

ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016
COMMITTEE STATEMENT
LB1105

Hearing Date: Monday February 01, 2016
Committee On: General Affairs
Introducer: Larson
One Liner: Change and eliminate beverage regulations and licensure provisions and create the Nebraska Craft Brewery Board

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 5 Senators Schilz, Coash, Hughes, Larson, McCollister
Nay:
Absent:
Present Not Voting: 3 Senators Hansen, Kolterman, Riepe

Verbal Testimony:

Proponents:

Joshua Eickmeier
Tom Wilmoth
Kim Kavulak
Vanessa Silke
Silas Clarke
Andy Pollock
Hobert Rupe

Representing:

Senator Tyson Larson
Nebraska Craft Brewers Guild
Nebraska Craft Brewers Guild
Nebraska Craft Brewers Guild
Nebraska Hop Growers Association
Nebraska Travel Association
Nebraska Liquor Control Commission

Opponents:

Kathy Siefken
Tracy Graber

Representing:

Nebraska Grocery Industry Association
Self

Neutral:

Kathy McKillip
Justin Brady

Representing:

Nebraska Tourism
Nebraska Liquor Wholesalers

Summary of purpose and/or changes:

Pp. 3-6, 10 Creates the Nebraska Craft Brewery Board

The Governor on a non-partisan basis appoints the board's seven members. At least two shall be selected from a list of at least 10 candidates provided by the Nebraska Craft Brewers Guild and at least two shall be selected from a list of at least 10 candidates provided by the Associated Beverage Distributors of Nebraska. The board members shall be Nebraska citizens, at least 21 years old, and have been or are involved in the beer industry. Each member serves a three-year term and is eligible for reappointment. The executive director of the Nebraska Tourism Commission shall be a nonvoting, ex officio member of the board. The board serves as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the beer industry.

The Nebraska Beer Industry Promotional Fund is created and consists of money credited from the beer manufacturers

shipping licenses under subsection (2) of section 53-123.15. The fund also includes a \$250 annual fee for craft brewery licensees to pay, but may opt out. The Nebraska Tourism Commission, at the direction of and in cooperation with the Nebraska Craft Brewery Board, shall use the Fund to develop and maintain programs for the research and advancement of the beer brewing process, the marketing and promotion of the beer industry in Nebraska, and the marketing and promotion of agricultural products and their byproducts grown and produced in Nebraska for use in the beer industry.

P. 6 LB 1105 amends the definition of the term "club" by striking the requirement that a club has a "suitable and adequate kitchen and dining room space and equipment and a sufficient number of servants and employees for cooking, preparing, and serving food and meals for its members and their guests."

Pp. 7, 30 Liquor Control Commission's Legislative Letter item #12(3) technical change. This provision contains an exception to requiring a retailer to purchase from a wholesaler, but the Liquor Control Commission's letter stated that this exception has never been used and only serves to confuse licensees, which is why the Commission asked to have it stricken.

Pp. 7-8 The definition for hard cider is limited to apples and pears and no other fruit products or flavors. LB 1105 strikes the prohibition on "other fruit product nor any artificial product which imparts a fruit flavor other than apple." This is in response to the emergence of ciders made with fruits other than apples and pears being utilized in hard cider.

Pp. 8-9, 29 Changes the craft brewery license to address the issues and concerns for when craft brewers exceed the 20,000-barrel limit. It clarifies that a manufacturer may sell at retail its beer for consumption on the licensed premises, commonly referred to as a tasting room. A craft brewery licensee who has held the license for a minimum of three years and operates a brewpub or microbrewery will have to get a manufacturer's license once the licensee exceeds 20,000 barrels. At that time, the licensee may continue operating up to five retail locations that the licensee was operating at the time such manufacturer's license was issued. The licensee must divest from any additional locations. The licensee shall not begin operation at any new retail location even if the licensee's production is reduced below 20,000 barrels per year. The manufacturer's license holder under these circumstances may obtain a catering license, special designated license or an entertainment district license.

P. 19 Establishes a Class T alcoholic liquor license intended for small boutiques to sell a limited amount of alcohol, such as in a gift basket. The licensee's gross revenue from the sale of alcohol cannot exceed twenty percent of the licensee's total annual gross revenue from all retail sales. The class T license is \$50 and would be exempt from a local occupation tax.

P. 27 Liquor Control Commission's Legislative Letter item #10 - Eliminates the requirement that a licensee shall reapply for its license because the licensee's location was annexed by an adjacent municipality.

P. 28 Liquor Control Commission's Legislative Letter item #11 - Allows employees that are at least 16 years of age to ring up tickets such as at a restaurant where the ticket includes alcohol purchases as long as the employee doesn't handle the alcohol. In addition to what was requested in the Liquor Control Commission's Legislative Letter, LB 1105 also allows an employee between the ages of 16 and 19 to handle alcohol if he or she has taken a Liquor Control Commission approved server training course.

P. 31 Liquor Control Commission's Legislative Letter item #12(1) technical change. This change harmonizes this section so that it not only prohibits retail activities, but also manufacturing and wholesale activities in a building or structure that allows access from such premises to any other portion of the same building or structure used for dwelling or lodging purposes by the public.

P. 31 Liquor Control Commission's Legislative Letter item #12(2) technical change. This section covers violations by nonbeverage licensees and currently requires payment of \$2.10 per gallon, which should be \$3.75 for each gallon in order to be consistent. This adjustment was overlooked and the Commission asked to have it corrected.

P. 32 Liquor Control Commission's Legislative Letter item #9 - Increases the penalty for the illegal manufacturing of

spirits. Any person who manufactures spirits at any place within the state without having first obtained a valid license to do so under the act shall be guilty of a Class I misdemeanor for the first offense instead of a Class IV misdemeanor. Second and subsequent offenses would now be a Class IV felony.

P. 32 Severability Clause

P. 33 Repeals prohibition on pull tabs/pull tops on soda and beer cans.

P. 33 Emergency Clause

Explanation of amendments:

- 1.Senator Lindstrom's LB 748, which deals with the personal importation of alcoholic liquor with the amendment he proposed at the hearing (AM 1935).
2. Senator Ebke's LB 1046, which would allow a Nebraska resident who is legally able to work in Nebraska to be eligible for a liquor license, regardless of U.S. citizenship.
- 3.Language creating the Nebraska Craft Brewery Board now places the Board within the Department of Agriculture for administrative purposes instead of the Nebraska Tourism Commission. The Department of Agriculture would also be tasked with using the fund to develop programs for beer brewing processes instead of the Nebraska Tourism Commission.
- 4.The liquor license for small boutiques was changed from a Class T to a Class G at the request of the Liquor Control Commission. It was also clarified that the Class G license would not be subject to a local occupation tax.
- 5.While an employee 16 to 18 years of age would be allowed to conduct a transaction that included alcohol on the ticket as long as the employee did not handle the alcohol, the provision allowing a 16 year old to serve alcohol after completing a server-training course was stricken from the bill.

Tyson Larson, Chairperson