration fees~~. a  
12 renewal fee of forty-five dollars. The payment of such fees shall  
13 be an affirmative representation and certification by the licensee  
14 that all answers contained in an application, if submitted, would  
15 be the same in all material respects as the answers contained  
16 in the last previous application. The commission may at any time  
17 require a licensee to submit an application.

18 Sec. 64. Section 53-131, Revised Statutes Supplement,  
19 2009, is amended to read:

20 53-131 (1) Any person desiring to obtain a new license  
21 to sell alcoholic liquor at retail, a craft brewery license, or a  
22 microdistillery license shall file with the commission:

23 (a) An application in triplicate original upon forms  
24 the commission prescribes, including the information required by  
25 subsection (3) of this section for an application to operate a  
26 cigar bar;

27 (b) The license fee if under section 53-124 and section

1 56 of this act such fee is payable to the commission, which fee  
2 shall be returned to the applicant if the application is denied;  
3  ~~except that if the applicant is making application to operate a~~  
4  ~~cigar bar,~~ the initial application fee is nonrefundable as provided  
5 in subdivision ~~(5)(c)~~ of section 53-124 ~~and~~

6 (c) The ~~state registration~~ nonrefundable application fee  
7 in the sum of ~~forty-five~~ four hundred dollars, except that the  
8 nonrefundable application fee for an application for a cigar bar  
9 shall be one thousand dollars.

10 (2) The commission shall notify, by registered or  
11 certified mail, return receipt requested with postage prepaid, (a)  
12 the clerk of the city or village in which such license is sought or  
13 (b) if the license sought is not sought within a city or village,  
14 the county clerk of the county in which such license is sought, of  
15 the receipt of the application and shall enclose one copy of the  
16 application with the notice. No such license shall be issued or  
17 denied by the commission until the expiration of the time allowed  
18 for the receipt of a recommendation of denial or an objection  
19 requiring a hearing under subdivision (1)(a) or (b) of section  
20 53-133. During the period of forty-five days after the date of  
21 receiving such application from the commission, the local governing  
22 body of such city, village, or county may make and submit to the  
23 commission recommendations relative to the granting or refusal to  
24 grant such license to the applicant.

25 (3) For an application to operate a cigar bar, the  
26 application shall include proof of the cigar bar's annual gross  
27 revenue as requested by the commission and such other information



1 as requested by the commission to establish the intent to operate  
2 as a cigar bar. The commission may adopt and promulgate rules and  
3 regulations to regulate cigar bars.

4 (4) For renewal of a license under this section, a  
5 licensee shall file with the commission an application, the license  
6 fee as provided in subdivision (1)(b) of this section, and a  
7 renewal fee of forty-five dollars.

8 Sec. 65. Section 53-132, Revised Statutes Cumulative  
9 Supplement, 2008, is amended to read:

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

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

1 the premises described in the application will be sufficient to  
2 insure that the licensed business can conform to all provisions and  
3 requirements of and rules and regulations adopted pursuant to the  
4 act, and (d) the issuance of the license is or will be required by  
5 the present or 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 craft brewery licenses, or microdistillery licenses with similar  
17 privileges within the neighborhood or community of the location  
18 of the proposed licensed premises and whether, as evidenced by  
19 substantive, corroborative documentation, the issuance of such  
20 license would result in or add to an undue concentration of  
21 licenses with similar privileges and, as a result, require the use  
22 of additional law enforcement 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;

26 (h) Zoning restrictions;

27 (i) The sanitation or sanitary conditions on or about the

1 proposed licensed premises; and

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

5 (4) Retail licenses, craft brewery licenses, or  
6 microdistillery licenses issued or renewed by the commission shall  
7 be mailed or delivered to the clerk of the city, village, or  
8 county who shall deliver the same to the licensee upon receipt  
9 from the licensee of proof of payment of (a) the license fee if  
10 by the terms of ~~subdivision (5)~~ subsection (6) of section 53-124  
11 the fee is payable to the treasurer of such city, village, or  
12 county, (b) any fee for publication of notice of hearing before the  
13 local governing body upon the application for the license, (c) the  
14 fee for publication of notice of renewal as provided in section  
15 53-135.01, and (d) occupation taxes, if any, imposed by such city,  
16 village, or county. Notwithstanding any ordinance or charter power  
17 to the contrary, no city, village, or county shall impose an  
18 occupation tax on the business of any person, firm, or corporation  
19 licensed under the act and doing business within the corporate  
20 limits of such city or village or within the boundaries of such  
21 county in any sum which exceeds two times the amount of the license  
22 fee required to be paid under the act to obtain such license.

23 (5) Each license shall designate the name of the  
24 licensee, the place of business licensed, and the type of license  
25 issued.

