

AMENDMENTS TO LB632

Introduced by General Affairs.

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

3 Section 1. Section 53-101, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 53-101 Sections 53-101 to 53-1,122 and sections 3 and 4 of this act
6 shall be known and may be cited as the Nebraska Liquor Control Act.

7 Sec. 2. Section 53-103, Revised Statutes Cumulative Supplement,
8 2016, is amended to read:

9 53-103 For purposes of the Nebraska Liquor Control Act, the
10 definitions found in sections 53-103.01 to 53-103.46 and section 3 of
11 this act apply.

12 Sec. 3. Bottle club means an operation, whether formally organized
13 as a club having a regular membership list, dues, officers, and meetings
14 or not, keeping and maintaining premises where persons who have made
15 their own purchases of alcoholic liquor congregate for the express
16 purpose of consuming such alcoholic liquor upon the payment of a fee or
17 other consideration, including, but not limited to, other services such
18 as the sale of food, ice, mixes, or other fluids for alcoholic drinks and
19 the maintenance of the space for consumption.

20 Sec. 4. A person operating a bottle club shall obtain the
21 appropriate classification of retail license based on the type of
22 beverages consumed. Such operation may be conducted by a club, an
23 individual, a partnership, a limited liability company, or a corporation.
24 An accurate and current membership list shall be maintained upon the
25 premises which contains the names and residences of the members.

26 Sec. 5. Section 53-118, Reissue Revised Statutes of Nebraska, is
27 amended to read:

1 53-118 The commission shall adopt and promulgate rules and
2 regulations to carry out the Nebraska Liquor Control Act. The rules and
3 regulations shall include, among such other things as the commission may
4 determine, provisions: (1) Prescribing conditions as to the issuance of
5 duplicate licenses in lieu of those lost or destroyed; (2) determining
6 for which violations of the rules and regulations licenses shall be
7 suspended, canceled, or revoked; (3) establishing standards of purity,
8 sanitation, honest advertising, and representation; (4) establishing
9 procedures for overdue accounts described in section 53-168; and (5) and
10 ~~(4)~~ covering any and all the other details which are necessary or
11 convenient to the enforcement of the intent, purpose, and requirements of
12 the act.

13 Sec. 6. Section 53-123.01, Revised Statutes Cumulative Supplement,
14 2016, is amended to read:

15 53-123.01 (1) A manufacturer's license shall allow the manufacture,
16 storage, and sale of alcoholic liquor to wholesale licensees in this
17 state and to such persons outside the state as may be permitted by law,
18 except that nothing in the Nebraska Liquor Control Act shall prohibit a
19 manufacturer of beer from distributing tax-paid samples of beer at the
20 premises of a licensed manufacturer for consumption on the premises. A
21 manufacturer's license issued pursuant to this section shall be the only
22 license required by the Nebraska Liquor Control Act for the manufacture
23 and retail sale of beer manufactured on the licensed premises for
24 consumption on the licensed premises. Except as provided in section
25 53-123.11, all alcoholic beverages purchased for resale in this state
26 prior to being resold at retail shall physically come into the possession
27 of a licensed wholesaler and be unloaded into and distributed from the
28 licensed wholesaler's warehouse located in this state.

29 (2)(a) A licensee who or which first obtains a craft brewery license
30 pursuant to section 53-123.14, holds such license for not less than three
31 years, and operates a brewpub or microbrewery on the licensed premises of

1 such craft brewery license shall obtain a manufacturer's license when the
2 manufacture of beer on the licensed premises exceeds twenty thousand
3 barrels per year. The manufacturer's license shall authorize the
4 continued retail sale of beer for consumption on or off the premises but
5 only to the extent the premises were previously licensed as a craft
6 brewery. The sale of any beer other than beer manufactured by the
7 licensee, wine, or alcoholic liquor for consumption on the licensed
8 premises shall require the appropriate retail license. Notwithstanding
9 subsection (1) of this section, a craft brewery licensee or a craft
10 brewery which holds a manufacturer's license required by this subsection
11 may hold other retail licenses for satellite locations, which are
12 disclosed to the commission and are one hundred percent owned in common
13 with the brewery. Such craft brewery or such manufacturer may transfer
14 product produced at the brewery to a satellite location without the use
15 of a Nebraska licensed wholesaler. Any other sale or transfer of product
16 must come into the possession of a Nebraska wholesale licensee. The
17 holder of such manufacturer's license may continue to operate up to five
18 one hundred percent owned retail satellite locations which are in
19 operation at the time such manufacturer's license is issued and shall
20 divest itself from retail locations in excess of five one hundred percent
21 owned retail satellite locations. The licensee shall not begin operation
22 at any new retail location even if the licensee's production is reduced
23 below twenty thousand barrels per year.

