

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 861

Introduced by General Affairs Committee: Karpisek, 32, Chairperson; Coash, 27; Cook, 13; Dierks, 40; Dubas, 34; Krist, 10; Price, 3; Rogert, 16.

Read first time January 11, 2010

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 sections 9-823, 28-421, 53-123.12, 53-124.13, 53-124.14,
3 53-138.01, 53-139, 53-1,104, 60-4,152, 71-5730, and
4 79-267, Reissue Revised Statutes of Nebraska, sections
5 48-1902, 53-122, 53-123.13, 53-123.15, 53-124.12, 53-132,
6 53-134, 53-164.01, 53-169.01, 53-403, and 60-4,119,
7 Revised Statutes Cumulative Supplement, 2008, and
8 sections 53-101, 53-103, 53-124, and 53-131, Revised
9 Statutes Supplement, 2009; to transfer definitions
10 and fee provisions; to change provisions relating to
11 distribution of license fees in accordance with the
12 Constitution of Nebraska; to eliminate unconstitutional
13 provisions; to harmonize provisions; and to repeal the

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1 original sections.

2 Be it enacted by the people of the State of Nebraska,

1 Section 1. 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:

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

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

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

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

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

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

24 (c) For the convenience of the public, the director may
25 authorize lottery game retailers to pay winners of up to five

1 hundred dollars after performing validation procedures on their
2 premises appropriate to the lottery game involved;

3 (d) No prize shall be paid to any person under nineteen
4 years of age, and any prize resulting from a lottery ticket held by
5 a person under nineteen years of age shall be awarded to the parent
6 or guardian or custodian of the person under the Nebraska Uniform
7 Transfers to Minors Act;

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

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

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

1 (6) Requirements for eligibility for participation
2 in grand prize drawings or other runoff drawings, including
3 requirements for submission of evidence of eligibility;

4 (7) The locations at which tickets may be sold except
5 that no ticket may be sold at a retail liquor establishment
6 holding a license for the sale of alcoholic liquor at retail for
7 consumption on the licensed premises unless the establishment holds
8 a Class C liquor license with a sampling designation as provided in
9 ~~subdivision (5)~~ subsection (6) of section 53-124;

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

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

14 (10) The form and type of marketing of informational and
15 educational material;

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

19 (12) All other matters necessary or desirable for the
20 efficient and economical operation and administration of lottery
21 games and for the convenience of the purchasers of tickets and the
22 holders of winning tickets.

23 Sec. 2. Section 28-421, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 28-421 The provisions of sections 28-419 to 28-424 shall

1 not apply to the use or sale of such substances, as defined in
2 sections 28-419 and 28-420, when such use or sale is administered
3 or prescribed for medical or dental purposes, nor shall the
4 provisions of sections 28-419 to 28-424 apply to the use or sale of
5 alcoholic liquors as defined by section ~~53-103~~, 7 of this act.

6 Sec. 3. Section 48-1902, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 48-1902 For purposes of sections 48-1901 to 48-1910,
9 unless the context otherwise requires:

10 (1) Alcohol ~~shall mean~~ means any product of distillation
11 of any fermented liquid, whether rectified or diluted, whatever may
12 be the origin thereof, synthetic ethyl alcohol, the four varieties
13 of liquor, ~~defined in subdivisions (1) through (4) of section~~
14 ~~53-103~~, alcohol, spirits, wine, and beer, as defined in sections
15 6, 8, 43, and 47 of this act, every liquid or solid, patented
16 or not, containing alcohol, spirits, wine, or beer, and alcohol
17 used in the manufacture of denatured alcohol, flavoring extracts,
18 syrups, or medicinal, mechanical, scientific, culinary, and toilet
19 preparations;

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

24 (3) Breath-testing-device operator ~~shall mean~~ means a
25 person who has obtained or been issued a permit pursuant to the

1 department rules and regulations;

2 (4) Department ~~shall mean~~ means the Department of Health
3 and Human Services;

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

6 (6) Drug ~~shall mean~~ means any substance, chemical, or
7 compound as described, defined, or delineated in sections 28-405
8 and 28-419 or any metabolite or conjugated form thereof, except
9 that any substance, chemical, or compound containing any product as
10 defined in subdivision (1) of this section may also be defined as
11 alcohol;

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

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

22 Sec. 4. Section 53-101, Revised Statutes Supplement,
23 2009, is amended to read:

24 53-101 Sections 53-101 to 53-1,122 and sections 6 to 47
25 and 53 of this act shall be known and may be cited as the Nebraska

1 Liquor Control Act.

2 Sec. 5. Section 53-103, Revised Statutes Supplement,
3 2009, is amended to read:

4 53-103 For purposes of the Nebraska Liquor Control Act,
5 the definitions found in sections 6 to 47 of this act apply. unless
6 the context otherwise requires.

7 ~~(1) Alcohol means the product of distillation of any~~
8 ~~fermented liquid, whether rectified or diluted, whatever the origin~~
9 ~~thereof, and includes synthetic ethyl alcohol and alcohol processed~~
10 ~~or sold in a gaseous form. Alcohol does not include denatured~~
11 ~~alcohol or wood alcohol.~~

12 ~~(2) Spirits means any beverage which contains alcohol~~
13 ~~obtained by distillation, mixed with water or other substance~~
14 ~~in solution, and includes brandy, rum, whiskey, gin, or other~~
15 ~~spirituous liquors and such liquors when rectified, blended, or~~
16 ~~otherwise mixed with alcohol or other substances.~~

17 ~~(3) Wine means any alcoholic beverage obtained by the~~
18 ~~fermentation of the natural contents of fruits or vegetables,~~
19 ~~containing sugar, including such beverages when fortified by the~~
20 ~~addition of alcohol or spirits.~~

21 ~~(4) Beer means a beverage obtained by alcoholic~~
22 ~~fermentation of an infusion or concoction of barley or other grain,~~
23 ~~malt, and hops in water and includes, but is not limited to, beer,~~
24 ~~ale, stout, lager beer, porter, and near beer.~~

25 ~~(5) Alcoholic liquor includes alcohol, spirits, wine,~~

1 beer, and any liquid or solid, patented or not, containing alcohol,
2 spirits, wine, or beer and capable of being consumed as a beverage
3 by a human being. Alcoholic liquor also includes confections or
4 candy with alcohol content of more than one-half of one percent
5 alcohol. The act does not apply to (a) alcohol used in the
6 manufacture of denatured alcohol produced in accordance with acts
7 of Congress and regulations adopted and promulgated pursuant to
8 such acts, (b) flavoring extracts, syrups, medicinal, mechanical,
9 scientific, culinary, or toilet preparations, or food products
10 unfit for beverage purposes, but the act applies to alcoholic
11 liquor used in the manufacture, preparation, or compounding of such
12 products or confections or candy that contains more than one-half
13 of one percent alcohol, or (c) wine intended for use and used by
14 any church or religious organization for sacramental purposes;

15 (6) Near beer means beer containing less than one-half of
16 one percent of alcohol by volume;

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

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

1 authorized agent for a manufacturer;

