

E AND R AMENDMENTS TO LB 330

Introduced by Hansen, 26, Chairman Enrollment and Review

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

3           Section 1. Section 53-101, Revised Statutes Cumulative Supplement,  
4 2014, is amended to read:

5           53-101 Sections 53-101 to 53-1,122 and sections 4 to 7, 13, 14, and  
6 21 of this act shall be known and may be cited as the Nebraska Liquor  
7 Control Act.

8           Sec. 2. Section 53-103, Revised Statutes Cumulative Supplement,  
9 2014, is amended to read:

10          53-103 For purposes of the Nebraska Liquor Control Act, the  
11 definitions found in sections 53-103.01 to 53-103.43 and sections 4 to 6  
12 of this act apply.

13          Sec. 3. Section 53-103.03, Revised Statutes Cumulative Supplement,  
14 2014, is amended to read:

15          53-103.03 Beer means a beverage obtained by alcoholic fermentation  
16 of an infusion or concoction of barley or other grain, malt, and hops in  
17 water and includes, but is not limited to, beer, ale, stout, lager beer,  
18 porter, near beer, ~~and~~ flavored malt beverage, and hard cider.

19          Sec. 4. Hard cider means still wine (1)(a)(i) derived primarily  
20 from apples or apple concentrate and water such that apple juice, or the  
21 equivalent amount of concentrate reconstituted to the original brix of  
22 the juice prior to concentration, represents more than fifty percent of  
23 the volume of the finished product and (ii) containing no other fruit  
24 product nor any artificial product which imparts a fruit flavor other  
25 than apple or (b)(i) derived primarily from pears or pear concentrate and  
26 water such that pear juice, or the equivalent amount of concentrate  
27 reconstituted to the original brix of the juice prior to concentration,

1 represents more than fifty percent of the volume of the finished product  
2 and (ii) containing no other fruit product nor any artificial product  
3 which imparts a fruit flavor other than pear, (2) containing at least  
4 one-half of one percent and less than eight and one-half percent alcohol  
5 by volume, (3) having the taste, aroma, and characteristics generally  
6 attributed to hard cider, and (4) sold or offered for sale as hard cider.

7       Sec. 5. Pedal-pub vehicle means a multi-passenger, human-powered  
8 vehicle.

9       Sec. 6. Powdered alcohol means alcohol prepared in a powdered form  
10 for either direct use or consumption after the powder is combined with a  
11 liquid.

12       Sec. 7. (1) Except as otherwise provided in subsection (4) of this  
13 section, a person shall not possess, purchase, sell, offer to sell, or  
14 use powdered alcohol.

15       (2) A person holding a license under the Nebraska Liquor Control Act  
16 shall be subject to having the license suspended, canceled, or revoked  
17 pursuant to the act for a violation of this section.

18       (3) Any person, other than a person licensed under the act, who  
19 sells a powdered alcohol product shall be guilty of a Class I  
20 misdemeanor.

21       (4) This section does not apply to a hospital that operates  
22 primarily for the purpose of conducting scientific research, a state  
23 institution conducting bona fide research, a private college or  
24 university conducting bona fide research, or a pharmaceutical company or  
25 biotechnology company conducting bona fide research.

26       Sec. 8. Section 53-117, Revised Statutes Cumulative Supplement,  
27 2014, is amended to read:

28       53-117 The commission has the following powers, functions, and  
29 duties:

30       (1) To receive applications for and to issue licenses to and  
31 suspend, cancel, and revoke licenses of manufacturers, wholesalers,

1 nonbeverage users, retailers, railroads including owners and lessees of  
2 sleeping, dining, and cafe cars, airlines, ~~and~~ boats, and pedal-pub  
3 vehicles in accordance with the Nebraska Liquor Control Act;

4 (2) To fix by rules and regulations the standards of manufacture of  
5 alcoholic liquor not inconsistent with federal laws in order to insure  
6 the use of proper ingredients and methods in the manufacture and  
7 distribution thereof and to adopt and promulgate rules and regulations  
8 not inconsistent with federal laws for the proper labeling of containers,  
9 barrels, casks, or other bulk containers or of bottles of alcoholic  
10 liquor manufactured or sold in this state. The Legislature intends, by  
11 the grant of power to adopt and promulgate rules and regulations, that  
12 the commission have broad discretionary powers to govern the traffic in  
13 alcoholic liquor and to enforce strictly all provisions of the act in the  
14 interest of sanitation, purity of products, truthful representations, and  
15 honest dealings in a manner that generally will promote the public health  
16 and welfare. All such rules and regulations shall be absolutely binding  
17 upon all licensees and enforceable by the commission through the power of  
18 suspension or cancellation of licenses, except that all rules and  
19 regulations of the commission affecting a club possessing any form of  
20 retail license shall have equal application to all such licenses or shall  
21 be void;

22 (3) To call upon other administrative departments of the state,  
23 county and municipal governments, county sheriffs, city police  
24 departments, village marshals, peace officers, and prosecuting officers  
25 for such information and assistance as the commission deems necessary in  
26 the performance of its duties. The commission shall enter into an  
27 agreement with the Nebraska State Patrol in which the Nebraska State  
28 Patrol shall hire six new patrol officers and, from the entire Nebraska  
29 State Patrol, shall designate a minimum of six patrol officers who will  
30 spend a majority of their time in administration and enforcement of the  
31 Nebraska Liquor Control Act;