24 (b) The holder of such manufacturer's license may obtain an annual
25 catering license pursuant to section 53-124.12, a special designated
26 license pursuant to section 53-124.11, or an entertainment district
27 license pursuant to section 53-123.17.

28 (3) For purposes of this section:

29 (a) Bar means an establishment which has a retail license primarily
30 for the sale of alcoholic liquor for consumption on the premises; and

31 (b) Satellite location means a bar or a restaurant.

1 Sec. 7. Section 53-123.14, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 53-123.14 Any person who operates a craft brewery shall obtain a
4 license pursuant to the Nebraska Liquor Control Act. A license to operate
5 a craft brewery shall permit the production of a maximum of twenty
6 thousand barrels of beer per year in the aggregate from all physical
7 locations comprising the licensed premises. A craft brewery may also sell
8 to beer wholesalers for sale and distribution to licensed retailers, and
9 except as provided in section 53-123.01, a craft brewery or any person
10 owning an interest in a craft brewery is prohibited from owning or
11 selling directly to licensed retailers. A craft brewery license issued
12 pursuant to this section shall be the only license required by the
13 Nebraska Liquor Control Act for the manufacture and retail sale of beer
14 for consumption on or off the licensed premises, except that the sale of
15 any beer other than beer manufactured by the craft brewery licensee,
16 wine, or alcoholic liquor by the drink for consumption on the licensed
17 premises shall require the appropriate retail license. Any license held
18 by the operator of a craft brewery shall be subject to the act. A holder
19 of a craft brewery license may obtain an annual catering license pursuant
20 to section 53-124.12, a special designated license pursuant to section
21 53-124.11, or an entertainment district license pursuant to section
22 53-123.17. For purposes of this section, licensed premises may include up
23 to five separate physical locations.

24 Sec. 8. Section 53-123.15, Revised Statutes Cumulative Supplement,
25 2016, is amended to read:

26 53-123.15 (1) No person shall order or receive alcoholic liquor in
27 this state which has been shipped directly to him or her from outside
28 this state by any person other than a holder of a shipping license issued
29 by the commission, except that a licensed wholesaler may receive not more
30 than three gallons of wine in any calendar year from any person who is
31 not a holder of a shipping license.

1 (2) The commission may issue a shipping license to a manufacturer.
2 Such license shall allow the licensee to ship alcoholic liquor only to a
3 licensed wholesaler. A person who receives a license pursuant to this
4 subsection shall pay the fee required in sections 53-124 and 53-124.01
5 for a manufacturer's shipping license. Such fee shall be collected by the
6 commission and be remitted to the State Treasurer for credit .—Fees
7 ~~remitted prior to July 1, 2016, shall be credited to the General Fund.~~
8 ~~Fees remitted beginning on July 1, 2016, shall be credited to the~~
9 Nebraska Beer Industry Promotional Fund.

10 (3) The commission may issue a shipping license to any person who
11 deals with vintage wines, which shipping license shall allow the licensee
12 to distribute such wines to a licensed wholesaler in the state. For
13 purposes of distributing vintage wines, a licensed shipper must utilize a
14 designated wholesaler if the manufacturer has a designated wholesaler.
15 For purposes of this section, vintage wine shall mean a wine verified to
16 be ten years of age or older and not available from a primary American
17 source of supply. A person who receives a license pursuant to this
18 subsection shall pay the fee required in sections 53-124 and 53-124.01
19 for a vintage wine dealer's shipping license. Such fee shall be collected
20 by the commission and be remitted to the State Treasurer for credit to
21 the General Fund.

22 (4) The commission may issue a shipping license to any manufacturer
23 who sells and ships alcoholic liquor from another state directly to a
24 consumer in this state if the manufacturer satisfies the requirements of
25 subsections (7) through (9) of this section. A manufacturer who receives
26 a license pursuant to this subsection shall pay the fee required in
27 sections 53-124 and 53-124.01 for a manufacture direct sales shipping
28 license. Such fee shall be collected by the commission and remitted to
29 the State Treasurer for credit to the Winery and Grape Producers
30 Promotional Fund.

31 (5) The commission may issue a shipping license to any retailer who

1 is licensed within or outside Nebraska, who is authorized to sell
2 alcoholic liquor at retail in the state of domicile of the retailer, and
3 who is not a manufacturer if such retailer satisfies the requirements of
4 subsections (7) through (9) of this section to ship alcoholic liquor from
5 another state directly to a consumer in this state. A retailer who
6 receives a license pursuant to this subsection shall pay the fee required
7 in sections 53-124 and 53-124.01 for a retail direct sales shipping
8 license. Such fee shall be collected by the commission and remitted to
9 the State Treasurer for credit to the Winery and Grape Producers
10 Promotional Fund.