2 (9) Nonbeverage user means every manufacturer of any
3 of the products set forth and described in subsection (4) of
4 section 53-160, when such product contains alcoholic liquor, and
5 all laboratories, hospitals, and sanatoria using alcoholic liquor
6 for nonbeverage purposes;

7 (10) Manufacture means to distill, rectify, ferment,
8 brew, make, mix, concoct, process, blend, bottle, or fill an
9 original package with any alcoholic liquor and includes blending
10 but does not include the mixing or other preparation of drinks for
11 serving by those persons authorized and permitted in the act to
12 serve drinks for consumption on the premises where sold;

13 (11) Wholesaler means a person importing or causing to be
14 imported into the state or purchasing or causing to be purchased
15 within the state alcoholic liquor for sale or resale to retailers
16 licensed under the act, whether the business of the wholesaler is
17 conducted under the terms of a franchise or any other form of an
18 agreement with a manufacturer or manufacturers, or who has caused
19 alcoholic liquor to be imported into the state or purchased in
20 the state from a manufacturer or manufacturers and was licensed
21 to conduct such a business by the commission on May 1, 1970, or
22 has been so licensed since that date. Wholesaler does not include
23 any retailer licensed to sell alcoholic liquor for consumption off
24 the premises who sells alcoholic liquor other than beer or wine
25 to another retailer pursuant to section 53-175, except that any

1 such retailer shall obtain the required federal wholesaler's basic
2 permit and federal wholesale liquor dealer's special tax stamp.

3 Wholesaler includes a distributor, distributorship, and jobber,

4 ~~(12) Person means any natural person, trustee,~~
5 ~~corporation, partnership, or limited liability company;~~

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

9 ~~(14) Sell at retail and sale at retail means sale for use~~
10 ~~or consumption and not for resale in any form except as provided in~~
11 ~~section 53-175;~~

12 ~~(15) Commission means the Nebraska Liquor Control~~
13 ~~Commission;~~

14 ~~(16) Sale means any transfer, exchange, or barter in any~~
15 ~~manner or by any means for a consideration and includes any sale~~
16 ~~made by any person, whether principal, proprietor, agent, servant,~~
17 ~~or employee;~~

18 ~~(17) To sell means to solicit or receive an order for, to~~
19 ~~keep or expose for sale, or to keep with intent to sell;~~

20 ~~(18) Restaurant means any public place (a) which is kept,~~
21 ~~used, maintained, advertised, and held out to the public as a place~~
22 ~~where meals are served and where meals are actually and regularly~~
23 ~~served, (b) which has no sleeping accommodations, and (c) which~~
24 ~~has adequate and sanitary kitchen and dining room equipment and~~
25 ~~capacity and a sufficient number and kind of employees to prepare,~~

1 cook, and serve suitable food for its guests;

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

23 (20) Hotel means any building or other structure (a)
24 which is kept, used, maintained, advertised, and held out to
25 the public to be a place where food is actually served and

1 consumed and sleeping accommodations are offered for adequate
2 pay to travelers and guests, whether transient, permanent, or
3 residential, (b) in which twenty-five or more rooms are used for
4 the sleeping accommodations of such guests, and (c) which has one
5 or more public dining rooms where meals are served to such guests,
6 such sleeping accommodations and dining rooms being conducted in
7 the same buildings in connection therewith and such building or
8 buildings or structure or structures being provided with adequate
9 and sanitary kitchen and dining room equipment and capacity;

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

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

15 (23) Brand means alcoholic liquor identified as the
16 product of a specific manufacturer;

17 (24) Franchise or agreement, with reference to the
18 relationship between a manufacturer and wholesaler, includes one or
19 more of the following: (a) A commercial relationship of a definite
20 duration or continuing indefinite duration which is not required
21 to be in writing; (b) a relationship by which the wholesaler is
22 granted the right to offer and sell the manufacturer's brands by
23 the manufacturer; (c) a relationship by which the franchise, as an
24 independent business, constitutes a component of the manufacturer's
25 distribution system; (d) a relationship by which the operation

1 of the wholesaler's business is substantially associated with
2 the manufacturer's brand, advertising, or other commercial symbol
3 designating the manufacturer; and (e) a relationship by which the
4 operation of the wholesaler's business is substantially reliant on
5 the manufacturer for the continued supply of beer;

6 (25) Territory or sales territory means the wholesaler's
7 area of sales responsibility for the brand or brands of the
8 manufacturer;

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

11 (27) Cancel means to discontinue all rights and
12 privileges of a license;

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

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

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

24 (31) Farm winery means any enterprise which produces and
25 sells wines produced from grapes, other fruit, or other suitable

1 agricultural products of which at least seventy-five percent of
2 the finished product is grown in this state or which meets the
3 requirements of section 53-123.13;

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

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

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

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

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

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

25 ~~(38) Craft brewery~~ means a brewpub or a microbrewery;

1 ~~(39) Local governing body means (a) the city council or~~
2 ~~village board of trustees of a city or village within which the~~
3 ~~licensed premises are located or (b) if the licensed premises are~~
4 ~~not within the corporate limits of a city or village, the county~~
5 ~~board of the county within which the licensed premises are located;~~

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

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

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

14 ~~(a) Does not sell food;~~

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

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

22 ~~(d) Does not permit the smoking of cigarettes.~~

23 Sec. 6. Alcohol means the product of distillation of any
24 fermented liquid, whether rectified or diluted, whatever the origin
25 thereof, and includes synthetic ethyl alcohol and alcohol processed

1 or sold in a gaseous form. Alcohol does not include denatured
2 alcohol or wood alcohol.

3 Sec. 7. (1) Alcoholic liquor includes alcohol, spirits,
4 wine, beer, and any liquid or solid, patented or not, containing
5 alcohol, spirits, wine, or beer and capable of being consumed
6 as a beverage by a human being. Alcoholic liquor also includes
7 confections or candy that contains more than one-half of one
8 percent alcohol.

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

20 Sec. 8. Beer means a beverage obtained by alcoholic
21 fermentation of an infusion or concoction of barley or other grain,
22 malt, and hops in water and includes, but is not limited to, beer,
23 ale, stout, lager beer, porter, and near beer.

24 Sec. 9. Brand means alcoholic liquor identified as the
25 product of a specific manufacturer.

1 Sec. 10. Brewpub means any restaurant or hotel which
2 produces on its premises a maximum of ten thousand barrels of beer
3 per year.

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

11 Sec. 12. Cancel means to discontinue all rights and
12 privileges of a license.

13 Sec. 13. Cigar bar means an establishment operated by a
14 holder of a Class C liquor license which:

15 (1) Does not sell food;

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

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

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

24 Sec. 14. (1) Club means a corporation (a) which is
25 organized under the laws of this state, not for pecuniary profit,

1 solely for the promotion of some common object other than the sale
2 or consumption of alcoholic liquor, (b) which is kept, used, and
3 maintained by its members through the payment of annual dues, (c)
4 which owns, hires, or leases a building or space in a building
5 suitable and adequate for the reasonable and comfortable use and
6 accommodation of its members and their guests, and (d) which has
7 suitable and adequate kitchen and dining room space and equipment
8 and a sufficient number of servants and employees for cooking,
9 preparing, and serving food and meals for its members and their
10 quests.

