

AMENDMENTS TO LB330

(Amendments to Standing Committee amendments, AM113)

Introduced by Nordquist, 7.

1       1. Insert the following new sections:

2       Sec. 2. Section 53-103, Revised Statutes Cumulative Supplement,  
3       2014, is amended to read:

4       53-103 For purposes of the Nebraska Liquor Control Act, the  
5       definitions found in sections 53-103.01 to 53-103.43 and sections 6 and 7  
6       of this act apply.

7       Sec. 7. Pedal-pub vehicle means a multi-passenger, human-powered  
8       vehicle.

9       Sec. 8. Section 53-117, Revised Statutes Cumulative Supplement,  
10      2014, is amended to read:

11      53-117 The commission has the following powers, functions, and  
12      duties:

13      (1) To receive applications for and to issue licenses to and  
14      suspend, cancel, and revoke licenses of manufacturers, wholesalers,  
15      nonbeverage users, retailers, railroads including owners and lessees of  
16      sleeping, dining, and cafe cars, airlines, and boats, and pedal-pub  
17      vehicles in accordance with the Nebraska Liquor Control Act;

18      (2) To fix by rules and regulations the standards of manufacture of  
19      alcoholic liquor not inconsistent with federal laws in order to insure  
20      the use of proper ingredients and methods in the manufacture and  
21      distribution thereof and to adopt and promulgate rules and regulations  
22      not inconsistent with federal laws for the proper labeling of containers,  
23      barrels, casks, or other bulk containers or of bottles of alcoholic  
24      liquor manufactured or sold in this state. The Legislature intends, by  
25      the grant of power to adopt and promulgate rules and regulations, that  
26      the commission have broad discretionary powers to govern the traffic in

1       alcoholic liquor and to enforce strictly all provisions of the act in the  
2       interest of sanitation, purity of products, truthful representations, and  
3       honest dealings in a manner that generally will promote the public health  
4       and welfare. All such rules and regulations shall be absolutely binding  
5       upon all licensees and enforceable by the commission through the power of  
6       suspension or cancellation of licenses, except that all rules and  
7       regulations of the commission affecting a club possessing any form of  
8       retail license shall have equal application to all such licenses or shall  
9       be void;

10           (3) To call upon other administrative departments of the state,  
11       county and municipal governments, county sheriffs, city police  
12       departments, village marshals, peace officers, and prosecuting officers  
13       for such information and assistance as the commission deems necessary in  
14       the performance of its duties. The commission shall enter into an  
15       agreement with the Nebraska State Patrol in which the Nebraska State  
16       Patrol shall hire six new patrol officers and, from the entire Nebraska  
17       State Patrol, shall designate a minimum of six patrol officers who will  
18       spend a majority of their time in administration and enforcement of the  
19       Nebraska Liquor Control Act;

20           (4) To recommend to local governing bodies rules and regulations not  
21       inconsistent with law for the distribution and sale of alcoholic liquor  
22       throughout the state;

23           (5) To inspect or cause to be inspected any premises where alcoholic  
24       liquor is manufactured, distributed, or sold and, when sold on unlicensed  
25       premises or on any premises in violation of law, to bring an action to  
26       enjoin the use of the property for such purpose;

27           (6) To hear and determine appeals from orders of a local governing  
28       body in accordance with the act;

29           (7) To conduct or cause to be conducted an audit to inspect any  
30       licensee's records and books;

31           (8) In the conduct of any hearing or audit authorized to be held by

1 the commission (a) to examine or cause to be examined, under oath, any  
2 licensee and to examine or cause to be examined the books and records of  
3 such licensee, (b) to hear testimony and take proof material for its  
4 information in the discharge of its duties under the act, and (c) to  
5 administer or cause to be administered oaths;

6 (9) To investigate the administration of laws in relation to  
7 alcoholic liquor in this and other states and to recommend to the  
8 Governor and through him or her to the Legislature amendments to the act;  
9 and

10 (10) To receive, account for, and remit to the State Treasurer state  
11 license fees and taxes provided for in the act.

12 Sec. 9. Section 53-117.07, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 53-117.07 All proceedings for the suspension, cancellation, or  
15 revocation of licenses of manufacturers, wholesalers, nonbeverage users,  
16 craft breweries, microdistilleries, railroads, airlines, shippers, and  
17 boats, and pedal-pub vehicles shall be before the commission, and the  
18 proceedings shall be in accordance with rules and regulations adopted and  
19 promulgated by it not inconsistent with law. No such license shall be so  
20 suspended, canceled, or revoked except after a hearing by the commission  
21 with reasonable notice to the licensee and opportunity to appear and  
22 defend.