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

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

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

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

12           (8) In the conduct of any hearing or audit authorized to be held by  
13 the commission (a) to examine or cause to be examined, under oath, any  
14 licensee and to examine or cause to be examined the books and records of  
15 such licensee, (b) to hear testimony and take proof material for its  
16 information in the discharge of its duties under the act, and (c) to  
17 administer or cause to be administered oaths;

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

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

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

26           53-117.07 All proceedings for the suspension, cancellation, or  
27 revocation of licenses of manufacturers, wholesalers, nonbeverage users,  
28 craft breweries, microdistilleries, railroads, airlines, shippers, and  
29 boats, and pedal-pub vehicles shall be before the commission, and the  
30 proceedings shall be in accordance with rules and regulations adopted and  
31 promulgated by it not inconsistent with law. No such license shall be so

1 suspended, canceled, or revoked except after a hearing by the commission  
2 with reasonable notice to the licensee and opportunity to appear and  
3 defend.

4 Sec. 10. Section 53-123, Revised Statutes Cumulative Supplement,  
5 2014, is amended to read:

6 53-123 Licenses issued by the commission shall be of the following  
7 types: (1) Manufacturer's license; (2) alcoholic liquor wholesale  
8 license, except beer; (3) beer wholesale license; (4) retail license; (5)  
9 railroad license; (6) airline license; (7) boat license; (8) nonbeverage  
10 user's license; (9) farm winery license; (10) craft brewery license; (11)  
11 shipping license; (12) special designated license; (13) catering license;  
12 (14) microdistillery license; ~~and~~ (15) entertainment district license;  
13 and (16) pedal-pub vehicle license.

14 Sec. 11. Section 53-123.11, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 53-123.11 (1) A farm winery license shall entitle the holder to:

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

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

22 (c)(i) Permit a customer to remove one unsealed bottle of wine for  
23 consumption off the premises. The licensee or his or her agent shall (A)  
24 securely reseal such bottle and place the bottle in a bag designed so  
25 that it is visibly apparent that the resealed bottle of wine has not been  
26 opened or tampered with and (B) provide a dated receipt to the customer  
27 and attach to such bag a copy of the dated receipt for the resealed  
28 bottle of wine.

29 (ii) If the resealed bottle of wine is transported in a motor  
30 vehicle, it must be placed in the trunk of the motor vehicle or the area  
31 behind the last upright seat of such motor vehicle if the area is not

1 normally occupied by the driver or a passenger and the motor vehicle is  
2 not equipped with a trunk;

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

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

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

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

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

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

30 (3) A farm winery may manufacture and sell hard cider on its  
31 licensed premises. A farm winery shall not otherwise distribute the hard

1 cider it manufactures except by sale to a wholesaler licensed under the  
2 Nebraska Liquor Control Act.

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

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

7 Sec. 12. Section 53-123.15, Revised Statutes Cumulative Supplement,  
8 2014, is amended to read:

9 53-123.15 (1) No person shall order or receive alcoholic liquor in  
10 this state which has been shipped directly to him or her from outside  
11 this state by any person other than a holder of a shipping license issued  
12 by the commission, except that a licensed wholesaler may receive not more  
13 than three gallons of wine in any calendar year from any person who is  
14 not a holder of a shipping license.

15 (2) The commission may issue a shipping license to a manufacturer.  
16 Such license shall allow the licensee to ship alcoholic liquor only to a  
17 licensed wholesaler, ~~except that a licensed wholesaler may, without a~~  
18 ~~shipping license and for the purposes of subdivision (2) of section~~  
19 ~~53-161, receive beer in this state which has been shipped from outside~~  
20 ~~the state by a manufacturer in accordance with the Nebraska Liquor~~  
21 ~~Control Act to the wholesaler, then transported by the wholesaler to~~  
22 ~~another state for retail distribution, and then returned by the retailer~~  
23 ~~to such wholesaler.~~ A person who receives a license pursuant to this  
24 subsection shall pay the fee required in sections 53-124 and 53-124.01  
25 for a manufacturer's shipping license. Such fee shall be collected by the  
26 commission and be remitted to the State Treasurer for credit to the  
27 General Fund.

28 (3) The commission may issue a shipping license to any person who  
29 deals with vintage wines, which shipping license shall allow the licensee  
30 to distribute such wines to a licensed wholesaler in the state. For  
31 purposes of distributing vintage wines, a licensed shipper must utilize a

1 designated wholesaler if the manufacturer has a designated wholesaler.  
2 For purposes of this section, vintage wine shall mean a wine verified to  
3 be ten years of age or older and not available from a primary American  
4 source of supply. A person who receives a license pursuant to this  
5 subsection shall pay the fee required in sections 53-124 and 53-124.01  
6 for a vintage wine dealer's shipping license. Such fee shall be collected  
7 by the commission and be remitted to the State Treasurer for credit to  
8 the General Fund.