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

21 Sec. 15. Commission means the Nebraska Liquor Control
22 Commission.

23 Sec. 16. Consume means knowingly and intentionally
24 drinking or otherwise ingesting alcoholic liquor.

25 Sec. 17. Craft brewery means a brewpub or a microbrewery.

1 Sec. 18. Farm winery means any enterprise which produces
2 and sells wines produced from grapes, other fruit, or other
3 suitable agricultural products of which at least seventy-five
4 percent of the finished product is grown in this state or which
5 meets the requirements of section 53-123.13.

6 Sec. 19. Franchise or agreement, with reference to the
7 relationship between a manufacturer and wholesaler, includes one or
8 more of the following:

9 (1) A commercial relationship of a definite duration or
10 continuing indefinite duration which is not required to be in
11 writing;

12 (2) A relationship by which the wholesaler is granted
13 the right to offer and sell the manufacturer's brands by the
14 manufacturer;

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

18 (4) A relationship by which the operation of the
19 wholesaler's business is substantially associated with the
20 manufacturer's brand, advertising, or other commercial symbol
21 designating the manufacturer; and

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

25 Sec. 20. Generic label means a label which is not

1 protected by a registered trademark, either in whole or in part,
2 or to which no person has acquired a right pursuant to state or
3 federal statutory or common law.

4 Sec. 21. Hotel means any building or other structure
5 (1) which is kept, used, maintained, advertised, and held out
6 to the public to be a place where food is actually served and
7 consumed and sleeping accommodations are offered for adequate
8 pay to travelers and guests, whether transient, permanent, or
9 residential, (2) in which twenty-five or more rooms are used for
10 the sleeping accommodations of such guests, and (3) which has one
11 or more public dining rooms where meals are served to such guests,
12 such sleeping accommodations and dining rooms being conducted in
13 the same buildings in connection therewith and such building or
14 buildings or structure or structures being provided with adequate
15 and sanitary kitchen and dining room equipment and capacity.

16 Sec. 22. Local governing body means (1) the city council
17 or village board of trustees of a city or village within which the
18 licensed premises are located or (2) if the licensed premises are
19 not within the corporate limits of a city or village, the county
20 board of the county within which the licensed premises are located.

21 Sec. 23. Manager means a person appointed by a
22 corporation to oversee the daily operation of the business licensed
23 in Nebraska. A manager shall meet all the requirements of the
24 Nebraska Liquor Control Act as though he or she were the applicant,
25 except for residency and citizenship.

1 Sec. 24. Manufacture means to distill, rectify, ferment,
2 brew, make, mix, concoct, process, blend, bottle, or fill an
3 original package with any alcoholic liquor and includes blending
4 but does not include the mixing or other preparation of drinks for
5 selling by those persons authorized and permitted in the Nebraska
6 Liquor Control Act to serve drinks for consumption on the premises
7 where sold.

8 Sec. 25. Manufacturer means every brewer, fermenter,
9 distiller, rectifier, winemaker, blender, processor, bottler, or
10 person who fills or refills an original package and others
11 engaged in brewing, fermenting, distilling, rectifying, or bottling
12 alcoholic liquor, including a wholly owned affiliate or duly
13 authorized agent for a manufacturer.

14 Sec. 26. Microbrewery means any small brewery producing a
15 maximum of ten thousand barrels of beer per year.

16 Sec. 27. Microdistillery means a distillery located in
17 Nebraska that is licensed to distill liquor on the premises of the
18 distillery licensee and produces ten thousand or fewer gallons of
19 liquor annually.

20 Sec. 28. Minor means any person, male or female, under
21 twenty-one years of age, regardless of marital status.

22 Sec. 29. Near beer means beer containing less than
23 one-half of one percent of alcohol by volume.

24 Sec. 30. Nonbeverage user means every manufacturer of
25 any of the products set forth and described in subsection (4) of

1 section 53-160, when such product contains alcoholic liquor, and
2 all laboratories, hospitals, and sanatoria using alcoholic liquor
3 for nonbeverage purposes.

4 Sec. 31. Nonprofit corporation means any corporation
5 organized under the laws of this state, not for profit, which has
6 been exempted from the payment of federal income taxes.

7 Sec. 32. Original package means any bottle, flask, jug,
8 can, cask, barrel, keg, hogshead, or other receptacle or container
9 used, corked or capped, sealed, and labeled by the manufacturer of
10 alcoholic liquor to contain and to convey any alcoholic liquor.

11 Sec. 33. Person means any natural person, trustee,
12 corporation, partnership, or limited liability company.

13 Sec. 34. Private label means a label which the purchasing
14 wholesaler or retailer has protected, in whole or in part, by
15 a trademark registration or which the purchasing wholesaler or
16 retailer has otherwise protected pursuant to state or federal
17 statutory or common law.

18 Sec. 35. Restaurant means any public place (1) which is
19 kept, used, maintained, advertised, and held out to the public as
20 a place where meals are served and where meals are actually and
21 regularly served, (2) which has no sleeping accommodations, and (3)
22 which has adequate and sanitary kitchen and dining room equipment
23 and capacity and a sufficient number and kind of employees to
24 prepare, cook, and serve suitable food for its guests.

25 Sec. 36. Retailer means a person who sells or offers for

1 sale alcoholic liquor for use or consumption and not for resale in
2 any form except as provided in section 53-175.

3 Sec. 37. Revoke means to permanently void and recall all
4 rights and privileges of a license.

5 Sec. 38. Sale means any transfer, exchange, or barter
6 in any manner or by any means for a consideration and includes
7 any sale made by any person, whether principal, proprietor, agent,
8 servant, or employee.

9 Sec. 39. Sampling means consumption on the premises of a
10 retail licensee of not more than five samples of one fluid ounce or
11 less of alcoholic liquor by the same person in a twenty-four-hour
12 period.

13 Sec. 40. Sell means to solicit or receive an order for,
14 to keep or expose for sale, or to keep with intent to sell.

15 Sec. 41. Sell at retail and sale at retail means sale
16 for use or consumption and not for resale in any form except as
17 provided in section 53-175.

18 Sec. 42. Shipping license means a license granted
19 pursuant to section 53-123.15.

20 Sec. 43. Spirits means any beverage which contains
21 alcohol obtained by distillation, mixed with water or other
22 substance in solution, and includes brandy, rum, whiskey, gin,
23 or other spirituous liquors and such liquors when rectified,
24 blended, or otherwise mixed with alcohol or other substances.

25 Sec. 44. Suspend means to cause a temporary interruption

1 of all rights and privileges of a license.

2 Sec. 45. Territory or sales territory means the
3 wholesaler's area of sales responsibility for the brand or brands
4 of the manufacturer.

5 Sec. 46. Wholesaler means a person importing or causing
6 to be imported into the state or purchasing or causing to be
7 purchased within the state alcoholic liquor for sale or resale to
8 retailers licensed under the Nebraska Liquor Control Act, whether
9 the business of the wholesaler is conducted under the terms of a
10 franchise or any other form of an agreement with a manufacturer or
11 manufacturers, or who has caused alcoholic liquor to be imported
12 into the state or purchased in the state from a manufacturer or
13 manufacturers and was licensed to conduct such a business by the
14 commission on May 1, 1970, or has been so licensed since that date.

