

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 869

Introduced by Karpisek, 32.

Read first time January 11, 2010

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to
2 amend sections 53-123.12, 53-130, 53-135, and 53-138.01,
3 Reissue Revised Statutes of Nebraska, sections 53-124.11
4 and 53-129, Revised Statutes Cumulative Supplement, 2008,
5 and section 53-131, Revised Statutes Supplement, 2009;
6 to provide for application and renewal fees; to change
7 provisions relating to registration fees; to change the
8 distribution of fees; to harmonize provisions; and to
9 repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-123.12, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 53-123.12 (1) Any person desiring to obtain a new license
4 to operate a farm winery shall:

5 ~~(1)~~ (a) File an application with the commission in
6 triplicate original upon such forms as the commission from time to
7 time prescribes;

8 ~~(2)~~ (b) Pay the license fee to the commission under
9 subdivision (2) of section 53-124, which fee shall be returned to
10 the applicant if the application is denied; and

11 ~~(3)~~ (c) Pay the state ~~registration~~ nonrefundable
12 application fee to the commission in the sum of ~~forty-five~~ five
13 hundred dollars.

14 (2) To renew a farm winery license, a farm winery
15 licensee shall file an application with the commission, pay the
16 license fee under subdivision (2) of section 53-124, and pay the
17 renewal fee of forty-five dollars.

18 (3) License fees, application fees, and renewal and
19 ~~registration~~ fees may be paid to the commission by certified or
20 cashier's check of a bank within this state, personal or business
21 check, United States post office money order, or cash in the full
22 amount of such fees.

23 (4) For a new license, the ~~The~~ commission shall then
24 notify, by registered or certified mail marked return receipt
25 requested with postage prepaid, the municipal clerk of the city

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

13 Sec. 2. Section 53-124.11, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 53-124.11 (1) The commission may issue a special
16 designated license for sale or consumption of alcoholic liquor
17 at a designated location to a retail licensee, a craft brewery
18 licensee, a microdistillery licensee, a farm winery licensee,
19 a municipal corporation, a fine arts museum incorporated as a
20 nonprofit corporation, a religious nonprofit corporation which
21 has been exempted from the payment of federal income taxes, a
22 political organization which has been exempted from the payment
23 of federal income taxes, or any other nonprofit corporation the
24 purpose of which is fraternal, charitable, or public service and
25 which has been exempted from the payment of federal income taxes,

1 under conditions specified in this section. The applicant shall
2 demonstrate meeting the requirements of this subsection.

3 (2) No retail licensee, craft brewery licensee,
4 microdistillery licensee, farm winery licensee, organization, or
5 corporation enumerated in subsection (1) of this section may be
6 issued a special designated license under this section for more
7 than six calendar days in any one calendar year. Only one special
8 designated license shall be required for any application for two
9 or more consecutive days. This subsection shall not apply to any
10 holder of a catering license.

11 (3) Except for any special designated license issued
12 to a holder of a catering license, there shall be a fee of
13 forty dollars for each day identified in the special designated
14 license. Such fee shall be submitted with the application for
15 the special designated license, collected by the commission,
16 and remitted to the State Treasurer for credit to the General
17 Fund. The applicant shall be exempt from the provisions of the
18 Nebraska Liquor Control Act requiring a ~~registration~~ an application
19 or renewal fee and the provisions of the act requiring the
20 expiration of forty-five days from the time the application
21 is received by the commission prior to the issuance of a
22 license, if granted by the commission. The retail licensees,
23 craft brewery licensees, microdistillery licensees, farm winery
24 licensees, municipal corporations, organizations, and nonprofit
25 corporations enumerated in subsection (1) of this section seeking

1 a special designated license shall file an application on such
2 forms as the commission may prescribe. Such forms shall contain,
3 along with other information as required by the commission, (a)
4 the name of the applicant, (b) the premises for which a special
5 designated license is requested, identified by street and number
6 if practicable and, if not, by some other appropriate description
7 which definitely locates the premises, (c) the name of the owner or
8 lessee of the premises for which the special designated license is
9 requested, (d) sufficient evidence that the holder of the special
10 designated license, if issued, will carry on the activities and
11 business authorized by the license for himself, herself, or itself
12 and not as the agent of any other person, group, organization,
13 or corporation, for profit or not for profit, (e) a statement
14 of the type of activity to be carried on during the time period
15 for which a special designated license is requested, and (f)
16 sufficient evidence that the activity will be supervised by persons
17 or managers who are agents of and directly responsible to the
18 holder of the special designated license.

19 (4) No special designated license provided for by this
20 section shall be issued by the commission without the approval of
21 the local governing body. The local governing body may establish
22 criteria for approving or denying a special designated license. The
23 local governing body may designate an agent to determine whether a
24 special designated license is to be approved or denied. Such agent
25 shall follow criteria established by the local governing body in

1 making his or her determination. The determination of the agent
2 shall be considered the determination of the local governing body
3 unless otherwise provided by the local governing body. For purposes
4 of this section, the local governing body shall be the city or
5 village within which the premises for which the special designated
6 license is requested are located or, if such premises are not
7 within the corporate limits of a city or village, then the local
8 governing body shall be the county within which the premises for
9 which the special designated license is requested are located.