11 (6) The application for a shipping license under subsection (2) or
12 (3) of this section shall be in such form as the commission prescribes.
13 The application shall contain all provisions the commission deems proper
14 and necessary to effectuate the purpose of any section of the act and the
15 rules and regulations of the commission that apply to manufacturers and
16 shall include, but not be limited to, provisions that the applicant, in
17 consideration of the issuance of such shipping license, agrees:

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

21 (b) To permit and be subject to all of the powers granted by section
22 53-164.01 to the commission or its duly authorized employees or agents
23 for inspection and examination of the applicant's premises and records
24 and to pay the actual expenses, excluding salary, reasonably attributable
25 to such inspections and examinations made by duly authorized employees of
26 the commission if within the United States; and

27 (c) That if the applicant violates any of the provisions of the
28 application or the license, any section of the act, or any of the rules
29 and regulations of the commission that apply to manufacturers, the
30 commission may suspend, cancel, or revoke such shipping license for such
31 period of time as it may determine.

1 (7) The application for a shipping license under subsection (4) or
2 (5) of this section shall be in such form as the commission prescribes.
3 The application shall require an applicant which is a manufacturer, a
4 craft brewery, a craft distillery, or a farm winery to identify the
5 brands of alcoholic liquor that the applicant is requesting the authority
6 to ship either into or within Nebraska. For all applicants, unless
7 otherwise provided in this section, the application shall contain all
8 provisions the commission deems proper and necessary to effectuate the
9 purpose of any section of the act and the rules and regulations of the
10 commission that apply to manufacturers or retailers and shall include,
11 but not be limited to, provisions that the applicant, in consideration of
12 the issuance of such shipping license, agrees:

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

16 (b) To permit and be subject to all of the powers granted by section
17 53-164.01 to the commission or its duly authorized employees or agents
18 for inspection and examination of the applicant's premises and records
19 and to pay the actual expenses, excluding salary, reasonably attributable
20 to such inspections and examinations made by duly authorized employees of
21 the commission if within the United States;

22 (c) That if the applicant violates any of the provisions of the
23 application or the license, any section of the act, or any of the rules
24 and regulations of the commission that apply to manufacturers or
25 retailers, the commission may suspend, cancel, or revoke such shipping
26 license for such period of time as it may determine;

27 (d) That the applicant agrees to notify the commission of any
28 violations in the state in which he or she is domiciled and any
29 violations of the direct shipping laws of any other states. Failure to
30 notify the commission within thirty days after such a violation may
31 result in a hearing before the commission pursuant to which the license

1 may be suspended, canceled, or revoked; and

2 (e) That the applicant, if a manufacturer, craft brewery, craft
3 distillery, or farm winery, agrees to notify any wholesaler licensed in
4 Nebraska that has been authorized to distribute such brands that the
5 application has been filed for a shipping license. The notice shall be in
6 writing and in a form prescribed by the commission. The commission may
7 adopt and promulgate rules and regulations as it reasonably deems
8 necessary to implement this subdivision, including rules and regulations
9 that permit the holder of a shipping license under this subdivision to
10 amend the shipping license by, among other things, adding or deleting any
11 brands of alcoholic liquor identified in the shipping license.

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

14 (a) Only ship the brands of alcoholic liquor identified on the
15 application;

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

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

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

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

28 (f) Cause the direct shipment of alcoholic liquor to be by approved
29 common carrier only. The commission shall adopt and promulgate rules and
30 regulations pursuant to which common carriers may apply for approval to
31 provide common carriage of alcoholic liquor shipped by a holder of a

1 shipping license issued pursuant to subsection (4) or (5) of this
2 section. The rules and regulations shall include provisions that require
3 (i) the recipient to demonstrate, upon delivery, that he or she is at
4 least twenty-one years of age, (ii) the recipient to sign an electronic
5 or paper form or other acknowledgment of receipt as approved by the
6 commission, and (iii) the commission-approved common carrier to submit to
7 the commission such information as the commission may prescribe. The
8 commission-approved common carrier shall refuse delivery when the
9 proposed recipient appears to be under the age of twenty-one years and
10 refuses to present valid identification. All holders of shipping licenses
11 shipping alcoholic liquor pursuant to this subdivision shall affix a
12 conspicuous notice in sixteen-point type or larger to the outside of each
13 package of alcoholic liquor shipped within or into the State of Nebraska,
14 in a conspicuous location, stating: CONTAINS ALCOHOLIC BEVERAGES;
15 SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY. Any
16 delivery of alcoholic beverages to a minor by a common carrier shall
17 constitute a violation by the common carrier. The common carrier and the
18 holder of the shipping license shall be liable only for their independent
19 acts.