9 (4) The commission may issue a shipping license to any manufacturer  
10 who sells and ships alcoholic liquor from another state directly to a  
11 consumer in this state if the manufacturer satisfies the requirements of  
12 subsections (7) through (9) of this section. A manufacturer who receives  
13 a license pursuant to this subsection shall pay the fee required in  
14 sections 53-124 and 53-124.01 for a manufacture direct sales shipping  
15 license. Such fee shall be collected by the commission and remitted to  
16 the State Treasurer for credit to the Winery and Grape Producers  
17 Promotional Fund.

18 (5) The commission may issue a shipping license to any retailer who  
19 is licensed within or outside Nebraska, who is authorized to sell  
20 alcoholic liquor at retail in the state of domicile of the retailer, and  
21 who is not a manufacturer if such retailer satisfies the requirements of  
22 subsections (7) through (9) of this section to ship alcoholic liquor from  
23 another state directly to a consumer in this state. A retailer who  
24 receives a license pursuant to this subsection shall pay the fee required  
25 in sections 53-124 and 53-124.01 for a retail direct sales shipping  
26 license. Such fee shall be collected by the commission and remitted to  
27 the State Treasurer for credit to the Winery and Grape Producers  
28 Promotional Fund.

29 (6) The application for a shipping license under subsection (2) or  
30 (3) of this section shall be in such form as the commission prescribes.  
31 The application shall contain all provisions the commission deems proper



1 and necessary to effectuate the purpose of any section of the act and the  
2 rules and regulations of the commission that apply to manufacturers and  
3 shall include, but not be limited to, provisions that the applicant, in  
4 consideration of the issuance of such shipping license, agrees:

5 (a) To comply with and be bound by sections 53-162 and 53-164.01 in  
6 making and filing reports, paying taxes, penalties, and interest, and  
7 keeping records;

8 (b) To permit and be subject to all of the powers granted by section  
9 53-164.01 to the commission or its duly authorized employees or agents  
10 for inspection and examination of the applicant's premises and records  
11 and to pay the actual expenses, excluding salary, reasonably attributable  
12 to such inspections and examinations made by duly authorized employees of  
13 the commission if within the United States; and

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

19 (7) The application for a shipping license under subsection (4) or  
20 (5) of this section shall be in such form as the commission prescribes.  
21 The application shall require an applicant which is a manufacturer, a  
22 craft brewery, a craft distillery, or a farm winery to identify the  
23 brands of alcoholic liquor that the applicant is requesting the authority  
24 to ship either into or within Nebraska. For all applicants, unless  
25 otherwise provided in this section, the application shall contain all  
26 provisions the commission deems proper and necessary to effectuate the  
27 purpose of any section of the act and the rules and regulations of the  
28 commission that apply to manufacturers or retailers and shall include,  
29 but not be limited to, provisions that the applicant, in consideration of  
30 the issuance of such shipping license, agrees:

31 (a) To comply with and be bound by sections 53-162 and 53-164.01 in

1 making and filing reports, paying taxes, penalties, and interest, and  
2 keeping records;

3 (b) To permit and be subject to all of the powers granted by section  
4 53-164.01 to the commission or its duly authorized employees or agents  
5 for inspection and examination of the applicant's premises and records  
6 and to pay the actual expenses, excluding salary, reasonably attributable  
7 to such inspections and examinations made by duly authorized employees of  
8 the commission if within the United States;

9 (c) That if the applicant violates any of the provisions of the  
10 application or the license, any section of the act, or any of the rules  
11 and regulations of the commission that apply to manufacturers or  
12 retailers, the commission may suspend, cancel, or revoke such shipping  
13 license for such period of time as it may determine;

14 (d) That the applicant agrees to notify the commission of any  
15 violations in the state in which he or she is domiciled and any  
16 violations of the direct shipping laws of any other states. Failure to  
17 notify the commission within thirty days after such a violation may  
18 result in a hearing before the commission pursuant to which the license  
19 may be suspended, canceled, or revoked; and

20 (e) That the applicant, if a manufacturer, craft brewery, craft  
21 distillery, or farm winery, agrees to notify any wholesaler licensed in  
22 Nebraska that has been authorized to distribute such brands that the  
23 application has been filed for a shipping license. The notice shall be in  
24 writing and in a form prescribed by the commission. The commission may  
25 adopt and promulgate rules and regulations as it reasonably deems  
26 necessary to implement this subdivision, including rules and regulations  
27 that permit the holder of a shipping license under this subdivision to  
28 amend the shipping license by, among other things, adding or deleting any  
29 brands of alcoholic liquor identified in the shipping license.