15 Wholesaler does not include any retailer licensed to
16 sell alcoholic liquor for consumption off the premises who sells
17 alcoholic liquor other than beer or wine to another retailer
18 pursuant to section 53-175, except that any such retailer shall
19 obtain the required federal wholesaler's basic permit and federal
20 wholesale liquor dealer's special tax stamp. Wholesaler includes a
21 distributor, distributorship, and jobber.

22 Sec. 47. Wine means any alcoholic beverage obtained by
23 the fermentation of the natural contents of fruits or vegetables,
24 containing sugar, including such beverages when fortified by the
25 addition of alcohol or spirits.

1 Sec. 48. Section 53-122, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 53-122 (1) The commission may issue licenses for the sale
4 of alcoholic liquor, except beer, by the drink subject to all the
5 terms and conditions of the Nebraska Liquor Control Act in all
6 cities and villages in this state, except in those cases when it
7 affirmatively appears that the issuance will render null and void
8 prior conveyances of land to such city or village for public uses
9 and purposes by purchase, gift, or devise, under the conditions and
10 in the manner provided in this section.

11 (2) If (a) a sufficient petition is signed by the
12 registered voters of any such city or village of such number
13 as equals twenty percent of the votes cast at the last general
14 election held in such city or village, which petition requests
15 that the question of licensing the sale of alcoholic liquor, except
16 beer, by the drink in the city or village be submitted to the
17 registered voters of the city or village at a special election
18 to be called for that purpose and (b) such petition is presented
19 to the clerk of the city or village, the clerk shall cause to
20 be published one time in a legal newspaper published in or of
21 general circulation in the city or village a notice of a special
22 election to be held not less than ten days nor more than twenty
23 days after the date of such publication. The notice shall state the
24 proposition to be submitted at such special election.

25 (3) The question of licensing the sale of alcoholic

1 liquor either by the drink or in the original package, or both
2 by the drink and in the original package, may also be submitted
3 at any general municipal election, except as otherwise provided in
4 section 53-121, in any city or village in this state subject to the
5 following:

6 (a) Upon the filing with the clerk of the city or village
7 of a petition signed by registered voters of the city or village
8 in a number equal to twenty percent of the votes cast at the last
9 general election held in the city or village, such proposition or
10 propositions shall be submitted;

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

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

16 (d) No signature on the petition shall be valid unless
17 appended to the petition within the last ninety days prior to the
18 date of filing the petition with the clerk of the city or village;
19 and

20 (e) The petition shall be filed thirty days prior to the
21 day of the general municipal election at which the proposition is
22 to be submitted, and during such thirty-day period no signature
23 shall be withdrawn and no signature shall be added.

24 (4) Any person who signs any proposal or petition
25 contemplated under this section knowing that he or she is not

1 a registered voter in the place where such proposal or petition is
 2 made, who signs any name other than his or her own to such proposal
 3 or petition, or who aids or abets any other person in doing any of
 4 the acts mentioned is guilty of a Class I misdemeanor. Any person
 5 who bribes or gives or pays any money or thing of value to any
 6 person directly or indirectly to induce him or her to sign such
 7 proposal or petition, who accepts money for signing such proposal
 8 or petition, or who aids or abets any other person in doing any of
 9 such acts is guilty of a Class IV felony.

10 (5) Upon the ballot either at the special election or
 11 at any general municipal election, the proposition or propositions
 12 shall be stated as follows:

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

15 For license to sell by drink.

16 Against license to sell by drink.

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

20 For license to sell by the package.

21 Against license to sell by the package.

22 The provisions of the Election Act relating to election
 23 officers, voting places, election apparatus and blanks, preparation
 24 and form of ballots, information to voters, delivery of ballots,
 25 calling of elections, conduct of elections, manner of voting,

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

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

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

1 (7) An election may not be held in the same city or
2 village under this section more often than once every twenty-three
3 months. ~~Subdivision (5)(e)~~ A Class I retail license under
4 subdivision (6)(a)(v) of section 53-124 is not subject to this
5 section.

6 Sec. 49. Section 53-123.12, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 53-123.12 Any person desiring to obtain a new license to
9 operate a farm winery shall:

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

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

17 (3) Pay the state registration fee to the commission in
18 the sum of forty-five dollars.

19 License fees and registration fees may be paid to the
20 commission by certified or cashier's check of a bank within this
21 state, personal or business check, United States post office money
22 order, or cash in the full amount of such fees. The commission
23 shall then notify, by registered or certified mail marked return
24 receipt requested with postage prepaid, the municipal clerk of the
25 city or incorporated village where such license is sought or, if

1 the license is not sought within a city or incorporated village,
2 the county clerk of the county where such license is sought of the
3 receipt of the application and shall enclose with such notice one
4 copy of the application. No such license shall then be issued by
5 the commission until the expiration of at least forty-five days
6 from the date of mailing such application by the commission. Within
7 thirty-five days from the date of receipt of such application
8 from the commission, the local governing bodies of nearby cities
9 or villages or the county may make and submit to the commission
10 recommendations relative to the granting of or refusal to grant
11 such license to the applicant.

12 Sec. 50. Section 53-123.13, Revised Statutes Cumulative
13 Supplement, 2008, is amended to read:

14 53-123.13 (1) If the operator of a farm winery is
15 unable to produce or purchase seventy-five percent of the grapes,
16 fruit, or other suitable agricultural products used in the farm
17 winery from within the state due to natural disaster which
18 causes substantial loss to the Nebraska-grown crop, such operator
19 may petition the commission to waive the seventy-five-percent
20 requirement prescribed in ~~subdivision (31) of section 53-103~~
21 section 18 of this act for one year.

22 (2) It shall be within the discretion of the commission
23 to waive the seventy-five-percent requirement taking into
24 consideration the availability of products used in farm wineries in
25 this area and the ability of such operator to produce wine from

1 products that are abundant within the state.

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

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

14 Sec. 51. Section 53-123.15, Revised Statutes Cumulative
15 Supplement, 2008, is amended to read:

16 53-123.15 (1) No person shall order or receive alcoholic
17 liquor in this state which has been shipped directly to him or her
18 from outside this state by any person other than a holder of a
19 shipping license issued by the commission, except that a licensed
20 wholesaler may receive not more than three gallons of wine in any
21 calendar year from any person who is not a holder of a shipping
22 license.

23 (2) The commission may issue a shipping license to
24 a manufacturer. Such license shall allow the licensee to ship
25 alcoholic liquor only to a licensed wholesaler, except that a

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

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

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

25 (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. 52. 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

1 fee provided in ~~this~~ section 53 of this act and, if the applicant
 2 is an individual, provide the applicant's social security number.
 3 ~~The fees for annual licenses finally issued by the commission shall~~
 4 ~~be as follows:~~ The commission shall issue the types of licenses
 5 described in this section.