26 Sec. 66. Section 53-133, Revised Statutes Cumulative  
27 Supplement, 2008, is amended to read:

1           53-133 (1) The commission shall set for hearing before  
2 it any application for a retail license, craft brewery license, or  
3 microdistillery license relative to which it has received:

4           (a) Within forty-five days after the date of receipt  
5 of such application by the city, village, or county clerk, a  
6 recommendation of denial from the city, village, or county;

7           (b) Within ten days after the receipt of a recommendation  
8 from the city, village, or county, or, if no recommendation is  
9 received, within forty-five days after the date of receipt of  
10 such application by the city, village, or county clerk, objections  
11 in writing by not less than three persons residing within such  
12 city, village, or county, protesting the issuance of the license.  
13 Withdrawal of the protest does not prohibit the commission from  
14 conducting a hearing based upon the protest as originally filed and  
15 making an independent finding as to whether the license should or  
16 should not be issued; ~~or~~

17           (c) Within forty-five days after the date of receipt of  
18 such application by the city, village, or county clerk, objections  
19 by the commission or any duly appointed employee of the commission,  
20 protesting the issuance of the license; or-

21           (d) An indication on the application that the location of  
22 a proposed retail establishment is within one hundred fifty feet of  
23 a church as described in subsection (2) of section 53-177.

24           (2) Hearings upon such applications shall be in the  
25 following manner: Notice indicating the time and place of such  
26 hearing shall be mailed to the applicant, the local governing body,  
27 ~~and~~ each individual protesting a license pursuant to subdivision

1 (1) (b) of this section, and any church affected as described in  
2 subdivision (1) (d) of this section, by certified mail, return  
3 receipt requested, at least fifteen days prior to such hearing.  
4 The notice shall state that the commission will receive evidence  
5 for the purpose of determining whether to approve or deny the  
6 application. Mailing to the attorney of record of a party shall be  
7 deemed to fulfill the purposes of this section. The commission may  
8 receive evidence, including testimony and documentary evidence, and  
9 may hear and question witnesses concerning the application.

10 Sec. 67. Section 53-134, Revised Statutes Cumulative  
11 Supplement, 2008, is amended to read:

12 53-134 The local governing body of any city or village  
13 with respect to licenses within its corporate limits and the local  
14 governing body of any county with respect to licenses not within  
15 the corporate limits of any city or village but within the county  
16 shall have the following powers, functions, and duties with respect  
17 to retail, craft brewery, and microdistillery licenses:

18 (1) To cancel or revoke for cause retail, craft brewery,  
19 or microdistillery licenses to sell or dispense alcoholic liquor  
20 issued to persons for premises within its jurisdiction, subject to  
21 the right of appeal to the commission;

22 (2) To enter or to authorize any law enforcement officer  
23 to enter at any time upon any premises licensed under the Nebraska  
24 Liquor Control Act to determine whether any provision of the act,  
25 any rule or regulation adopted and promulgated pursuant to the act,  
26 or any ordinance, resolution, rule, or regulation adopted by the  
27 local governing body has been or is being violated and at such

1 time examine the premises of such licensee in connection with such  
2 determination;

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

9 (4) To receive retail license fees, craft brewery license  
10 fees, and microdistillery license fees as provided in section  
11 53-124 and section 56 of this act and pay the same, after the  
12 license has been delivered to the applicant, to the city, village,  
13 or county treasurer;

14 (5) To examine or cause to be examined any applicant  
15 or any retail licensee, craft brewery licensee, or microdistillery  
16 licensee upon whom notice of cancellation or revocation has been  
17 served as provided in the act, to examine or cause to be examined  
18 the books and records of any applicant or licensee, and to hear  
19 testimony and to take proof for its information in the performance  
20 of its duties. For purposes of obtaining any of the information  
21 desired, the local governing body may authorize its agent or  
22 attorney to act on its behalf;

23 (6) To cancel or revoke on its own motion any license if,  
24 upon the same notice and hearing as provided in section 53-134.04,  
25 it determines that the licensee has violated any of the provisions  
26 of the act or any valid and subsisting ordinance, resolution, rule,  
27 or regulation duly enacted, adopted, and promulgated relating to

1 alcoholic liquor. Such order of cancellation or revocation may  
2 be appealed to the commission within thirty days after the date  
3 of the order by filing a notice of appeal with the commission.  
4 The commission shall handle the appeal in the manner provided for  
5 hearing on an application in section 53-133; and