23 Sec. 10. Section 53-123, Revised Statutes Cumulative Supplement,  
24 2014, is amended to read:

25 53-123 Licenses issued by the commission shall be of the following  
26 types: (1) Manufacturer's license; (2) alcoholic liquor wholesale  
27 license, except beer; (3) beer wholesale license; (4) retail license; (5)  
28 railroad license; (6) airline license; (7) boat license; (8) nonbeverage  
29 user's license; (9) farm winery license; (10) craft brewery license; (11)  
30 shipping license; (12) special designated license; (13) catering license;  
31 (14) microdistillery license; and (15) entertainment district license;

1    and (16) pedal-pub vehicle license.

2        Sec. 12. (1) The commission may issue a license to a person to  
3    operate a pedal-pub vehicle in this state. Each pedal-pub vehicle license  
4    shall expire on April 30 of each year. Each license shall be good  
5    throughout this state as a state license. Only one license shall be  
6    required for all pedal-pub vehicles operated in this state by the same  
7    owner. Each owner shall keep a duplicate of such license posted in each  
8    pedal-pub vehicle where such alcoholic liquor is sold or consumed. No  
9    further license shall be required or tax levied by any county, city, or  
10   village for the privilege of operating a pedal-pub vehicle for the  
11   purpose of selling and allowing the consumption of alcoholic liquor while  
12   on or in a pedal-pub vehicle.

13       (2) The holder of a pedal-pub vehicle license may sell alcoholic  
14   liquor in individual drinks to customers who are twenty-one years of age  
15   or older to consume while they are on or in the pedal-pub vehicle and may  
16   allow such customers to consume alcoholic liquor not purchased from the  
17   licensee while the customers are on or in the pedal-pub vehicle. The  
18   licensee shall serve alcoholic liquor in opaque plastic containers that  
19   prominently display the licensee's trade name or logo or some other mark  
20   that is unique to the licensee under the licensee's pedal-pub vehicle  
21   license and shall require the use of such containers for the consumption  
22   of alcoholic liquor not purchased from the licensee.

23       (3) No customer shall take any open container of alcoholic liquor  
24   from the pedal-pub vehicle or consume the alcoholic liquor after leaving  
25   the pedal-pub vehicle. A customer may take unopened containers of  
26   alcoholic liquor not purchased from the licensee from the pedal-pub  
27   vehicle.

28       (4) The licensee shall not allow open containers of alcoholic liquor  
29   to leave the pedal-pub vehicle. The licensee shall be responsible for  
30   picking up and disposing of any litter or other waste or any personal  
31   property that originates from the pedal-pub vehicle and lands on public

1    or private property.

2       Sec. 13. Section 53-124, Revised Statutes Cumulative Supplement,  
3    2014, is amended to read:

4           53-124 (1) At the time application is made to the commission for a  
5    license of any type, the applicant shall pay the fee provided in section  
6    53-124.01 and, if the applicant is an individual, provide the applicant's  
7    social security number. The commission shall issue the types of licenses  
8    described in this section.

9           (2) There shall be an airline license, a boat license, a pedal-pub  
10   vehicle license, and a railroad license. The commission shall charge one  
11   dollar for each duplicate of an airline license, a pedal-pub vehicle  
12   license, or a railroad license.

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

16              (i) 1 to 100 barrel daily capacity, or any part thereof, tier one;

17              (ii) 100 to 150 barrel daily capacity, tier two;

18              (iii) 150 to 200 barrel daily capacity, tier three;

19              (iv) 200 to 300 barrel daily capacity, tier four;

20              (v) 300 to 400 barrel daily capacity, tier five;

21              (vi) 400 to 500 barrel daily capacity, tier six;

22              (vii) 500 barrel daily capacity, or more, tier seven.

23              (b) For purposes of this subsection, daily capacity means the  
24   average daily barrel production for the previous twelve months of  
25   manufacturing operation. If no such basis for comparison exists, the  
26   manufacturing licensee shall pay in advance for the first year's  
27   operation a fee of five hundred dollars.

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

30              (5) In lieu of a manufacturer's, a retailer's, or a wholesaler's  
31   license, there shall be a license to operate issued for a craft brewery,

1 a farm winery, or a microdistillery.