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

27 (10) A third-party shipper shall file an annual report with the
28 commission, in the form and manner prescribed by the commission,
29 regarding shipments of alcohol the third-party shipper has made into the
30 state ~~By July 1, 2014, the commission shall report to the General Affairs~~
31 ~~Committee of the Legislature the number of shipping licenses issued for~~

1 ~~license years 2013-14 and 2014-15. The report shall be made~~
2 ~~electronically.~~

3 Sec. 9. Section 53-124.11, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 53-124.11 (1) The commission may issue a special designated license
6 for sale or consumption of alcoholic liquor at a designated location to a
7 retail licensee, a craft brewery licensee, a microdistillery licensee, a
8 farm winery licensee, the holder of a manufacturer's license issued
9 pursuant to subsection (2) of section 53-123.01, a municipal corporation,
10 a fine arts museum incorporated as a nonprofit corporation, a religious
11 nonprofit corporation which has been exempted from the payment of federal
12 income taxes, a political organization which has been exempted from the
13 payment of federal income taxes, or any other nonprofit corporation the
14 purpose of which is fraternal, charitable, or public service and which
15 has been exempted from the payment of federal income taxes, under
16 conditions specified in this section. The applicant shall demonstrate
17 meeting the requirements of this subsection.

18 (2) No retail licensee, craft brewery licensee, microdistillery
19 licensee, farm winery licensee, holder of a manufacturer's license issued
20 pursuant to subsection (2) of section 53-123.01, organization, or
21 corporation enumerated in subsection (1) of this section may be issued a
22 special designated license under this section for more than six calendar
23 days in any one calendar year. Only one special designated license shall
24 be required for any application for two or more consecutive days. This
25 subsection shall not apply to any holder of a catering license.

26 (3) Except for any special designated license issued to a holder of
27 a catering license, there shall be a fee of forty dollars for each day
28 identified in the special designated license. Such fee shall be submitted
29 with the application for the special designated license, collected by the
30 commission, and remitted to the State Treasurer for credit to the General
31 Fund. The applicant shall be exempt from the provisions of the Nebraska

1 Liquor Control Act requiring an application or renewal fee and the
2 provisions of the act requiring the expiration of forty-five days from
3 the time the application is received by the commission prior to the
4 issuance of a license, if granted by the commission. The retail
5 licensees, craft brewery licensees, microdistillery licensees, farm
6 winery licensees, holders of manufacturer's licenses issued pursuant to
7 subsection (2) of section 53-123.01, municipal corporations,
8 organizations, and nonprofit corporations enumerated in subsection (1) of
9 this section seeking a special designated license shall file an
10 application on such forms as the commission may prescribe. Such forms
11 shall contain, along with other information as required by the
12 commission, (a) the name of the applicant, (b) the premises for which a
13 special designated license is requested, identified by street and number
14 if practicable and, if not, by some other appropriate description which
15 definitely locates the premises, (c) the name of the owner or lessee of
16 the premises for which the special designated license is requested, (d)
17 sufficient evidence that the holder of the special designated license, if
18 issued, will carry on the activities and business authorized by the
19 license for himself, herself, or itself and not as the agent of any other
20 person, group, organization, or corporation, for profit or not for
21 profit, (e) a statement of the type of activity to be carried on during
22 the time period for which a special designated license is requested, and
23 (f) sufficient evidence that the activity will be supervised by persons
24 or managers who are agents of and directly responsible to the holder of
25 the special designated license.

26 (4) No special designated license provided for by this section shall
27 be issued by the commission without the approval of the local governing
28 body. The local governing body may establish criteria for approving or
29 denying a special designated license. The local governing body may
30 designate an agent to determine whether a special designated license is
31 to be approved or denied. Such agent shall follow criteria established by

1 the local governing body in making his or her determination. The
2 determination of the agent shall be considered the determination of the
3 local governing body unless otherwise provided by the local governing
4 body. For purposes of this section, the local governing body shall be the
5 city or village within which the premises for which the special
6 designated 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 which
9 the special designated license is requested are located.