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

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

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

15 ~~(b) For a license to operate a~~
 16 ~~microdistillery.....\$250.00;~~

17 ~~(2) For a license to manufacture beer and wine or to~~
 18 ~~operate a farm winery or craft brewery:~~

19 ~~(a) Manufacture of beer, excluding beer produced by a~~
 20 ~~craft brewery:~~

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

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

25 ~~(iii) 150 to 200 barrel daily capacity, tier~~

1 ~~three;.....350.00~~

2 (iv) 200 to 300 barrel daily capacity, tier

3 ~~four;.....500.00~~

4 (v) 300 to 400 barrel daily capacity, tier

5 ~~five;.....650.00~~

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

7 ~~six;.....700.00~~

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

9 ~~seven.....800.00~~

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

11 ~~(c) Manufacture of wines.....\$250.00~~

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

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

14 ~~this subsection, daily capacity shall mean means the average~~

15 ~~daily barrel production for the previous twelve months of~~

16 ~~manufacturing operation. If no such basis for comparison exists,~~

17 ~~the manufacturing licensee shall pay in advance for the first~~

18 ~~year's operation a fee of five hundred dollars.~~

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

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

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

22 ~~and wines produced from farm wineries.....\$750.00~~

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

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

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

1 ~~(5) For a retail license.~~

2 (4) There shall be five classes of nonbeverage users'
3 licenses: Class 1, Class 2, Class 3, Class 4, and Class 5.

4 (5) In lieu of a manufacturer's, a retailer's, or a
5 wholesaler's license, there shall be a license to operate issued
6 for a craft brewery, a farm winery, or a microdistillery.

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

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

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

13 ~~(c) (iii) Class C: Alcoholic liquor, for consumption on~~
14 ~~the premises and off the premises, sales in original packages~~
15 ~~only. the sum of three hundred dollars, except for farm winery,~~
16 ~~microdistillery, or craft brewery sales outlets. If the applicant~~
17 ~~is making application to operate a cigar bar, the initial,~~
18 ~~nonrefundable application fee shall be one thousand dollars, the~~
19 ~~annual fee thereafter shall be as specified in this subdivision,~~
20 ~~and the application shall meet the requirements of section 53-131.~~

21 If a Class C license is held by a nonprofit corporation, it shall
22 be restricted to consumption on the premises only. A Class C
23 license may have a sampling designation restricting consumption on
24 the premises to sampling, but such designation shall not affect
25 sales for consumption off the premises under such license;

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

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

9 (b) All applicable license fees shall be paid by the
 10 applicant or licensee directly to the city or village treasurer
 11 in the case of premises located inside the corporate limits of a
 12 city or village and directly to the county treasurer in the case
 13 of premises located outside the corporate limits of a city or
 14 village. ~~;~~

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

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

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

19 Class 1.....\$5.00

20 Class 2.....25.00

21 Class 3.....50.00

22 Class 4.....100.00

23 Class 5.....250.00;

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

1 ~~(10) For a shipping license, except a shipping license~~
2 ~~issued pursuant to subsection (4) of section 53-123.15.....\$200.00,~~
3 ~~and~~

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

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

9 (8) There shall be two types of wholesale licenses:
10 Alcoholic liquor and beer only. The annual fee shall be paid for
11 the first and each additional wholesale place of business operated
12 in this state by the same licensee and wholesaling the same
13 product.

14 (9) The license year, unless otherwise provided in the
15 Nebraska Liquor Control Act, shall commence on May 1 of each year
16 and shall end on the following April 30, except that the license
17 year for a Class C license shall commence on November 1 of each
18 year and shall end on the following October 31. During the license
19 year, no license shall be issued for a sum less than the amount
20 of the annual license fee as fixed in ~~this section,~~ section 53
21 of this act, regardless of the time when the application for such
22 license has been made, except that (a) when there is a purchase
23 of an existing licensed business and a new license of the same
24 class is issued or (b) upon the issuance of a new license for a
25 location which has not been previously licensed, the license fee

1 and occupation taxes shall be prorated on a quarterly basis as of
2 the date of issuance.

3 Sec. 53. (1) The fees for annual licenses finally issued
4 by the commission shall be as provided in this section and section
5 53-124.

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

7 (3) Boat license ... \$50.

8 (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>
<u>Beer - tier three</u>	<u>350</u>
<u>Beer - tier four</u>	<u>500</u>
<u>Beer - tier five</u>	<u>650</u>
<u>Beer - tier six</u>	<u>700</u>
<u>Beer - tier seven</u>	<u>800</u>
<u>Wine</u>	<u>250</u>

19 (5) Nonbeverage user's license:

<u>Class</u>	<u>Fee - In Dollars</u>
<u>Class I</u>	<u>5</u>
<u>Class II</u>	<u>25</u>
<u>Class III</u>	<u>50</u>
<u>Class IV</u>	<u>100</u>

1	<u>Class V</u>	<u>250</u>
2	<u>(6) Operator's license:</u>	
3	<u>Class</u>	<u>Fee - In Dollars</u>
4	<u>Craft brewery</u>	<u>250</u>
5	<u>Farm winery</u>	<u>250</u>
6	<u>Microdistillery</u>	<u>250</u>
7	<u>(7) Railroad license ... \$100.</u>	
8	<u>(8) Retail license:</u>	
9	<u>Class</u>	<u>Fee - In Dollars</u>
10	<u>Class A</u>	<u>100</u>
11	<u>Class B</u>	<u>100</u>
12	<u>Class C</u>	<u>300</u>
13	<u>Class D</u>	<u>200</u>
14	<u>Class I</u>	<u>250</u>
15	<u>(9) Shipping license:</u>	
16	<u>Class</u>	<u>Fee - In Dollars</u>
17	<u>Manufacturer</u>	<u>200</u>
18	<u>Vintage wines</u>	<u>200</u>
19	<u>Direct Sales</u>	<u>500</u>
20	<u>(10) Wholesale license:</u>	
21	<u>Class</u>	<u>Fee - In Dollars</u>
22	<u>Alcoholic liquor</u>	<u>750</u>
23	<u>Beer</u>	<u>500</u>
24	Sec. 54. Section 53-124.12, Revised Statutes Cumulative	

1 Supplement, 2008, is amended to read:

2 53-124.12 (1) The holder of a license to sell alcoholic
3 liquor at retail issued under ~~subdivision (5)~~ subsection (6) of
4 section 53-124, a craft brewery license, a microdistillery license,
5 or a farm winery license may obtain an annual catering license as
6 prescribed in this section. The catering license shall be issued
7 for the same period and may be renewed in the same manner as the
8 retail license, craft brewery license, microdistillery license, or
9 farm winery license.

10 (2) Any person desiring to obtain a catering license
11 shall file with the commission:

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

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

17 (3) When an application for a catering license is filed,
18 the commission shall notify, by registered or certified mail,
19 return receipt requested with postage prepaid, (a) the clerk of the
20 city or incorporated village in which such applicant is located or
21 (b) if the applicant is not located within a city or incorporated
22 village, the county clerk of the county in which such applicant is
23 located, of the receipt of the application. The commission shall
24 enclose with such notice one copy of the application. The local
25 governing body and the commission shall process the application in

1 the same manner as provided in section 53-132.