6 (7) Upon receipt from the commission of the notice and  
7 copy of application as provided in section 53-131, to fix a time  
8 and place for a hearing at which the local governing body shall  
9 receive evidence, either orally or by affidavit from the applicant  
10 and any other person, bearing upon the propriety of the issuance  
11 of a license. Notice of the time and place of such hearing shall  
12 be published in a legal newspaper in or of general circulation in  
13 such city, village, or county one time not less than seven and not  
14 more than fourteen days before the time of the hearing. Such notice  
15 shall include, but not be limited to, a statement that all persons  
16 desiring to give evidence before the local governing body in  
17 support of or in protest against the issuance of such license may  
18 do so at the time of the hearing. Such hearing shall be held not  
19 more than forty-five days after the date of receipt of the notice  
20 from the commission, and after such hearing the local governing  
21 body shall cause to be recorded in the minute record of their  
22 proceedings a resolution recommending either issuance or refusal of  
23 such license. The clerk of such city, village, or county shall mail  
24 to the commission by first-class mail, postage prepaid, a copy of  
25 the resolution which shall state the cost of the published notice,  
26 except that failure to comply with this provision shall not void  
27 any license issued by the commission. If the commission refuses to

1 issue such a license, the cost of publication of notice shall be  
2 paid by the commission from the security for costs.

3           Sec. 68. Section 53-135, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           53-135 A retail license issued by the commission and  
6 outstanding may be automatically renewed by the commission without  
7 formal application upon payment of the ~~state registration~~ renewal  
8 fee and license fee if payable to the commission. The payment shall  
9 be an affirmative representation and certification by the licensee  
10 that all answers contained in an application, if submitted, would  
11 be the same in all material respects as the answers contained  
12 in the last previous application. The commission may at any time  
13 require a licensee to submit an application, and the commission  
14 shall at any time require a licensee to submit an application if  
15 requested in writing to do so by the local governing body.

16           If a licensee files an application form in triplicate  
17 original upon seeking renewal of his or her license, the  
18 application shall be processed as set forth in section 53-131.

19           Any licensed retail premises located in an area which  
20 is annexed to any governmental subdivision shall file a formal  
21 application for a license, and while such application is pending,  
22 the licensee may continue all license privileges until the original  
23 license expires or is canceled or revoked. If such license expires  
24 within sixty days following the annexation date of such area, the  
25 license may be renewed by order of the commission for not more than  
26 one year.

27           Sec. 69. Section 53-138.01, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           53-138.01 The State Treasurer shall credit three hundred  
3 ninety-five dollars of each application fee and forty dollars of  
4 each ~~state registration~~ renewal fee to the General Fund and the  
5 remaining five dollars to the Nebraska Liquor Control Commission  
6 Rule and Regulation Cash Fund to be used for providing licensees  
7 with materials pursuant to section 53-117.05. All retail license  
8 fees received by the city or village treasurer, as the case may  
9 be, shall inure to the school fund of the district lying wholly or  
10 partially within the corporate limits of such city or village. The  
11 State Treasurer shall ~~credit all~~ distribute license fees received  
12 by the commission for licenses issued pertaining to alcoholic  
13 liquor, including beer, ~~to the temporary school fund to be used~~  
14 ~~for the support of the common schools as provided in accordance~~  
15 with Article VII, section 5, of the Constitution of Nebraska. All  
16 retail license fees received by the county treasurer, as provided  
17 in section 53-124, shall be credited to the school fund of the  
18 county.

19           Sec. 70. Section 53-139, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           53-139 No person shall receive a retail license to sell  
22 alcoholic liquor upon any premises used as a restaurant or as a  
23 club unless such premises or plan of operation strictly complies  
24 with ~~the provisions of subdivisions (18) and (19) of section~~  
25 53-103, sections 16 and 37 of this act.

26           Sec. 71. Section 53-149, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           53-149 (1) A license shall be purely a personal  
2 privilege, good for not to exceed one year after issuance unless  
3 sooner revoked as provided in the Nebraska Liquor Control Act,  
4 and shall not constitute property, nor shall it be subject to  
5 attachment, garnishment, or execution, nor shall it be alienable  
6 or transferable, voluntarily or involuntarily, or subject to being  
7 encumbered or hypothecated.

8           (2) A license issued under the act terminates immediately  
9 upon the sale of the licensed premises named in such license.  
10 The purchaser or transferee may submit an application for a  
11 license under the act prior to closing such sale or transfer.  
12 While such application is pending, the purchaser may request and  
13 obtain a temporary operating permit from the commission which  
14 shall authorize the purchaser to continue the business which  
15 was conducted on the purchased premises under the terms and  
16 conditions of the terminated license for ninety days or until the  
17 purchaser has obtained a license in its own name, whichever occurs  
18 sooner. Prior to the issuance of a temporary operating permit,  
19 the purchaser shall supply the commission with documentation from  
20 the seller that the seller is current on all accounts with any  
21 wholesaler under section 53-123.02. A seller who provides false  
22 information regarding such accounts is guilty of a Class IV  
23 misdemeanor for each offense. In the absence of such temporary  
24 operating permit, the purchaser shall not manufacture, store,  
25 or sell alcoholic liquor on the purchased premises until the  
26 purchaser has obtained a license in the purchaser's own name.  
27 If the application is withdrawn by the applicant or is denied

1 by the commission, the previous license may be reinstated at the  
2 discretion of the commission upon request by the previous licensee.