30 (8) Any manufacturer or retailer who is granted a shipping license  
31 under subsection (4) or (5) of this section shall:

1 (a) Only ship the brands of alcoholic liquor identified on the  
2 application;

3 (b) Only ship alcoholic liquor that is owned by the holder of the  
4 shipping license;

5 (c) Only ship alcoholic liquor that is properly registered with the  
6 Alcohol and Tobacco Tax and Trade Bureau of the United States Department  
7 of the Treasury;

8 (d) Not ship any alcoholic liquor products that the manufacturers or  
9 wholesalers licensed in Nebraska have voluntarily agreed not to bring  
10 into Nebraska at the request of the commission;

11 (e) Not ship more than nine liters of alcoholic liquor per month to  
12 any person in Nebraska to whom alcoholic beverages may be lawfully sold.  
13 All such sales and shipments shall be for personal consumption only and  
14 not for resale; and

15 (f) Cause the direct shipment of alcoholic liquor to be by approved  
16 common carrier only. The commission shall adopt and promulgate rules and  
17 regulations pursuant to which common carriers may apply for approval to  
18 provide common carriage of alcoholic liquor shipped by a holder of a  
19 shipping license issued pursuant to subsection (4) or (5) of this  
20 section. The rules and regulations shall include provisions that require  
21 (i) the recipient to demonstrate, upon delivery, that he or she is at  
22 least twenty-one years of age, (ii) the recipient to sign an electronic  
23 or paper form or other acknowledgement of receipt as approved by the  
24 commission, and (iii) the commission-approved common carrier to submit to  
25 the commission such information as the commission may prescribe. The  
26 commission-approved common carrier shall refuse delivery when the  
27 proposed recipient appears to be under the age of twenty-one years and  
28 refuses to present valid identification. All holders of shipping licenses  
29 shipping alcoholic liquor pursuant to this subdivision shall affix a  
30 conspicuous notice in sixteen-point type or larger to the outside of each  
31 package of alcoholic liquor shipped within or into the State of Nebraska,

1 in a conspicuous location, stating: CONTAINS ALCOHOLIC BEVERAGES;  
2 SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY. Any  
3 delivery of alcoholic beverages to a minor by a common carrier shall  
4 constitute a violation by the common carrier. The common carrier and the  
5 holder of the shipping license shall be liable only for their independent  
6 acts.

7 (9) For purposes of sections 53-160, 77-2703, and 77-27,142, each  
8 shipment of alcoholic liquor by the holder of a shipping license under  
9 subsection (3), (4), or (5) of this section shall constitute a sale in  
10 Nebraska by establishing a nexus in the state. The holder of the shipping  
11 license shall collect all the taxes due to the State of Nebraska and any  
12 political subdivision and remit any excise taxes monthly to the  
13 commission and any sales taxes to the Department of Revenue.

14 (10) By July 1, 2014, the commission shall report to the General  
15 Affairs Committee of the Legislature the number of shipping licenses  
16 issued for license years 2013-14 and 2014-15. The report shall be made  
17 electronically.

18 Sec. 13. (1) The holder of a Class C license may obtain a limited  
19 bottling endorsement for such license as prescribed in this section. The  
20 endorsement shall be issued for the same period and may be renewed in the  
21 same manner as the Class C license. A limited bottling endorsement may  
22 not be used in conjunction with a special designated license.

23 (2) A licensee desiring to obtain a limited bottling endorsement for  
24 a license shall file with the commission an application upon such forms  
25 as the commission prescribes and a fee of three hundred dollars payable  
26 to the commission.

27 (3) The holder of a limited bottling endorsement may sell beer for  
28 consumption off the licensed premises in sealed containers filled as  
29 provided in this subsection if:

30 (a) The sale occurs on the licensed premises of the licensee during  
31 the hours the licensee is authorized to sell beer;

1       (b) The licensee uses sanitary containers purchased by the customer  
2 from the licensee or exchanged for containers previously purchased by the  
3 customer from the licensee. The containers shall prominently display the  
4 endorsement holder's trade name or logo or some other mark that is unique  
5 to the endorsement holder and shall hold no more than thirty-two ounces;

6       (c) The licensee seals the container in a manner designed so that it  
7 is visibly apparent whether the sealed container has been tampered with  
8 or opened or seals the container and places the container in a bag  
9 designed so that it is visibly apparent whether the sealed container has  
10 been tampered with or opened; and

11       (d) The licensee provides a dated receipt to the customer and  
12 attaches a copy of the dated receipt to the sealed container or, if the  
13 sealed container is placed in a bag, to the bag.

14       Sec. 14. (1) The commission may issue a license to a person to  
15 operate a pedal-pub vehicle in this state. Each pedal-pub vehicle license  
16 shall expire on April 30 of each year. Each license shall be good  
17 throughout this state as a state license. Only one license shall be  
18 required for all pedal-pub vehicles operated in this state by the same  
19 owner. Each owner shall keep a duplicate of such license posted in each  
20 pedal-pub vehicle where alcoholic liquor is sold or consumed. No further  
21 license shall be required or tax levied by any county, city, or village  
22 for the privilege of operating a pedal-pub vehicle for the purpose of  
23 selling and allowing the consumption of alcoholic liquor while on or in a  
24 pedal-pub vehicle.

25       (2) The holder of a pedal-pub vehicle license may sell alcoholic  
26 liquor in individual drinks to customers who are twenty-one years of age  
27 or older to consume while they are on or in the pedal-pub vehicle and may  
28 allow such customers to consume alcoholic liquor not purchased from the  
29 licensee while the customers are on or in the pedal-pub vehicle. The  
30 licensee shall serve alcoholic liquor in opaque plastic containers that  
31 prominently display the licensee's trade name or logo or some other mark

1 that is unique to the licensee under the licensee's pedal-pub vehicle  
2 license and shall require the use of such containers for the consumption  
3 of alcoholic liquor not purchased from the licensee.