10 (5) If the applicant meets the requirements of this section, a
11 special designated license shall be granted and issued by the commission
12 for use by the holder of the special designated license. All statutory
13 provisions and rules and regulations of the commission that apply to a
14 retail licensee shall apply to the holder of a special designated license
15 with the exception of such statutory provisions and rules and regulations
16 of the commission so designated by the commission and stated upon the
17 issued special designated license, except that the commission may not
18 designate exemption of sections 53-123.01 to 53-123.03, 53-123.14,
19 53-169, 53-171, and 53-180 to 53-180.07. The decision of the commission
20 shall be final. If the applicant does not qualify for a special
21 designated license, the application shall be denied by the commission.

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

26 Sec. 10. Section 53-134.01, Revised Statutes Cumulative Supplement,
27 2016, is amended to read:

28 53-134.01 (1) The holder of a Class C license may obtain a limited
29 bottling endorsement for such license as prescribed in this section. The
30 endorsement shall be issued for the same period and may be renewed in the
31 same manner as the Class C license. A limited bottling endorsement may

1 not be used in conjunction with a special designated license.

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

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

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

11 (b) The licensee uses sanitary containers purchased by the customer
12 from the licensee or exchanged for containers previously purchased by the
13 customer from the licensee. The containers shall prominently display the
14 endorsement holder's trade name or logo or some other mark that is unique
15 to the endorsement holder and shall hold no more than sixty-four ~~thirty-~~
16 ~~two~~ ounces;

17 (c) The licensee seals the container in a manner designed so that it
18 is visibly apparent whether the sealed container has been tampered with
19 or opened or seals the container and places the container in a bag
20 designed so that it is visibly apparent whether the sealed container has
21 been tampered with or opened; and

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

25 Sec. 11. Section 53-164.01, Revised Statutes Cumulative Supplement,
26 2016, is amended to read:

27 53-164.01 Payment of the tax provided for in section 53-160 on
28 alcoholic liquor shall be paid by the manufacturer or wholesaler as
29 follows:

30 (1)(a) All manufacturers or wholesalers, except farm winery
31 producers, whether inside or outside this state shall, on or before the

1 twenty-fifth day of each calendar month following the month in which
2 shipments were made, submit a report to the commission upon forms
3 furnished by the commission showing the total amount of alcoholic liquor
4 in gallons or fractional parts thereof shipped by such manufacturer or
5 wholesaler, whether inside or outside this state, during the preceding
6 calendar month;

7 (b) All beer wholesalers shall, on or before the twenty-fifth day of
8 each calendar month following the month in which shipments were made,
9 submit a report to the commission upon forms furnished by the commission
10 showing the total amount of beer in gallons or fractional parts thereof
11 shipped by all manufacturers, whether inside or outside this state,
12 during the preceding calendar month to such wholesaler;

13 (c)(i) Except as provided in subdivision (ii) of this subdivision,
14 farm winery producers which paid less than one thousand dollars of excise
15 taxes pursuant to section 53-160 for the previous calendar year and which
16 will pay less than one thousand dollars of excise taxes pursuant to
17 section 53-160 for the current calendar year shall, on or before the
18 twenty-fifth day of the calendar month following the end of the year in
19 which wine was packaged and released from bond, submit a report to the
20 commission upon forms furnished by the commission showing the total
21 amount of wine in gallons or fractional parts thereof packaged and
22 released from bond by such producer during the preceding calendar year;
23 and

24 (ii) Farm winery producers which paid one thousand dollars or more
25 of excise taxes pursuant to section 53-160 for the previous calendar year
26 or which become liable for one thousand dollars or more of excise taxes
27 pursuant to section 53-160 during the current calendar year shall, on or
28 before the twenty-fifth day of each calendar month following the month in
29 which wine was packaged and released from bond, submit a report to the
30 commission upon forms furnished by the commission showing the total
31 amount of wine in gallons or fractional parts thereof packaged and

1 released from bond by such producer during the preceding calendar month.
2 A farm winery producer which becomes liable for one thousand dollars or
3 more of excise taxes pursuant to section 53-160 during the current
4 calendar year shall also pay such excise taxes immediately;

5 (d) A craft brewery shall, on or before the twenty-fifth day of each
6 calendar month following the month in which the beer was released from
7 bond for sale, submit a report to the commission on forms furnished by
8 the commission showing the total amount of beer in gallons or fractional
9 parts thereof produced for sale by the craft brewery during the preceding
10 calendar month;

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

17 (f) Reports submitted pursuant to subdivision (a), (b), or (c) of
18 this subdivision shall also contain a statement of the total amount of
19 alcoholic liquor, except beer, in gallons or fractional parts thereof
20 shipped to licensed retailers inside this state and such other
21 information as the commission may require;