3           ~~Such~~ (3) A license shall not descend by the laws of  
4 testate or intestate devolution, but it shall cease upon the death  
5 of the licensee, except that ~~(1)~~ (a) executors or administrators  
6 of the estate of any deceased licensee, when such estate consists  
7 in part of alcoholic liquor, or a partnership or limited liability  
8 company upon the death of one or more of the partners or members,  
9 may continue the business of the sale or manufacture of alcoholic  
10 liquor under order of the appropriate court and may exercise the  
11 privileges of the deceased or deceased partner or member after  
12 the death of such decedent until the expiration of such license,  
13 but if such license would have expired within two months following  
14 the death of the licensee, the license may be renewed by the  
15 administrators or executors with the approval of the appropriate  
16 court for a period not to exceed one additional year; or ~~(2)~~ (b)  
17 when a license is issued to a husband and wife, as colicensees with  
18 rights of survivorship, upon the death of one spouse the survivor  
19 may exercise all rights and privileges under such license in his or  
20 her own name. The trustee of any insolvent or bankrupt licensee,  
21 when such estate consists in part of alcoholic liquor, may continue  
22 the business of the sale or manufacture of alcoholic liquor under  
23 order of the appropriate court and may exercise the privileges of  
24 the insolvent or bankrupt licensee until the expiration of such  
25 license.

26           Sec. 72. Section 53-164.01, Revised Statutes Cumulative  
27 Supplement, 2008, is amended to read:

1           53-164.01 Payment of the tax provided for in section  
2 53-160 on alcoholic liquor shall be paid by the manufacturer or  
3 wholesaler as follows:

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

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

19           (c) (i) Except as provided in subdivision (ii) of this  
20 subdivision, farm winery producers which paid less than one  
21 thousand dollars of excise taxes pursuant to section 53-160 for the  
22 previous calendar year and which will pay less than one thousand  
23 dollars of excise taxes pursuant to section 53-160 for the current  
24 calendar year shall, on or before the twenty-fifth day of the  
25 calendar month following the end of the year in which wine was  
26 packaged or bottled for sale, submit a report to the commission  
27 upon forms furnished by the commission showing the total amount of

1 wine in gallons or fractional parts thereof packaged or bottled by  
2 such producer during the preceding calendar year; and

3 ~~(e)~~ (ii) Farm winery producers which paid one thousand  
4 dollars or more of excise taxes pursuant to section 53-160 for  
5 the previous calendar year or which become liable for one thousand  
6 dollars or more of excise taxes pursuant to section 53-160 during  
7 the current calendar year shall, on or before the twenty-fifth  
8 day of each calendar month following the month in which wine was  
9 packaged or bottled for sale, submit a report to the commission  
10 upon forms furnished by the commission showing the total amount of  
11 wine in gallons or fractional parts thereof packaged or bottled by  
12 such producer during the preceding calendar month. A farm winery  
13 producer which becomes liable for one thousand dollars or more of  
14 excise taxes pursuant to section 53-160 during the current calendar  
15 year shall also pay such excise taxes immediately;

16 (d) A craft brewery shall, on or before the twenty-fifth  
17 day of each calendar month following the month in which the beer  
18 was produced for sale, submit a report to the commission on forms  
19 furnished by the commission showing the total amount of beer in  
20 gallons or fractional parts thereof produced for sale by the craft  
21 brewery during the preceding calendar month;

22 (e) A microdistillery shall, on or before the  
23 twenty-fifth day of each calendar month following the month in  
24 which the distilled liquor was produced for sale, submit a report  
25 to the commission on forms furnished by the commission showing  
26 the total amount of distilled liquor in gallons or fractional  
27 parts thereof produced for sale by the microdistillery during the

1 preceding calendar month; and

2 (f) Reports submitted pursuant to subdivision (a), (b),  
3 or (c) of this subdivision shall also contain a statement of  
4 the total amount of alcoholic liquor, except beer, in gallons or  
5 fractional parts thereof shipped to licensed retailers inside this  
6 state and such other information as the commission may require;

7 (2) The wholesaler or farm winery producer shall at the  
8 time of the filing of the report pay to the commission the tax  
9 due on alcoholic liquor, except beer, shipped to licensed retailers  
10 inside this state at the rate fixed in accordance with section  
11 53-160. The tax due on beer shall be paid by the wholesaler on beer  
12 shipped from all manufacturers;

13 (3) The tax imposed pursuant to section 53-160 shall be  
14 due on the date the report is due less a discount of one percent  
15 of the tax on alcoholic liquor for submitting the report and paying  
16 the tax in a timely manner. The discount shall be deducted from the  
17 payment of the tax before remittance to the commission and shall be  
18 shown in the report to the commission as required in this section.  
19 If the tax is not paid within the time provided in this section,  
20 the discount shall not be allowed and shall not be deducted from  
21 the tax;