2 (4) The local governing body with respect to catering
3 licensees within its liquor license jurisdiction as provided in
4 subsection (5) of this section may cancel a catering license for
5 cause for the remainder of the period for which such catering
6 license is issued. Any person whose catering license is canceled
7 may appeal to the district court of the county in which the local
8 governing body is located.

9 (5) For purposes of this section, local governing body
10 means (a) the governing body of the city or village in which the
11 catering licensee is located or (b) if such licensee is not located
12 within a city or village, the governing body of the county in which
13 such licensee is located.

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

19 Sec. 55. Section 53-124.13, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 53-124.13 (1) The holder of a catering license may
22 deliver, sell, or dispense alcoholic liquor, including beer, for
23 consumption at premises designated in a special designated license
24 issued pursuant to section 53-124.11.

25 (2) At least twenty-one days prior to the event for

1 which the special designated license is to be used, the holder of
2 the catering license shall file an application seeking a special
3 designated license for the event. In addition to the information
4 required by subsection (3) of section 53-124.11, the applicant
5 shall inform the commission of (a) the time of the event, (b)
6 the name of the person or organization requesting the applicant's
7 services, (c) the opening and closing dates of the event, and (d)
8 any other information the commission or local governing body deems
9 necessary. A holder of a catering license shall not cater an event
10 unless such licensee receives a special designated license for the
11 event.

12 (3) If the organization for which the holder of a
13 catering license is catering is a nonprofit organization exempted
14 from the payment of federal income taxes, such organization may
15 share with such licensee a part or all of the proceeds from the
16 sale of any alcoholic liquor sold and dispensed pursuant to this
17 section.

18 (4) For purposes of this section, local governing body
19 shall mean the governing body of the city or village in which the
20 event will be held or, if the event will not be held within the
21 corporate limits of a city or village, the governing body of the
22 county in which such event will be held.

23 (5) Only the holder of a special designated license or
24 employees of such licensee may dispense alcoholic liquor at the
25 event which is being catered. Violation of any provision of this

1 section or section 53-124.12 or any rules or regulations adopted
2 and promulgated pursuant to such sections occurring during an event
3 being catered by such licensee may be cause to revoke, cancel, or
4 suspend the class of retail license issued under section 53-124
5 held by such licensee.

6 Sec. 56. Section 53-124.14, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 53-124.14 (1) The commission may license the sale of
9 alcoholic liquor at retail in the original package to applicants
10 who reside in any county in which there is no incorporated city
11 or village or in which the county seat is not located in an
12 incorporated city or village if the licensed premises are situated
13 in an unincorporated village having a population of twenty-five
14 inhabitants or more.

15 (2) The commission may license the sale of beer at retail
16 in any county outside the corporate limits of any city or village
17 therein and license the sale of alcoholic liquor at retail for
18 consumption on the premises and off the premises, sales in the
19 original package only.

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

25 Sec. 57. Section 53-131, Revised Statutes Supplement,

1 2009, is amended to read:

2 53-131 (1) Any person desiring to obtain a new license
3 to sell alcoholic liquor at retail, a craft brewery license, or a
4 microdistillery license shall file with the commission:

5 (a) An application in triplicate original upon forms
6 the commission prescribes, including the information required by
7 subsection (3) of this section for an application to operate a
8 cigar bar;

9 (b) The license fee if under section 53-124 and section
10 53 of this act such fee is payable to the commission, which fee
11 shall be returned to the applicant if the application is denied,
12 except that if the applicant is making application to operate
13 a cigar bar, ~~the~~ there shall be an initial application fee of
14 one thousand dollars which is nonrefundable; and as provided in
15 subdivision (5)(e) of section 53-124; and

16 (c) The state registration fee in the sum of forty-five
17 dollars.

18 (2) The commission shall notify, by registered or
19 certified mail, return receipt requested with postage prepaid, (a)
20 the clerk of the city or village in which such license is sought or
21 (b) if the license sought is not sought within a city or village,
22 the county clerk of the county in which such license is sought, of
23 the receipt of the application and shall enclose one copy of the
24 application with the notice. No such license shall be issued or
25 denied by the commission until the expiration of the time allowed

1 for the receipt of a recommendation of denial or an objection
2 requiring a hearing under subdivision (1)(a) or (b) of section
3 53-133. During the period of forty-five days after the date of
4 receiving such application from the commission, the local governing
5 body of such city, village, or county may make and submit to the
6 commission recommendations relative to the granting or refusal to
7 grant such license to the applicant.

8 (3) For an application to operate a cigar bar, the
9 application shall include proof of the cigar bar's annual gross
10 revenue as requested by the commission and such other information
11 as requested by the commission to establish the intent to operate
12 as a cigar bar. The commission may adopt and promulgate rules and
13 regulations to regulate cigar bars.

14 Sec. 58. Section 53-132, Revised Statutes Cumulative
15 Supplement, 2008, is amended to read:

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

25 (2) A retail license, craft brewery license, or

1 microdistillery license may be issued to any qualified applicant
2 if the commission finds that (a) the applicant is fit, willing,
3 and able to properly provide the service proposed within the city,
4 village, or county where the premises described in the application
5 are located, (b) the applicant can conform to all provisions and
6 requirements of and rules and regulations adopted pursuant to the
7 Nebraska Liquor Control Act, (c) the applicant has demonstrated
8 that the type of management and control to be exercised over
9 the premises described in the application will be sufficient to
10 insure that the licensed business can conform to all provisions and
11 requirements of and rules and regulations adopted pursuant to the
12 act, and (d) the issuance of the license is or will be required by
13 the present or future public convenience and necessity.

14 (3) In making its determination pursuant to subsection
15 (2) of this section the commission shall consider:

16 (a) The recommendation of the local governing body;

17 (b) The existence of a citizens' protest made in
18 accordance with section 53-133;

19 (c) The existing population of the city, village, or
20 county and its projected growth;

21 (d) The nature of the neighborhood or community of the
22 location of the proposed licensed premises;

23 (e) The existence or absence of other retail licenses,
24 craft brewery licenses, or microdistillery licenses with similar
25 privileges within the neighborhood or community of the location

1 of the proposed licensed premises and whether, as evidenced by
2 substantive, corroborative documentation, the issuance of such
3 license would result in or add to an undue concentration of
4 licenses with similar privileges and, as a result, require the use
5 of additional law enforcement resources;

6 (f) The existing motor vehicle and pedestrian traffic
7 flow in the vicinity of the proposed licensed premises;

8 (g) The adequacy of existing law enforcement;

9 (h) Zoning restrictions;

10 (i) The sanitation or sanitary conditions on or about the
11 proposed licensed premises; and

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

15 (4) Retail licenses, craft brewery licenses, or
16 microdistillery licenses issued or renewed by the commission shall
17 be mailed or delivered to the clerk of the city, village, or
18 county who shall deliver the same to the licensee upon receipt
19 from the licensee of proof of payment of (a) the license fee if
20 by the terms of ~~subdivision (5)~~ subsection (6) of section 53-124
21 the fee is payable to the treasurer of such city, village, or
22 county, (b) any fee for publication of notice of hearing before the
23 local governing body upon the application for the license, (c) the
24 fee for publication of notice of renewal as provided in section
25 53-135.01, and (d) occupation taxes, if any, imposed by such city,

1 village, or county. Notwithstanding any ordinance or charter power
2 to the contrary, no city, village, or county shall impose an
3 occupation tax on the business of any person, firm, or corporation
4 licensed under the act and doing business within the corporate
5 limits of such city or village or within the boundaries of such
6 county in any sum which exceeds two times the amount of the license
7 fee required to be paid under the act to obtain such license.