4 (3) No customer shall take any open container of alcoholic liquor  
5 from the pedal-pub vehicle or consume the alcoholic liquor after leaving  
6 the pedal-pub vehicle. A customer may take unopened containers of  
7 alcoholic liquor not purchased from the licensee from the pedal-pub  
8 vehicle.

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

14 Sec. 15. Section 53-124, Revised Statutes Cumulative Supplement,  
15 2014, is amended to read:

16 53-124 (1) At the time application is made to the commission for a  
17 license of any type, the applicant shall pay the fee provided in section  
18 53-124.01 and, if the applicant is an individual, provide the applicant's  
19 social security number. The commission shall issue the types of licenses  
20 described in this section.

21 (2) There shall be an airline license, a boat license, a pedal-pub  
22 vehicle license, and a railroad license. The commission shall charge one  
23 dollar for each duplicate of an airline license, a pedal-pub vehicle  
24 license, or a railroad license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (iii) Class C: Alcoholic liquor, for consumption on the premises and  
19 off the premises, sales in original packages only. If a Class C license  
20 is held by a nonprofit corporation, it shall be restricted to consumption  
21 on the premises only. A Class C license may have a sampling designation  
22 restricting consumption on the premises to sampling, but such designation  
23 shall not affect sales for consumption off the premises under such  
24 license;

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

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

29 (b) All applicable license fees shall be paid by the applicant or  
30 licensee directly to the city or village treasurer in the case of  
31 premises located inside the corporate limits of a city or village and

1 directly to the county treasurer in the case of premises located outside  
2 the corporate limits of a city or village.

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

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

10 (9) The license year, unless otherwise provided in the Nebraska  
11 Liquor Control Act, shall commence on May 1 of each year and shall end on  
12 the following April 30, except that the license year for a Class C  
13 license shall commence on November 1 of each year and shall end on the  
14 following October 31. During the license year, no license shall be issued  
15 for a sum less than the amount of the annual license fee as fixed in  
16 section 53-124.01, regardless of the time when the application for such  
17 license has been made, except that (a) when there is a purchase of an  
18 existing licensed business and a new license of the same class is issued  
19 or (b) upon the issuance of a new license for a location which has not  
20 been previously licensed, the license fee and occupation taxes shall be  
21 prorated on a quarterly basis as of the date of issuance.

22 Sec. 16. Section 53-124.01, Revised Statutes Cumulative Supplement,  
23 2014, is amended to read:

24 53-124.01 (1) The fees for annual licenses finally issued by the  
25 commission shall be as provided in this section and section 53-124.

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

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

28 (4) Manufacturer's license:

29 Class	Fee - In Dollars
30 Alcohol and spirits	1,000



1	Beer - tier one	100
2	Beer - tier two	200
3	Beer - tier three	350
4	Beer - tier four	500
5	Beer - tier five	650
6	Beer - tier six	700
7	Beer - tier seven	800
8	Wine	250
9	(5) Nonbeverage user's license:	
10	Class	Fee - In Dollars
11	Class 1	5
12	Class 2	25
13	Class 3	50
14	Class 4	100
15	Class 5	250
16	(6) Operator's license:	
17	Class	Fee - In Dollars
18	Craft brewery	250
19	Farm winery	250
20	Microdistillery	250
21	<u>(7) Pedal-pub vehicle license ... \$50</u>	
22	<u>(8 7) Railroad license ... \$100</u>	
23	<u>(9 8) Retail license:</u>	
24	Class	Fee - In Dollars
25	Class A	100
26	Class B	100
27	Class C	300
28	Class D	200
29	Class I	250

1           (~~10~~ 9) Shipping license:

2	Class	Fee - In Dollars
3	Manufacturer	1,000
4	Vintage wines	1,000
5	Manufacture direct sales	500
6	Retail direct sales	500

7           (~~11~~ 10) Wholesale license:

8	Class	Fee - In Dollars
9	Alcoholic liquor	750
10	Beer	500

11           Sec. 17. Section 53-130, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13           53-130 (1) New licenses to manufacturers, wholesalers, railroads,  
14 airlines, boats, pedal-pub vehicles, and nonbeverage users of alcoholic  
15 liquor may be issued by the commission upon (a) written application in  
16 duplicate filed in the manner and on such forms as the commission  
17 prescribes and in which the applicant for a beer wholesale license sets  
18 forth the sales territory in Nebraska in which it is authorized by a  
19 manufacturer or manufacturers to sell their brand or brands and the name  
20 of such brand or brands, (b) receipt of bond, (c) payment in advance of  
21 the nonrefundable application fee of forty-five dollars and the license  
22 fee, and (d) such notice and hearing as the commission fixes by its own  
23 order.

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

28           (3) A license so issued may be renewed without formal application  
29 upon payment of license fees and a renewal fee of forty-five dollars  
30 prior to or within thirty days after the expiration of the license. The

1 payment of such fees shall be an affirmative representation and  
2 certification by the licensee that all answers contained in an  
3 application, if submitted, would be the same in all material respects as  
4 the answers contained in the last previous application. The commission  
5 may at any time require a licensee to submit an application.