22 (4) If the report is not submitted by the twenty-fifth  
23 day of the calendar month or if the tax is not paid to the  
24 commission by the twenty-fifth day of the calendar month, the  
25 following penalties shall be assessed on the amount of the tax:  
26 One to five days late, three percent; six to ten days late, six  
27 percent; and over ten days late, ten percent. In addition, interest

1 on the tax shall be collected at the rate of one percent per month,  
2 or fraction of a month, from the date the tax became due until  
3 paid;

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

7 (6) In order to insure the payment of all state taxes  
8 on alcoholic liquor, together with interest and penalties, persons  
9 required to submit reports and payment of the tax shall, at the  
10 time of application for a license under section 53-124 and section  
11 56 of this act, enter into a surety bond with corporate surety,  
12 both the bond form and surety to be approved by the commission.  
13 Subject to the limitations specified in this subdivision, the  
14 amount of the bond required of any taxpayer shall be fixed by the  
15 commission and may be increased or decreased by the commission at  
16 any time. In fixing the amount of the bond, the commission shall  
17 require a bond equal to the amount of the taxpayer's estimated  
18 maximum monthly excise tax ascertained in a manner as determined by  
19 the commission. Nothing in this section shall prevent or prohibit  
20 the commission from accepting and approving bonds which run for  
21 a term longer than the license period. The amount of a bond  
22 required of any one taxpayer shall not be less than one thousand  
23 dollars. The bonds required by this section shall be filed with the  
24 commission; and

25 (7) When a manufacturer or wholesaler sells and delivers  
26 alcoholic liquor upon which the tax has been paid to any  
27 instrumentality of the armed forces of the United States engaged

1 in resale activities as provided in section 53-160.01, the  
2 manufacturer or wholesaler shall be entitled to a credit in  
3 the amount of the tax paid in the event no tax is due on such  
4 alcoholic liquor as provided in such section. The amount of the  
5 credit, if any, shall be deducted from the tax due on the following  
6 monthly report and subsequent reports until liquidated.

7 Sec. 73. Section 53-169.01, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9 53-169.01 No manufacturer of alcoholic liquor holding a  
10 manufacturer's license under section 53-123.01 and no manufacturer  
11 of alcoholic liquor outside this state manufacturing alcoholic  
12 liquor, except beer, for distribution and sale within this  
13 state shall, directly or indirectly, as owner or part owner,  
14 or through a subsidiary or affiliate, or by any officer, director,  
15 or employee thereof, or by stock ownership, interlocking directors,  
16 trusteeship, loan, mortgage, or lien on any personal or real  
17 property, or as guarantor, endorser, or surety, be interested in  
18 the ownership, conduct, operation, or management of any alcoholic  
19 liquor wholesaler holding an alcoholic liquor wholesale license,  
20 except beer, under section 53-123.02\_ ~~unless such interest in~~  
21 ~~the licensed wholesaler was acquired or became effective prior to~~  
22 ~~January 1, 2007.~~

23 No manufacturer of alcoholic liquor holding a  
24 manufacturer's license under section 53-123.01 and no manufacturer  
25 of alcoholic liquor outside this state manufacturing alcoholic  
26 liquor, except beer, for distribution and sale within this state  
27 shall be interested directly or indirectly, as lessor or lessee, as



1 owner or part owner, or through a subsidiary or affiliate, or by  
2 any officer, director, or employee thereof, or by stock ownership,  
3 interlocking directors, or trusteeship in the premises upon which  
4 the place of business of an alcoholic liquor wholesaler holding  
5 an alcoholic liquor wholesale license, except beer, under section  
6 53-123.02 is located, established, conducted, or operated in whole  
7 or in part unless such interest was acquired or became effective  
8 prior to April 17, 1947.

9           Sec. 74. Section 53-172, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           53-172 No manufacturer or wholesaler shall sell or  
12 deliver any original package containing alcoholic liquor, except  
13 beer and wine, manufactured or distributed by him or her unless the  
14 package has affixed thereto a clear and legible label containing  
15 the name and address of the manufacturer, the kind of alcoholic  
16 liquor contained in the package, and, in the case of alcoholic  
17 liquor other than beer, the date when manufactured. No original  
18 package of alcoholic liquor shall be delivered by any manufacturer  
19 or wholesaler unless the package is securely sealed so that the  
20 contents cannot be removed without breaking the seal placed thereon  
21 by such manufacturer, and no other licensee shall sell, have in  
22 his or her possession, or use any original package which does not  
23 comply with this section ~~and section 53-174~~ or which does not bear  
24 evidence that such original package, when delivered to him or her,  
25 complied with this section.