8 (5) Each license shall designate the name of the
9 licensee, the place of business licensed, and the type of license
10 issued.

11 Sec. 59. Section 53-134, Revised Statutes Cumulative
12 Supplement, 2008, is amended to read:

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

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

23 (2) To enter or to authorize any law enforcement officer
24 to enter at any time upon any premises licensed under the Nebraska
25 Liquor Control Act to determine whether any provision of the act,

1 any rule or regulation adopted and promulgated pursuant to the act,
2 or any ordinance, resolution, rule, or regulation adopted by the
3 local governing body has been or is being violated and at such
4 time examine the premises of such licensee in connection with such
5 determination;

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

12 (4) To receive retail license fees, craft brewery license
13 fees, and microdistillery license fees as provided in section
14 53-124 and section 53 of this act and pay the same, after the
15 license has been delivered to the applicant, to the city, village,
16 or county treasurer;

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

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

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

1 body shall cause to be recorded in the minute record of their
2 proceedings a resolution recommending either issuance or refusal of
3 such license. The clerk of such city, village, or county shall mail
4 to the commission by first-class mail, postage prepaid, a copy of
5 the resolution which shall state the cost of the published notice,
6 except that failure to comply with this provision shall not void
7 any license issued by the commission. If the commission refuses to
8 issue such a license, the cost of publication of notice shall be
9 paid by the commission from the security for costs.

10 Sec. 60. Section 53-138.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

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

1 in section 53-124, shall be credited to the school fund of the
2 county.

3 Sec. 61. Section 53-139, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 53-139 No person shall receive a retail license to sell
6 alcoholic liquor upon any premises used as a restaurant or as a
7 club unless such premises or plan of operation strictly complies
8 with the provisions of subdivisions ~~(18)~~ and ~~(19)~~ of section
9 ~~53-103~~, sections 14 and 35 of this act.

10 Sec. 62. Section 53-164.01, Revised Statutes Cumulative
11 Supplement, 2008, is amended to read:

12 53-164.01 Payment of the tax provided for in section
13 53-160 on alcoholic liquor shall be paid by the manufacturer or
14 wholesaler as follows:

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

23 (b) All beer wholesalers shall, on or before the
24 twenty-fifth day of each calendar month following the month in
25 which shipments were made, submit a report to the commission

1 upon forms furnished by the commission showing the total amount
2 of beer in gallons or fractional parts thereof shipped by all
3 manufacturers, whether inside or outside this state, during the
4 preceding calendar month to such wholesaler;

5 (c) Farm winery producers shall, on or before the
6 twenty-fifth day of each calendar month following the month in
7 which wine was packaged or bottled for sale, submit a report to the
8 commission upon forms furnished by the commission showing the total
9 amount of wine in gallons or fractional parts thereof packaged or
10 bottled by such producer during the preceding calendar month;

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

17 (e) A microdistillery shall, on or before the
18 twenty-fifth day of each calendar month following the month in
19 which the distilled liquor was produced for sale, submit a report
20 to the commission on forms furnished by the commission showing
21 the total amount of distilled liquor in gallons or fractional
22 parts thereof produced for sale by the microdistillery during the
23 preceding calendar month; and

24 (f) Reports submitted pursuant to subdivision (a), (b),
25 or (c) of this subdivision shall also contain a statement of

1 the total amount of alcoholic liquor, except beer, in gallons or
2 fractional parts thereof shipped to licensed retailers inside this
3 state and such other information as the commission may require;

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

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

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

1 or fraction of a month, from the date the tax became due until
2 paid;

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

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

24 (7) When a manufacturer or wholesaler sells and delivers
25 alcoholic liquor upon which the tax has been paid to any

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

8 Sec. 63. Section 53-169.01, Revised Statutes Cumulative
9 Supplement, 2008, is amended to read:

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

24 No manufacturer of alcoholic liquor holding a
25 manufacturer's license under section 53-123.01 and no manufacturer

1 of alcoholic liquor outside this state manufacturing alcoholic
2 liquor, except beer, for distribution and sale within this state
3 shall be interested directly or indirectly, as lessor or lessee, as
4 owner or part owner, or through a subsidiary or affiliate, or by
5 any officer, director, or employee thereof, or by stock ownership,
6 interlocking directors, or trusteeship in the premises upon which
7 the place of business of an alcoholic liquor wholesaler holding
8 an alcoholic liquor wholesale license, except beer, under section
9 53-123.02 is located, established, conducted, or operated in whole
10 or in part unless such interest was acquired or became effective
11 prior to April 17, 1947.

12 Sec. 64. Section 53-1,104, Reissue Revised Statutes of
13 Nebraska, is amended to read:

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

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

1 a second or any subsequent suspension, the penalty shall be one
2 hundred dollars per day.

3 (3) (a) For a second suspension for violation of section
4 53-180 or 53-180.02 occurring within four years after the date of
5 the first suspension, the commission, in its discretion, may order
6 that the licensee be required to suspend sales of alcoholic liquor
7 for a period of time not to exceed forty-eight hours and that the
8 licensee may not elect to pay a cash penalty. The commission may
9 use the required suspension of sales of alcoholic liquor penalty
10 either alone or in conjunction with suspension periods for which
11 the licensee may elect to pay a cash penalty. For purposes of this
12 subsection, second suspension for violation of section 53-180 shall
13 include suspension for a violation of section 53-180.02 following
14 suspension for a violation of section 53-180 and second suspension
15 for violation of section 53-180.02 shall include suspension for a
16 violation of section 53-180 following suspension for a violation of
17 section 53-180.02;

18 (b) For a third or subsequent suspension for violation of
19 section 53-180 or 53-180.02 occurring within four years after the
20 date of the first suspension, the commission, in its discretion,
21 may order that the licensee be required to suspend sales of
22 alcoholic liquor for a period of time not to exceed fifteen days
23 and that the licensee may not elect to pay a cash penalty. The
24 commission may use the required suspension of sales of alcoholic
25 liquor penalty either alone or in conjunction with suspension

1 periods for which the licensee may elect to pay a cash penalty.
2 For purposes of this subsection, third or subsequent suspension
3 for violation of section 53-180 shall include suspension for a
4 violation of section 53-180.02 following suspension for a violation
5 of section 53-180 and third or subsequent suspension for violation
6 of section 53-180.02 shall include suspension for a violation of
7 section 53-180 following suspension for a violation of section
8 53-180.02; and

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

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

22 (5) The election provided for in subsection (2) of
23 this section shall be filed with the commission in writing one
24 week before the suspension is ordered to commence and shall be
25 accompanied by payment in full of the sum required by this section.