6 Sec. 18. Section 53-131, Revised Statutes Cumulative Supplement,  
7 2014, is amended to read:

8 53-131 (1) Any person desiring to obtain a new license to sell  
9 alcoholic liquor at retail, a craft brewery license, or a microdistillery  
10 license shall file with the commission:

11 (a) An application ~~in triplicate original~~ upon forms the commission  
12 prescribes, including the information required by subsection (3) of this  
13 section for an application to operate a cigar bar;

14 (b) The license fee if under sections 53-124 and 53-124.01 such fee  
15 is payable to the commission, which fee shall be returned to the  
16 applicant if the application is denied; and

17 (c) The nonrefundable application fee in the sum of four hundred  
18 dollars, except that the nonrefundable application fee for an application  
19 for a cigar bar shall be one thousand dollars.

20 (2) The commission shall notify the clerk of the city or village in  
21 which such license is sought or, if the license sought is not sought  
22 within a city or village, the county clerk of the county in which such  
23 license is sought, of the receipt of the application and shall include  
24 one copy of the application with the notice. No such license shall be  
25 issued or denied by the commission until the expiration of the time  
26 allowed for the receipt of a recommendation of denial or an objection  
27 requiring a hearing under subdivision (1)(a) or (b) of section 53-133.  
28 During the period of forty-five days after the date of receipt by mail or  
29 electronic delivery of such application from the commission, the local  
30 governing body of such city, village, or county may make and submit to  
31 the commission recommendations relative to the granting or refusal to

1 grant such license to the applicant.

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

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

11 Sec. 19. Section 53-133, Revised Statutes Cumulative Supplement,  
12 2014, is amended to read:

13 53-133 (1) The commission shall set for hearing before it any  
14 application for a retail license, craft brewery license, or  
15 microdistillery license relative to which it has received:

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

19 (b) Within ten days after the receipt of a recommendation from the  
20 city, village, or county, or, if no recommendation is received, within  
21 forty-five days after the date of receipt of such application by the  
22 city, village, or county clerk, objections in writing by not less than  
23 three persons residing within such city, village, or county, protesting  
24 the issuance of the license. Withdrawal of the protest does not prohibit  
25 the commission from conducting a hearing based upon the protest as  
26 originally filed and making an independent finding as to whether the  
27 license should or should not be issued;

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

1 (d) An indication on the application that the location of a proposed  
2 retail establishment is within one hundred fifty feet of a church as  
3 described in subsection (2) of section 53-177 and a written request by  
4 the church for a hearing.

5 (2) Hearings upon such applications shall be in the following  
6 manner: Notice indicating the time and place of such hearing shall be  
7 mailed or electronically delivered to the applicant, the local governing  
8 body, each individual protesting a license pursuant to subdivision (1)(b)  
9 of this section, and any church affected as described in subdivision (1)  
10 (d) of this section, at least fifteen days prior to such hearing. The  
11 notice shall state that the commission will receive evidence for the  
12 purpose of determining whether to approve or deny the application.  
13 Mailing or electronic delivery to the attorney of record of a party shall  
14 be deemed to fulfill the purposes of this section. The commission may  
15 receive evidence, including testimony and documentary evidence, and may  
16 hear and question witnesses concerning the application. The commission  
17 shall not use electronic delivery with respect to an applicant, a  
18 protestor, or a church under this section without the consent of the  
19 recipient to electronic delivery.

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

22 53-135 A retail license issued by the commission and outstanding may  
23 be automatically renewed by the commission without formal application  
24 upon payment of the renewal fee and license fee if payable to the  
25 commission prior to or within thirty days after the expiration of the  
26 license. The payment shall be an affirmative representation and  
27 certification by the licensee that all answers contained in an  
28 application, if submitted, would be the same in all material respects as  
29 the answers contained in the last previous application. The commission  
30 may at any time require a licensee to submit an application, and the  
31 commission shall at any time require a licensee to submit an application

1 if requested in writing to do so by the local governing body.

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

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

12 Sec. 21. (1) The Legislature finds that encouraging manufacturers  
13 of beer to use beer-related crops grown in this state in their  
14 manufacturing operations stimulates the creation of jobs and investments  
15 in small communities in this state, encourages the use of lands upon  
16 which beer-related crops may be grown, and provides tax revenue to the  
17 state which would not otherwise be realized. It is the intent of the  
18 Legislature to encourage the use of such beer-related crops by providing  
19 a nonrefundable tax credit as provided in this section.

20 (2) For purposes of this section, beer-related crop means barley or  
21 hops.

22 (3) A nonrefundable credit against the tax imposed in section 53-160  
23 shall be allowed to any manufacturer of beer if at least ten percent of  
24 the beer-related crops used by such manufacturer in the previous calendar  
25 year were grown in this state. The credit shall be an amount equal to the  
26 percentage specified in subsection (4) of this section multiplied by the  
27 total amount of tax paid under section 53-160 in the previous calendar  
28 year on the first twenty thousand barrels of beer sold by such  
29 manufacturer.