26           Sec. 75. Section 53-177, Revised Statutes Supplement,  
27 2009, is amended to read:

1                   53-177 (1) ~~Ne~~ Except as otherwise provided in subsection  
2 (2) of this section, no license shall be issued for the sale at  
3 retail of any alcoholic liquor within one hundred ~~and~~ fifty feet of  
4 any church, school, hospital, or home for aged or indigent persons  
5 or for veterans, their wives or children. This prohibition does not  
6 apply (a) to any location within such distance of one hundred ~~and~~  
7 fifty feet for which a license to sell alcoholic liquor at retail  
8 has been granted by the Nebraska Liquor Control Commission for two  
9 years continuously prior to making of application for license and  
10 (b) to hotels offering restaurant service, to regularly organized  
11 clubs, or to restaurants, food shops, or other places where sale of  
12 alcoholic liquor is not the principal business carried on, if such  
13 place of business so exempted was established for such purposes  
14 prior to May 24, 1935.

15                   (2) If a proposed location for the sale at retail of  
16 any alcoholic liquor is within one hundred fifty feet of any  
17 church, a license may be issued if the commission gives notice to  
18 the affected church and holds a hearing as prescribed in section  
19 53-133.

20                   ~~(2)~~ (3) No alcoholic liquor, other than beer, shall be  
21 sold for consumption on the premises within three hundred feet from  
22 the campus of any college or university in the state, except that  
23 this section:

24                   (a) Does not prohibit a nonpublic college or university  
25 from contracting with an individual or corporation holding a  
26 license to sell alcoholic liquor at retail for the purpose of  
27 selling alcoholic liquor at retail on the campus of such college

1 or university at events sanctioned by such college or university  
2 but does prohibit the sale of alcoholic liquor at retail by such  
3 licensee on the campus of such nonpublic college or university at  
4 student activities or events; and

5 (b) Does not prohibit sales of alcoholic liquor by a  
6 community college culinary education program pursuant to section  
7 53-124.15.

8 Sec. 76. Section 53-1,104, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 53-1,104 (1) Any licensee which sells or permits the  
11 sale of any alcoholic liquor not authorized under the terms of  
12 such license on the licensed premises or in connection with such  
13 licensee's business or otherwise shall be subject to suspension,  
14 cancellation, or revocation of such license by the commission.

15 (2) When an order suspending a license to sell alcoholic  
16 liquor becomes final, the licensee may elect to pay a cash penalty  
17 to the commission in lieu of suspending sales of alcoholic liquor  
18 for the designated period if such election is not prohibited  
19 by order of the commission. Except as otherwise provided in  
20 subsection (3) of this section, for the first such suspension for  
21 any licensee, the penalty shall be fifty dollars per day, and for  
22 a second or any subsequent suspension, the penalty shall be one  
23 hundred dollars per day.

24 (3) (a) For a second suspension for violation of section  
25 53-180 or 53-180.02 occurring within four years after the date of  
26 the first suspension, the commission, in its discretion, may order  
27 that the licensee be required to suspend sales of alcoholic liquor

1 for a period of time not to exceed forty-eight hours and that the  
2 licensee may not elect to pay a cash penalty. The commission may  
3 use the required suspension of sales of alcoholic liquor penalty  
4 either alone or in conjunction with suspension periods for which  
5 the licensee may elect to pay a cash penalty. For purposes of this  
6 subsection, second suspension for violation of section 53-180 shall  
7 include suspension for a violation of section 53-180.02 following  
8 suspension for a violation of section 53-180 and second suspension  
9 for violation of section 53-180.02 shall include suspension for a  
10 violation of section 53-180 following suspension for a violation of  
11 section 53-180.02;

12 (b) For a third or subsequent suspension for violation of  
13 section 53-180 or 53-180.02 occurring within four years after the  
14 date of the first suspension, the commission, in its discretion,  
15 may order that the licensee be required to suspend sales of  
16 alcoholic liquor for a period of time not to exceed fifteen days  
17 and that the licensee may not elect to pay a cash penalty. The  
18 commission may use the required suspension of sales of alcoholic  
19 liquor penalty either alone or in conjunction with suspension  
20 periods for which the licensee may elect to pay a cash penalty.  
21 For purposes of this subsection, third or subsequent suspension  
22 for violation of section 53-180 shall include suspension for a  
23 violation of section 53-180.02 following suspension for a violation  
24 of section 53-180 and third or subsequent suspension for violation  
25 of section 53-180.02 shall include suspension for a violation of  
26 section 53-180 following suspension for a violation of section  
27 53-180.02; and

1           (c) For a first suspension based upon a finding that a  
2 licensee or an employee or agent of the licensee has been convicted  
3 of possession of a gambling device on a licensee's premises in  
4 violation of sections 28-1107 to 28-1111, the commission, in its  
5 discretion, may order that the licensee be required to suspend  
6 sales of alcoholic liquor for thirty days and that the licensee  
7 may not elect to pay a cash penalty. For a second or subsequent  
8 suspension for such a violation of sections 28-1107 to 28-1111  
9 occurring within four years after the date of the first suspension,  
10 the commission shall order that the license be canceled.