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

27 (3) The tax imposed pursuant to section 53-160 shall be due on the
28 date the report is due less a discount of one percent of the tax on
29 alcoholic liquor for submitting the report and paying the tax in a timely
30 manner. The discount shall be deducted from the payment of the tax before
31 remittance to the commission and shall be shown in the report to the

1 commission as required in this section. If the tax is not paid within the
2 time provided in this section, the discount shall not be allowed and
3 shall not be deducted from the tax. The tax imposed on beer pursuant to
4 section 53-160 shall be paid by beer wholesalers to the extent that they
5 are selling the beer to retailers. The tax imposed on beer pursuant to
6 section 53-160 shall be paid by craft brewers to the extent that they are
7 selling the beer directly to consumers and retailers;

8 (4) If the report is not submitted by the twenty-fifth day of the
9 calendar month or if the tax is not paid to the commission by the twenty-
10 fifth day of the calendar month, the following penalties shall be
11 assessed on the amount of the tax: One to five days late, three percent;
12 six to ten days late, six percent; and over ten days late, ten percent.
13 In addition, interest on the tax shall be collected at the rate of one
14 percent per month, or fraction of a month, from the date the tax became
15 due until paid;

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

19 (6) In order to insure the payment of all state taxes on alcoholic
20 liquor, together with interest and penalties, persons required to submit
21 reports and payment of the tax shall, at the time of application for a
22 license under sections 53-124 and 53-124.01, enter into a surety bond
23 with corporate surety, both the bond form and surety to be approved by
24 the commission. Subject to the limitations specified in this subdivision,
25 the amount of the bond required of any taxpayer shall be fixed by the
26 commission and may be increased or decreased by the commission at any
27 time. In fixing the amount of the bond, the commission shall require a
28 bond equal to the amount of the taxpayer's estimated maximum monthly
29 excise tax ascertained in a manner as determined by the commission.
30 Nothing in this section shall prevent or prohibit the commission from
31 accepting and approving bonds which run for a term longer than the

1 license period. The amount of a bond required of any one taxpayer shall
2 not be less than one thousand dollars. The bonds required by this section
3 shall be filed with the commission; and

4 (7) When a manufacturer or wholesaler sells and delivers alcoholic
5 liquor upon which the tax has been paid to any instrumentality of the
6 armed forces of the United States engaged in resale activities as
7 provided in section 53-160.01, the manufacturer or wholesaler shall be
8 entitled to a credit in the amount of the tax paid in the event no tax is
9 due on such alcoholic liquor as provided in such section. The amount of
10 the credit, if any, shall be deducted from the tax due on the following
11 monthly report and subsequent reports until liquidated.

12 Sec. 12. Section 53-168, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 53-168 (1) It shall be unlawful for any person having a retail
15 license to sell beer to accept credit for the purchase of beer from any
16 manufacturer or wholesaler of beer and for any person having a retail
17 license to sell alcoholic liquor or any officer, associate, member,
18 representative, or agent of such licensee to accept, receive, or borrow
19 money or anything else of value or to accept or to receive credit, other
20 than merchandising credit in the ordinary course of business for a period
21 not to exceed thirty days, directly or indirectly, from (a) any person,
22 partnership, limited liability company, or corporation engaged in
23 manufacturing or wholesaling such liquor, (b) any person connected with
24 or in any way representing such manufacturer or wholesaler, (c) any
25 member of the family of such manufacturer or wholesaler, (d) any
26 stockholders in any corporation engaged in manufacturing or wholesaling
27 such liquor, or (e) any officer, manager, agent, member, or
28 representative of such manufacturer or wholesaler.

29 (2) It shall be unlawful for any manufacturer or wholesaler to give
30 or lend money or otherwise loan or extend credit, except the
31 merchandising credit referred to in subsection (1) of this section,

1 directly or indirectly, to any such licensee or to the manager,
2 representative, agent, member, officer, or director of such licensee. It
3 shall be unlawful for any wholesaler to participate in any manner in a
4 merchandising and coupon plan of any manufacturer involving alcoholic
5 liquor and the redemption in cash. The redemption of any merchandising
6 and coupon plan involving cash shall be made by the manufacturer to the
7 consumer.

8 (3) If any holder of a license to sell alcoholic liquor at retail or
9 wholesale violates subsection (1) or (2) of this section, such license
10 shall be suspended or revoked by the commission in the manner provided by
11 the Nebraska Liquor Control Act.

12 (4) It shall not be a violation of subsection (1) or (2) of this
13 section for a manufacturer or wholesaler to sell or provide alcoholic
14 liquor exclusively or in minimum quantities in containers bearing a
15 private label or to sell or provide alcoholic liquor in containers
16 bearing a generic label to a wholesaler or retailer.