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

3 (i) Class A: Beer only, for consumption on the premises;

4 (ii) Class B: Beer only, for consumption off the premises, sales in  
5 the original packages only;

6 (iii) Class C: Alcoholic liquor, for consumption on the premises and  
7 off the premises, sales in original packages only. If a Class C license  
8 is held by a nonprofit corporation, it shall be restricted to consumption  
9 on the premises only. A Class C license may have a sampling designation  
10 restricting consumption on the premises to sampling, but such designation  
11 shall not affect sales for consumption off the premises under such  
12 license;

13 (iv) Class D: Alcoholic liquor, including beer, for consumption off  
14 the premises, sales in the original packages only, except as provided in  
15 subsection (2) of section 53-123.04; and

16 (v) Class I: Alcoholic liquor, for consumption on the premises.

17 (b) All applicable license fees shall be paid by the applicant or  
18 licensee directly to the city or village treasurer in the case of  
19 premises located inside the corporate limits of a city or village and  
20 directly to the county treasurer in the case of premises located outside  
21 the corporate limits of a city or village.

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

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

29 (9) The license year, unless otherwise provided in the Nebraska  
30 Liquor Control Act, shall commence on May 1 of each year and shall end on  
31 the following April 30, except that the license year for a Class C

1 license shall commence on November 1 of each year and shall end on the  
2 following October 31. During the license year, no license shall be issued  
3 for a sum less than the amount of the annual license fee as fixed in  
4 section 53-124.01, regardless of the time when the application for such  
5 license has been made, except that (a) when there is a purchase of an  
6 existing licensed business and a new license of the same class is issued  
7 or (b) upon the issuance of a new license for a location which has not  
8 been previously licensed, the license fee and occupation taxes shall be  
9 prorated on a quarterly basis as of the date of issuance.

10 Sec. 14. Section 53-124.01, Revised Statutes Cumulative Supplement,  
11 2014, is amended to read:

12 53-124.01 (1) The fees for annual licenses finally issued by the  
13 commission shall be as provided in this section and section 53-124.

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

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

16 (4) Manufacturer's license:

| 17 | Class               | Fee - In Dollars |
|----|---------------------|------------------|
| 18 | Alcohol and spirits | 1,000            |
| 19 | Beer - tier one     | 100              |
| 20 | Beer - tier two     | 200              |
| 21 | Beer - tier three   | 350              |
| 22 | Beer - tier four    | 500              |
| 23 | Beer - tier five    | 650              |
| 24 | Beer - tier six     | 700              |
| 25 | Beer - tier seven   | 800              |
| 26 | Wine                | 250              |

27 (5) Nonbeverage user's license:

| 28 | Class   | Fee - In Dollars |
|----|---------|------------------|
| 29 | Class 1 | 5                |
| 30 | Class 2 | 25               |

1 Class 3 50  
2 Class 4 100  
3 Class 5 250

4 (6) Operator's license:

|                   | Fee - In Dollars |
|-------------------|------------------|
| 5 Class           |                  |
| 6 Craft brewery   | 250              |
| 7 Farm winery     | 250              |
| 8 Microdistillery | 250              |

9 (7) Pedal-pub vehicle license ... \$50

10 (8 7) Railroad license ... \$100

11 (9 8) Retail license:

|            | Fee - In Dollars |
|------------|------------------|
| 12 Class   |                  |
| 13 Class A | 100              |
| 14 Class B | 100              |
| 15 Class C | 300              |
| 16 Class D | 200              |
| 17 Class I | 250              |

18 (10 9) Shipping license:

|                             | Fee - In Dollars |
|-----------------------------|------------------|
| 19 Class                    |                  |
| 20 Manufacturer             | 1,000            |
| 21 Vintage wines            | 1,000            |
| 22 Manufacture direct sales | 500              |
| 23 Retail direct sales      | 500              |

24 (11 10) Wholesale license:

|                     | Fee - In Dollars |
|---------------------|------------------|
| 25 Class            |                  |
| 26 Alcoholic liquor | 750              |
| 27 Beer             | 500              |

28 Sec. 16. Section 53-130, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

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

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

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

24        2. On page 1, line 1, strike "8" and insert "2, 8, 9"; and in line 5  
25   strike "8, and 13" and insert "7, 12, 13, and 20".

26        3. On page 4, line 29, after the second comma insert "53-117.07, ";  
27   and in line 31 strike "53-123.15" and insert "53-117, 53-123, 53-123.15,  
28   53-124, 53-124.01, ".

29        4. Rerumber the remaining sections accordingly.