11           (4) For any licensee which has no violation for a period  
12 of four years consecutively, any suspension shall be treated as a  
13 new first suspension.

14           (5) The election provided for in subsection (2) of  
15 this section shall be filed with the commission in writing one  
16 week before the suspension is ordered to commence and shall be  
17 accompanied by payment in full of the sum required by this section.  
18 If such election has not been received by the commission by the  
19 close of business one week before the day such suspension is  
20 ordered to commence, it shall be conclusively presumed that the  
21 licensee has elected to close for the period of the suspension  
22 and any election received later shall be absolutely void and the  
23 payment made shall be returned to the licensee. The election shall  
24 be made on a form prescribed by the commission. ~~All funds received~~  
25 ~~under this section shall be remitted to the State Treasurer for~~  
26 ~~credit to the temporary school fund.~~ The commission shall remit  
27 all funds collected under this section to the State Treasurer for

1 distribution in accordance with Article VII, section 5, of the  
2 Constitution of Nebraska.

3           Sec. 77. Section 53-403, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5           53-403 For purposes of the Minor Alcoholic Liquor  
6 Liability Act:

7           (1) Alcoholic liquor has the definition found in section  
8 ~~53-103~~, 9 of this act;

9           (2) Intoxication means an impairment of a person's mental  
10 or physical faculties as a result of his or her use of alcoholic  
11 liquor so as to diminish the person's ability to think and act in  
12 the manner of a reasonably prudent person in full possession of his  
13 or her faculties using reasonable care under the same or similar  
14 circumstances;

15           (3) Licensee means a person holding a license issued  
16 under the Nebraska Liquor Control Act to sell alcoholic liquor at  
17 retail;

18           (4) Minor has the definition found in section ~~53-103~~, 30  
19 of this act;

20           (5) Retailer means a licensee, any agent or employee of  
21 the licensee acting within the scope and course of his or her  
22 employment, or any person who at the time of the events leading  
23 to an action under the Minor Alcoholic Liquor Liability Act was  
24 required to have a license issued under the Nebraska Liquor Control  
25 Act in order to sell alcoholic liquor at retail;

26           (6) Service of alcoholic liquor means any sale, gift, or  
27 other manner of conveying possession of alcoholic liquor; and

1           (7) Social host means a person who knowingly allows  
2 consumption of alcoholic liquor in his or her home or on property  
3 under his or her control by one or more minors. Social host  
4 does not include (a) a parent providing alcoholic liquor to  
5 only his or her minor child and to no other minors or (b)  
6 a religious corporation, organization, association, or society,  
7 and any authorized representative of such religious corporation,  
8 organization, association, or society, dispensing alcoholic liquor  
9 as part of any bona fide religious rite, ritual, or ceremony.

10           Sec. 78. Section 60-4,119, Revised Statutes Cumulative  
11 Supplement, 2008, is amended to read:

12           60-4,119 (1) All state identification cards and  
13 operators' licenses, except farm permits and except as otherwise  
14 provided in subsection (2) of this section and section 60-4,120,  
15 shall include a color photograph or a digital image of the  
16 cardholder or licensee as provided in section 60-484.02. State  
17 identification cards and operators' licenses shall be issued by the  
18 county treasurer or the Department of Motor Vehicles. The director  
19 shall negotiate and enter into a contract to provide the necessary  
20 equipment, supplies, and forms for the issuance of the licenses and  
21 cards. All costs incurred by the Department of Motor Vehicles under  
22 this section shall be paid by the state out of appropriations made  
23 to the department. All costs of taking the photographs or digital  
24 images shall be paid by the issuer from the fees provided to the  
25 issuer pursuant to section 60-4,115.

26           (2) A person who is out of the state at the time of  
27 renewal of his or her operator's license may apply for a license

1 without a photograph upon payment of a fee as provided in section  
2 60-4,115. The license may be issued at any time within one year  
3 after the expiration of the original license. Such application  
4 shall be made to the department, and the department shall issue the  
5 license.

6 (3) Any operator's license and any state identification  
7 card issued to a minor as defined in section ~~53-103~~, 30 of this  
8 act, as such definition may be amended from time to time by  
9 the Legislature, shall be of a distinct designation, of a type  
10 prescribed by the director, from the operator's license or state  
11 identification card of a person who is not a minor.

12 Sec. 79. Section 60-4,152, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 60-4,152 Any commercial driver's license issued by the  
15 Department of Motor Vehicles to a minor as defined in section  
16 ~~53-103~~, 30 of this act, as such definition may be amended from time  
17 to time by the Legislature, shall be of a distinct designation,  
18 of a type prescribed by the director, from the commercial driver's  
19 license of a person who is not a minor.