30 (4) The percentage used to determine the credit shall be as follows:

31 (a) If at least ten percent but less than forty percent of the beer-

1 related crops used by the manufacturer in the previous calendar year were  
2 grown in this state, the percentage used to determine the credit shall be  
3 fifteen percent;

4 (b) If at least forty percent but less than seventy percent of the  
5 beer-related crops used by the manufacturer in the previous calendar year  
6 were grown in this state, the percentage used to determine the credit  
7 shall be twenty-five percent; and

8 (c) If at least seventy percent of the beer-related crops used by  
9 the manufacturer in the previous calendar year were grown in this state,  
10 the percentage used to determine the credit shall be thirty-five percent.

11 (5) A manufacturer of beer shall apply for the credit to the  
12 commission on a form prescribed by the commission. The application shall  
13 be submitted on or before January 25 of each year and shall contain the  
14 following information:

15 (a) The name of the manufacturer;

16 (b) The total number of barrels of beer sold and the total amount of  
17 tax paid under section 53-160 during the previous calendar year;

18 (c) The percentage of beer-related crops used by the manufacturer in  
19 the previous calendar year that were grown in this state; and

20 (d) Such other information as required by the commission to verify  
21 that the manufacturer is qualified to receive the credit allowed under  
22 this section and to calculate the amount of the credit.

23 (6) If the manufacturer of beer qualifies for the credit, the  
24 commission shall approve the application and notify the manufacturer of  
25 the amount of the credit approved. The manufacturer may then claim the  
26 credit on the reports due each month under section 53-164.01 as an offset  
27 against the taxes due pursuant to such reports until the credit is fully  
28 utilized or until the following December 31, whichever occurs first.

29 Sec. 22. Section 53-167.02, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 53-167.02 (1) When any person licensed to sell alcoholic liquor at

1 retail sells alcohol ~~beer~~ for consumption off the premises in a container  
2 with a liquid capacity of five or more gallons or eighteen and ninety-two  
3 hundredths or more liters, the seller shall record the date of the sale,  
4 the keg identification number, the purchaser's name and address, and the  
5 number of the purchaser's motor vehicle operator's license, state  
6 identification card, or military identification, if such military  
7 identification contains a picture of the purchaser, together with the  
8 purchaser's signature. Such record shall be on a form prescribed by the  
9 commission and shall be kept by the licensee at the retail establishment  
10 where the purchase was made for not less than six months.

11 (2) The commission shall adopt and promulgate rules and regulations  
12 which require the licensee to place a label on the alcohol ~~beer~~  
13 container, which label shall at least contain a keg identification number  
14 and shall be on a form prescribed by the commission. Such label shall be  
15 placed on the keg at the time of retail sale. The licensee shall purchase  
16 the forms referred to in this section from the commission. The cost  
17 incurred to produce and distribute such forms shall be reasonable and  
18 shall not exceed the reasonable and necessary costs of producing and  
19 distributing the forms. Any money collected by the commission relating to  
20 the sale of such forms shall be credited to the Nebraska Liquor Control  
21 Commission Rule and Regulation Cash Fund.

22 (3) The keg identification number for each container shall be  
23 registered with the commission. The records kept pursuant to this section  
24 shall be available for inspection by any law enforcement officer during  
25 normal business hours or at any other reasonable time. Any person  
26 violating this section shall, upon conviction, be guilty of a Class III  
27 misdemeanor.

28 Sec. 23. Section 53-167.03, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 53-167.03 (1) Any person who unlawfully tampers with, alters, or  
31 removes the keg identification number from a ~~beer~~ container described in



1 section 53-167.02 or is in possession of a ~~beer~~ container described in  
2 section 53-167.02 with an altered or removed keg identification number  
3 after such container has been taken from the licensed premises pursuant  
4 to a retail sale and before its return to such licensed premises or other  
5 place where returned kegs are accepted shall be guilty of a Class III  
6 misdemeanor.

7 (2) A licensee may require a deposit of not more than the  
8 replacement cost of the container described in section 53-167.02 from a  
9 person purchasing alcohol ~~beer~~ for consumption off the premises. Such  
10 deposit may be retained by the licensee, in the amount of actual damages,  
11 if upon return the container or any associated equipment is damaged or if  
12 the keg identification number has been unlawfully tampered with, altered,  
13 or removed and such tampering, alteration, or removal has been reported  
14 to a law enforcement officer.

15 Sec. 24. Section 53-177, Revised Statutes Cumulative Supplement,  
16 2014, is amended to read:

17 53-177 (1) Except as otherwise provided in subsection (2) of this  
18 section, no license shall be issued for the sale at retail of any  
19 alcoholic liquor within one hundred fifty feet of any church, school,  
20 hospital, or home for ~~aged or indigent~~ persons or for veterans, and their  
21 wives or children. This prohibition does not apply (a) to any location  
22 within such distance of one hundred fifty feet for which a license to  
23 sell alcoholic liquor at retail has been granted by the commission for  
24 two years continuously prior to making of application for license, (b) to  
25 hotels offering restaurant service, to regularly organized clubs, or to  
26 restaurants, food shops, or other places where sale of alcoholic liquor  
27 is not the principal business carried on, if such place of business so  
28 exempted was established for such purposes prior to May 24, 1935, or (c)  
29 to a college or university in the state which is subject to section  
30 53-177.01.