17 (5) It shall not be a violation of subsection (1) or (2) of this
18 section for a wholesaler or retailer to accept or purchase from a
19 manufacturer or wholesaler alcoholic liquor exclusively or in minimum
20 quantities in containers bearing a private label or for a wholesaler or
21 retailer to accept or purchase from a manufacturer or wholesaler
22 alcoholic liquor in containers bearing a generic label.

23 (6)(a) It shall be unlawful for a wholesaler to sell any alcoholic
24 liquor to a person having a retail license to sell alcoholic liquor that
25 has a payment on an account for alcoholic liquor which is more than
26 thirty-four days overdue according to the records of the commission. Each
27 delivery of alcoholic liquor shall be accompanied by an invoice stating
28 the date of purchase. If a person having a retail license to sell
29 alcoholic liquor fails to provide payment in full to a wholesaler for a
30 payment on an account for alcoholic liquor on or before the thirty-fourth
31 day after the date of purchase, the wholesaler shall immediately report

1 that fact in writing, including by electronic mail or facsimile
2 transmission, to the commission.

3 (b) A retail licensee may submit a detailed electronic or paper
4 statement and supporting documents to the commission and the wholesaler
5 to dispute a violation of subdivision (a) of this subsection and the
6 inclusion of the retail licensee on the list required by subdivision (c)
7 of this subsection. The commission may review the submitted materials and
8 may hold a hearing with reasonable notice to the retail and wholesale
9 licensee and opportunity to appear and defend and make a determination as
10 to whether to include the retail licensee on the list.

11 (c) The commission shall keep an updated list of retail licensees
12 with overdue accounts reported under this subsection on the web site of
13 the commission. The list shall be updated daily.

14 (7) The commission shall not accept the voluntary cancellation or
15 suspension of a retail license for the sale of alcoholic liquor or allow
16 such a retail license to be renewed if the licensee is listed on the web
17 site of the commission under subsection (6) of this section.

18 (8) A person that has a retail license to sell alcoholic liquor
19 which is expired or has been canceled by the commission shall not be
20 eligible to hold any other license under the Nebraska Liquor Control Act
21 unless the licensee is not listed on the web site of the commission under
22 subsection (6) of this section.

23 (9) It shall be unlawful for a wholesaler to accept a postdated
24 check, a note, or a memorandum for the sale of alcoholic liquor. It shall
25 be unlawful for a wholesaler to participate in a scheme to assist the
26 retail licensee to sell alcoholic liquor to violate this section.

27 Sec. 13. Section 53-175, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 53-175 (1) It shall be unlawful for any person to purchase,
30 receive, acquire, accept, or possess any alcoholic liquor acquired from
31 any person other than one duly licensed to handle alcoholic liquor under

1 the Nebraska Liquor Control Act unless within the specific exemptions or
2 exceptions provided in the act.

3 (2) No licensed retailer of alcoholic liquor shall purchase such
4 liquor other than from a licensed wholesaler who has his or her place of
5 business within this state.

6 (3) The commission may waive the requirement under this section that
7 the holder of a special designated license purchase from a wholesaler for
8 purposes of a special designated license issued under section 53-124.11.
9 The requirement may only be waived (a) if the licensee is a municipal
10 corporation, a fine arts museum incorporated as a nonprofit corporation,
11 a religious nonprofit corporation which has been exempted from the
12 payment of federal income taxes, a political organization which has been
13 exempted from the payment of federal income taxes, or any other nonprofit
14 corporation the purpose of which is fraternal, charitable, or public
15 service and which has been exempted from the payment of federal income
16 taxes and (b) if the applicant for the special designated license
17 indicates on the application where the alcoholic liquor will be purchased
18 and provides documentation for such purchase upon request by the
19 commission.

20 (4) Nothing in this section shall prohibit the sale or exchange
21 among collectors of commemorative bottles or uniquely designed decanters
22 which contain alcoholic liquor.

23 Sec. 14. Section 53-186.01, Revised Statutes Cumulative Supplement,
24 2016, is amended to read:

25 53-186.01 (1) It shall be unlawful for any person owning, operating,
26 managing, or conducting any bottle club, dance hall, restaurant, cafe, or
27 club or any place open to the general public to permit or allow any
28 person to consume alcoholic liquor upon the premises except as permitted
29 by a license issued for such premises pursuant to the Nebraska Liquor
30 Control Act.

31 (2) It shall be unlawful for any person to consume alcoholic liquor

1 in any bottle club, dance hall, restaurant, cafe, or club or any place
2 open to the general public except as permitted by a license issued for
3 such premises pursuant to the act.