20 Sec. 80. Section 71-5730, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-5730 The following indoor areas are exempt from  
23 section 71-5729:

24 (1) Guestrooms and suites that are rented to guests and  
25 are designated as smoking rooms, except that not more than twenty  
26 percent of rooms rented to guests in an establishment may be  
27 designated as smoking rooms. All smoking rooms on the same floor



1 shall be contiguous, and smoke from such rooms shall not infiltrate  
2 into areas where smoking is prohibited under the Nebraska Clean  
3 Indoor Air Act;

4 (2) Indoor areas used in connection with a research  
5 study on the health effects of smoking conducted in a scientific  
6 or analytical laboratory under state or federal law or at a  
7 college or university approved by the Coordinating Commission for  
8 Postsecondary Education;

9 (3) Tobacco retail outlets; and

10 (4) Cigar bars as defined in section ~~53-103-~~ 15 of this  
11 act.

12 Sec. 81. Section 79-267, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 79-267 The following student conduct shall constitute  
15 grounds for long-term suspension, expulsion, or mandatory  
16 reassignment, subject to the procedural provisions of the Student  
17 Discipline Act, when such activity occurs on school grounds, in  
18 a vehicle owned, leased, or contracted by a school being used  
19 for a school purpose or in a vehicle being driven for a school  
20 purpose by a school employee or by his or her designee, or at a  
21 school-sponsored activity or athletic event:

22 (1) Use of violence, force, coercion, threat,  
23 intimidation, or similar conduct in a manner that constitutes a  
24 substantial interference with school purposes;

25 (2) Willfully causing or attempting to cause substantial  
26 damage to property, stealing or attempting to steal property of  
27 substantial value, or repeated damage or theft involving property;

1           (3) Causing or attempting to cause personal injury to a  
2 school employee, to a school volunteer, or to any student. Personal  
3 injury caused by accident, self-defense, or other action undertaken  
4 on the reasonable belief that it was necessary to protect some  
5 other person shall not constitute a violation of this subdivision;

6           (4) Threatening or intimidating any student for the  
7 purpose of or with the intent of obtaining money or anything of  
8 value from such student;

9           (5) Knowingly possessing, handling, or transmitting any  
10 object or material that is ordinarily or generally considered a  
11 weapon;

12           (6) Engaging in the unlawful possession, selling,  
13 dispensing, or use of a controlled substance or an imitation  
14 controlled substance, as defined in section 28-401, a substance  
15 represented to be a controlled substance, or alcoholic liquor  
16 as defined in section ~~53-103~~ 9 of this act or being under the  
17 influence of a controlled substance or alcoholic liquor;

18           (7) Public indecency as defined in section 28-806, except  
19 that this subdivision shall apply only to students at least twelve  
20 years of age but less than nineteen years of age;

21           (8) Engaging in bullying as defined in section 79-2,137;

22           (9) Sexually assaulting or attempting to sexually assault  
23 any person if a complaint has been filed by a prosecutor in a court  
24 of competent jurisdiction alleging that the student has sexually  
25 assaulted or attempted to sexually assault any person, including  
26 sexual assaults or attempted sexual assaults which occur off school  
27 grounds not at a school function, activity, or event. For purposes

1 of this subdivision, sexual assault means sexual assault in the  
2 first degree as defined in section 28-319, sexual assault in the  
3 second degree as defined in section 28-320, sexual assault of  
4 a child in the second or third degree as defined in section  
5 28-320.01, or sexual assault of a child in the first degree as  
6 defined in section 28-319.01, as such sections now provide or may  
7 hereafter from time to time be amended;

8 (10) Engaging in any other activity forbidden by the laws  
9 of the State of Nebraska which activity constitutes a danger to  
10 other students or interferes with school purposes; or

11 (11) A repeated violation of any rules and standards  
12 validly established pursuant to section 79-262 if such violations  
13 constitute a substantial interference with school purposes.

14 It is the intent of the Legislature that alternatives to  
15 suspension or expulsion be imposed against a student who is truant,  
16 tardy, or otherwise absent from required school activities.

17 Sec. 82. Original sections 2-1201, 2-1219, 9-823, 28-421,  
18 53-123.12, 53-124.13, 53-124.14, 53-125, 53-130, 53-135, 53-138.01,  
19 53-139, 53-149, 53-172, 53-1,104, 60-4,152, 71-5730, and 79-267,  
20 Reissue Revised Statutes of Nebraska, sections 48-1902, 53-122,  
21 53-123.11, 53-123.13, 53-123.15, 53-124.11, 53-124.12, 53-129,  
22 53-132, 53-133, 53-134, 53-164.01, 53-169.01, 53-403, and 60-4,119,  
23 Revised Statutes Cumulative Supplement, 2008, and sections 53-101,  
24 53-103, 53-124, 53-131, and 53-177, Revised Statutes Supplement,  
25 2009, are repealed.

26 Sec. 83. The following section is outright repealed:  
27 Section 53-174, Reissue Revised Statutes of Nebraska.