1 If such election has not been received by the commission by the
2 close of business one week before the day such suspension is
3 ordered to commence, it shall be conclusively presumed that the
4 licensee has elected to close for the period of the suspension
5 and any election received later shall be absolutely void and the
6 payment made shall be returned to the licensee. The election shall
7 be made on a form prescribed by the commission. ~~All funds received~~
8 ~~under this section shall be remitted to the State Treasurer for~~
9 ~~credit to the temporary school fund.~~ The commission shall remit
10 all funds collected under this section to the State Treasurer for
11 distribution in accordance with Article VII, section 5, of the
12 Constitution of Nebraska.

13 Sec. 65. Section 53-403, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 53-403 For purposes of the Minor Alcoholic Liquor
16 Liability Act:

17 (1) Alcoholic liquor has the definition found in section
18 ~~53-103,~~ 7 of this act;

19 (2) Intoxication means an impairment of a person's mental
20 or physical faculties as a result of his or her use of alcoholic
21 liquor so as to diminish the person's ability to think and act in
22 the manner of a reasonably prudent person in full possession of his
23 or her faculties using reasonable care under the same or similar
24 circumstances;

25 (3) Licensee means a person holding a license issued

1 under the Nebraska Liquor Control Act to sell alcoholic liquor at
2 retail;

3 (4) Minor has the definition found in section ~~53-103~~, 28
4 of this act;

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

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

13 (7) Social host means a person who knowingly allows
14 consumption of alcoholic liquor in his or her home or on property
15 under his or her control by one or more minors. Social host
16 does not include (a) a parent providing alcoholic liquor to
17 only his or her minor child and to no other minors or (b)
18 a religious corporation, organization, association, or society,
19 and any authorized representative of such religious corporation,
20 organization, association, or society, dispensing alcoholic liquor
21 as part of any bona fide religious rite, ritual, or ceremony.

22 Sec. 66. Section 60-4,119, Revised Statutes Cumulative
23 Supplement, 2008, is amended to read:

24 60-4,119 (1) All state identification cards and
25 operators' licenses, except farm permits and except as otherwise

1 provided in subsection (2) of this section and section 60-4,120,
2 shall include a color photograph or a digital image of the
3 cardholder or licensee as provided in section 60-484.02. State
4 identification cards and operators' licenses shall be issued by the
5 county treasurer or the Department of Motor Vehicles. The director
6 shall negotiate and enter into a contract to provide the necessary
7 equipment, supplies, and forms for the issuance of the licenses and
8 cards. All costs incurred by the Department of Motor Vehicles under
9 this section shall be paid by the state out of appropriations made
10 to the department. All costs of taking the photographs or digital
11 images shall be paid by the issuer from the fees provided to the
12 issuer pursuant to section 60-4,115.

13 (2) A person who is out of the state at the time of
14 renewal of his or her operator's license may apply for a license
15 without a photograph upon payment of a fee as provided in section
16 60-4,115. The license may be issued at any time within one year
17 after the expiration of the original license. Such application
18 shall be made to the department, and the department shall issue the
19 license.

20 (3) Any operator's license and any state identification
21 card issued to a minor as defined in section ~~53-103~~, 28 of this
22 act, as such definition may be amended from time to time by
23 the Legislature, shall be of a distinct designation, of a type
24 prescribed by the director, from the operator's license or state
25 identification card of a person who is not a minor.

1 Sec. 67. Section 60-4,152, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-4,152 Any commercial driver's license issued by the
4 Department of Motor Vehicles to a minor as defined in section
5 ~~53-103, 28 of this act,~~ as such definition may be amended from time
6 to time by the Legislature, shall be of a distinct designation,
7 of a type prescribed by the director, from the commercial driver's
8 license of a person who is not a minor.

9 Sec. 68. Section 71-5730, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-5730 The following indoor areas are exempt from
12 section 71-5729:

13 (1) Guestrooms and suites that are rented to guests and
14 are designated as smoking rooms, except that not more than twenty
15 percent of rooms rented to guests in an establishment may be
16 designated as smoking rooms. All smoking rooms on the same floor
17 shall be contiguous, and smoke from such rooms shall not infiltrate
18 into areas where smoking is prohibited under the Nebraska Clean
19 Indoor Air Act;

20 (2) Indoor areas used in connection with a research
21 study on the health effects of smoking conducted in a scientific
22 or analytical laboratory under state or federal law or at a
23 college or university approved by the Coordinating Commission for
24 Postsecondary Education;

25 (3) Tobacco retail outlets; and

1 (4) Cigar bars as defined in section ~~53-103-~~ 13 of this
2 act.

3 Sec. 69. Section 79-267, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 79-267 The following student conduct shall constitute
6 grounds for long-term suspension, expulsion, or mandatory
7 reassignment, subject to the procedural provisions of the Student
8 Discipline Act, when such activity occurs on school grounds, in
9 a vehicle owned, leased, or contracted by a school being used
10 for a school purpose or in a vehicle being driven for a school
11 purpose by a school employee or by his or her designee, or at a
12 school-sponsored activity or athletic event:

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

16 (2) Willfully causing or attempting to cause substantial
17 damage to property, stealing or attempting to steal property of
18 substantial value, or repeated damage or theft involving property;

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

24 (4) Threatening or intimidating any student for the
25 purpose of or with the intent of obtaining money or anything of

1 value from such student;

2 (5) Knowingly possessing, handling, or transmitting any
3 object or material that is ordinarily or generally considered a
4 weapon;

5 (6) Engaging in the unlawful possession, selling,
6 dispensing, or use of a controlled substance or an imitation
7 controlled substance, as defined in section 28-401, a substance
8 represented to be a controlled substance, or alcoholic liquor
9 as defined in section ~~53-103~~ 7 of this act or being under the
10 influence of a controlled substance or alcoholic liquor;

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

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

15 (9) Sexually assaulting or attempting to sexually assault
16 any person if a complaint has been filed by a prosecutor in a court
17 of competent jurisdiction alleging that the student has sexually
18 assaulted or attempted to sexually assault any person, including
19 sexual assaults or attempted sexual assaults which occur off school
20 grounds not at a school function, activity, or event. For purposes
21 of this subdivision, sexual assault means sexual assault in the
22 first degree as defined in section 28-319, sexual assault in the
23 second degree as defined in section 28-320, sexual assault of
24 a child in the second or third degree as defined in section
25 28-320.01, or sexual assault of a child in the first degree as

1 defined in section 28-319.01, as such sections now provide or may
2 hereafter from time to time be amended;

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

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

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

12 Sec. 70. Original sections 9-823, 28-421, 53-123.12,
13 53-124.13, 53-124.14, 53-138.01, 53-139, 53-1,104, 60-4,152,
14 71-5730, and 79-267, Reissue Revised Statutes of Nebraska, sections
15 48-1902, 53-122, 53-123.13, 53-123.15, 53-124.12, 53-132, 53-134,
16 53-164.01, 53-169.01, 53-403, and 60-4,119, Revised Statutes
17 Cumulative Supplement, 2008, and sections 53-101, 53-103, 53-124,
18 and 53-131, Revised Statutes Supplement, 2009, are repealed.