31 (2) If a proposed location for the sale at retail of any alcoholic

1 liquor is within one hundred fifty feet of any church, a license may be  
2 issued if the commission gives notice to the affected church and holds a  
3 hearing as prescribed in section 53-133 if the affected church submits a  
4 written request for a hearing.

5 Sec. 25. Section 53-1,111, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 53-1,111 Upon the issuance of any search warrant pursuant to section  
8 53-1,108, it shall be the duty of the officers executing the same to  
9 enter the house, building, premises, boat, vehicle, receptacle, or other  
10 place described, either in the daytime or nighttime, by force if  
11 necessary and to remove and confiscate any alcoholic liquor manufactured,  
12 possessed, or kept for sale contrary to the terms of the Nebraska Liquor  
13 Control Act and any machinery, equipment, or material used in connection  
14 therewith and to hold such property until all prosecution arising out of  
15 such search and seizure shall have ended and determined. It shall be the  
16 duty of the officers executing such search warrant to arrest any person  
17 or persons found using or in possession or control of such alcoholic  
18 liquor, articles, or things. All alcoholic liquor unlawfully  
19 manufactured, stored, kept, sold, or otherwise disposed of, and the  
20 containers thereof, and all equipment used or fit for use in the  
21 manufacture or production of the same which are found at or about any  
22 still or outfit for the unlawful manufacture of alcoholic liquor on  
23 unlicensed premises are hereby declared contraband, and no right of  
24 property shall be or exist in any person owning, furnishing, or  
25 possessing any such property, liquor, material, or equipment, but all  
26 such property, articles, and things, including alcoholic liquor, shall be  
27 sold upon an order of the court as in the manner hereinafter provided in  
28 section 53-1,113, and the proceeds thereof shall be disposed of in the  
29 manner provided for the disposition of license money under the  
30 Constitution of Nebraska.

31 Sec. 26. Section 53-1,113, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 53-1,113 (1) It shall be the duty of the officer who has seized and  
3 is holding any of the property mentioned in section 53-1,111 to make  
4 application to the court on final determination of any prosecution  
5 arising under such search and seizure, and in which such prosecution has  
6 been commenced or prosecuted, for an order to sell such property. The  
7 court, if satisfied that the property so seized and held was at the time  
8 of its seizure being kept or used, or was fit for use in the unlawful  
9 manufacture or production of alcoholic liquor, shall make an order that  
10 (a) the commission dispose of any alcoholic liquor in accordance with the  
11 Nebraska Liquor Control Act and (b) any other such property and effects  
12 be sold by such officer subject to and shall fix the time, place, manner,  
13 and notice of such sale set by the order.

14 (2) Nothing contained in the Nebraska Liquor Control Act shall be  
15 considered to authorize the sale of any alcoholic liquor unlawfully  
16 manufactured fit for human consumption which comes into the possession of  
17 any officer or the commission by seizure, confiscation, or forfeiture  
18 under the provisions of the act without the payment of all taxes and  
19 inspection fees required by the laws of this state and of the United  
20 States, and all such unlawfully manufactured alcoholic liquor which is  
21 unfit for human consumption shall be destroyed.

22 (3) The commission shall destroy alcoholic liquor which is unfit for  
23 human consumption and may sell alcoholic liquor, when directed by order  
24 of the court, at the time, place, and manner the commission determines to  
25 be in the public interest and subject to the taxes and inspection fees  
26 required by the laws of this state and of the United States.

27 Sec. 27. Original sections 53-117.07, 53-123.11, 53-130, 53-135,  
28 53-167.02, 53-167.03, 53-1,111, and 53-1,113, Reissue Revised Statutes of  
29 Nebraska, and sections 53-101, 53-103, 53-103.03, 53-117, 53-123,  
30 53-123.15, 53-124, 53-124.01, 53-131, 53-133, and 53-177, Revised  
31 Statutes Cumulative Supplement, 2014, are repealed.

1           Sec. 28. Since an emergency exists, this act takes effect when  
2 passed and approved according to law.

3           2. On page 1, strike lines 2 through 13 and insert "53-117.07,  
4 53-123.11, 53-130, 53-135, 53-167.02, 53-167.03, 53-1,111, and 53-1,113,  
5 Reissue Revised Statutes of Nebraska, and sections 53-101, 53-103,  
6 53-103.03, 53-117, 53-123, 53-123.15, 53-124, 53-124.01, 53-131, 53-133,  
7 and 53-177, Revised Statutes Cumulative Supplement, 2014; to define and  
8 redefine terms; to prohibit powdered alcohol as prescribed; to provide  
9 for licensure and regulation of pedal-pub vehicles; to provide for  
10 manufacture, sale, and distribution of hard cider as prescribed, a  
11 limited bottling endorsement, and a nonrefundable tax credit for use of  
12 certain beer-related crops; to change and eliminate provisions relating  
13 to shipping licenses, application for and renewal of licenses, location  
14 of licensees, keg sales, and disposition of seized alcoholic liquor; to  
15 harmonize provisions; to repeal the original sections; and to declare an  
16 emergency."