10 (5) If the applicant meets the requirements of this
11 section, a special designated license shall be granted and issued
12 by the commission for use by the holder of the special designated
13 license. All statutory provisions and rules and regulations of the
14 commission that apply to a retail licensee shall apply to the
15 holder of a special designated license with the exception of such
16 statutory provisions and rules and regulations of the commission
17 so designated by the commission and stated upon the issued special
18 designated license, except that the commission may not designate
19 exemption of sections 53-180 to 53-180.07. The decision of the
20 commission shall be final. If the applicant does not qualify for a
21 special designated license, the application shall be denied by the
22 commission.

23 (6) A special designated license issued by the commission
24 shall be mailed or delivered to the city, village, or county clerk
25 who shall deliver such license to the licensee upon receipt of any

1 fee or tax imposed by such city, village, or county.

2 Sec. 3. Section 53-129, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 53-129 Retail, craft brewery, and microdistillery
5 licenses issued under the Nebraska Liquor Control Act apply only to
6 that part of the premises described in the application approved by
7 the commission and in the license issued on the application, and
8 only one location shall be described in each license. After such
9 license has been granted for particular premises, the commission,
10 with the approval of the local governing body and upon proper
11 showing, may endorse upon the license permission to add to, delete
12 from, or abandon the premises described in such license and, if
13 applicable, to move from the premises to other premises approved by
14 it, but in order to obtain such approval the retail, craft brewery,
15 or microdistillery licensee shall file with the local governing
16 body a request in writing and a statement under oath which shows
17 that the premises as added to or deleted from or to which such
18 move is to be made comply in all respects with the requirements of
19 the act. No such addition, deletion, or move shall be made by any
20 such licensee until the license has been endorsed to that effect
21 in writing by the local governing body and by the commission and
22 the licensee furnishes proof of payment of the ~~state registration~~
23 renewal fee prescribed in subsection (4) of section 53-131.

24 Sec. 4. Section 53-130, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 53-130 (1) New licenses to manufacturers, wholesalers,
2 railroads, airlines, boats, and nonbeverage users of alcoholic
3 liquor may be issued by the commission upon ~~(1)~~ (a) written
4 application in duplicate filed in the manner and on such forms
5 as the commission prescribes and in which the applicant for a
6 beer wholesale license sets forth the sales territory in Nebraska
7 in which it is authorized by a manufacturer or manufacturers to
8 sell their brand or brands and the name of such brand or brands,
9 ~~(2)~~ (b) receipt of bond, ~~(3)~~ (c) payment in advance of the
10 ~~state registration nonrefundable application fee of forty-five~~ five
11 hundred dollars and the license fee, and ~~(4)~~ (d) such notice and
12 hearing as the commission fixes by its own order.

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

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

25 Sec. 5. 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 such fee
10 is payable to the commission, which fee shall be returned to
11 the applicant if the application is denied; ~~except that if the~~
12 ~~applicant is making application to operate a cigar bar, the initial~~
13 ~~application fee is nonrefundable as provided in subdivision (5)(c)~~
14 ~~of section 53-124; and~~

15 (c) The state registration nonrefundable application fee
16 in the sum of ~~forty-five~~ five hundred dollars except for an
17 application for a cigar bar as provided in subdivision (5)(c) of
18 section 53-124.

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

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

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

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

19 Sec. 6. Section 53-135, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 53-135 A retail license issued by the commission and
22 outstanding may be automatically renewed by the commission without
23 formal application upon payment of the state registration renewal
24 fee and license fee if payable to the commission. The payment shall
25 be an affirmative representation and certification by the licensee

1 that all answers contained in an application, if submitted, would
2 be the same in all material respects as the answers contained
3 in the last previous application. The commission may at any time
4 require a licensee to submit an application, and the commission
5 shall at any time require a licensee to submit an application if
6 requested in writing to do so by the local governing body.

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

10 Any licensed retail premises located in an area which
11 is annexed to any governmental subdivision shall file a formal
12 application for a license, and while such application is pending,
13 the licensee may continue all license privileges until the original
14 license expires or is canceled or revoked. If such license expires
15 within sixty days following the annexation date of such area, the
16 license may be renewed by order of the commission for not more than
17 one year.

18 Sec. 7. Section 53-138.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 53-138.01 The State Treasurer shall credit four hundred
21 ninety-five dollars of each application fee and forty dollars of
22 each state registration renewal fee to the General Fund and the
23 remaining five dollars to the Nebraska Liquor Control Commission
24 Rule and Regulation Cash Fund to be used for providing licensees
25 with materials pursuant to section 53-117.05. All retail license

1 fees received by the city or village treasurer, as the case may
2 be, shall inure to the school fund of the district lying wholly or
3 partially within the corporate limits of such city or village. The
4 State Treasurer shall ~~credit all~~ distribute license fees received
5 by the commission for licenses issued pertaining to alcoholic
6 liquor, including beer, ~~to the temporary school fund to be used~~
7 ~~for the support of the common schools as provided in accordance~~
8 with Article VII, section 5, of the Constitution of Nebraska. All
9 retail license fees received by the county treasurer, as provided
10 in section 53-124, shall be credited to the school fund of the
11 county.

12 Sec. 8. Original sections 53-123.12, 53-130, 53-135, and
13 53-138.01, Reissue Revised Statutes of Nebraska, sections 53-124.11
14 and 53-129, Revised Statutes Cumulative Supplement, 2008, and
15 section 53-131, Revised Statutes Supplement, 2009, are repealed.