4 (3) This section shall not apply to a retail licensee while lawfully
5 engaged in the catering of alcoholic beverages or to limousines or buses
6 operated under section 60-6,211.08.

7 (4) Any person violating subsection (1) of this section shall, upon
8 conviction thereof, be subject to the penalties contained in section
9 53-1,100.

10 (5) Any person violating subsection (2) of this section shall be
11 guilty of a Class III misdemeanor.

12 Sec. 15. Section 53-1,100, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 53-1,100 (1) Any person (a) who imports alcoholic liquor for
15 distribution as a wholesaler or distributes or sells alcoholic liquor at
16 any place within the state without having first obtained a valid license
17 to do so under the Nebraska Liquor Control Act, (b) who manufactures
18 alcoholic liquor other than spirits within the state without having first
19 obtained a valid license to do so under the act, (c) who makes any false
20 statement or otherwise violates any of the provisions of the act in
21 obtaining any license under the act, (d) who, having obtained a license
22 under the act, violates any of the provisions of the act with respect to
23 the manufacture, possession, distribution, or sale of alcoholic liquor or
24 with respect to the maintenance of the licensed premises, or (e) who
25 violates any other provision of the act for which a penalty is not
26 otherwise provided, shall for a first offense be guilty of a Class IV
27 misdemeanor and for a second or subsequent offense shall be guilty of a
28 Class II misdemeanor and subject to subsection (5) of this section, if
29 applicable.

30 (2) Any person who manufactures spirits at any place within the
31 state without having first obtained a valid license to do so under the

1 act shall be guilty of a Class I misdemeanor for a first offense and a
2 Class IV felony for a second or subsequent offense and subject to
3 subsection (5) of this section, if applicable.

4 (3) Each day any person engages in business as a manufacturer,
5 wholesaler, or retailer in violation of the act shall constitute a
6 separate offense.

7 (4) In any prosecution in which a person is charged with an offense
8 arising out of the failure to obtain a valid license as provided in
9 subdivision (1)(a) or (b) or subsection (2) of this section, evidence of
10 the failure of the accused to produce such license upon demand shall
11 constitute prima facie proof that a license has not been issued by the
12 commission to such person.

13 (5)(a) For a second violation described in this section occurring
14 within four years after the date of the first violation, the commission,
15 in its discretion, may order that the licensee be required to suspend
16 sales of alcoholic liquor for a period of time not to exceed forty-eight
17 hours.

18 (b) For a third or subsequent violation described in this section
19 occurring within four years after the date of the first violation, the
20 commission, in its discretion, may order that the licensee be required to
21 suspend sales of alcoholic liquor for a period of time not to exceed
22 fifteen days.

23 (c) For any licensee which has no violation described in this
24 section for a period of four years consecutively, any violation shall be
25 treated as a new first violation.

26 Sec. 16. Section 53-1,104, Revised Statutes Cumulative Supplement,
27 2016, is amended to read:

28 53-1,104 (1) Any licensee which sells or permits the sale of any
29 alcoholic liquor not authorized under the terms of such license on the
30 licensed premises or in connection with such licensee's business or
31 otherwise shall be subject to suspension, cancellation, or revocation of

1 such license by the commission.

2 (2) When an order suspending a license to sell alcoholic liquor
3 becomes final, the licensee may elect to pay a cash penalty to the
4 commission in lieu of suspending sales of alcoholic liquor for the
5 designated period if such election is not prohibited by order of the
6 commission. Except as otherwise provided in subsection (3) of this
7 section, for the first such suspension for any licensee, the penalty
8 shall be fifty dollars per day, and for a second or any subsequent
9 suspension occurring within four years after the date of the first
10 suspension, the penalty shall be one hundred dollars per day and the
11 commission, in its discretion, may order that the licensee be required to
12 suspend sales of alcoholic liquor for a period of time not to exceed
13 forty-eight hours and that the licensee may not elect to pay a cash
14 penalty. The commission may use the required suspension of sales of
15 alcoholic liquor penalty either alone or in conjunction with suspension
16 periods for which the licensee may elect to pay a cash penalty.

17 (3)(a) For a second suspension for violation of section 53-180 or
18 53-180.02 occurring within four years after the date of the first
19 suspension, the commission, in its discretion, may order that the
20 licensee be required to suspend sales of alcoholic liquor for a period of
21 time not to exceed forty-eight hours and that the licensee may not elect
22 to pay a cash penalty. The commission may use the required suspension of
23 sales of alcoholic liquor penalty either alone or in conjunction with
24 suspension periods for which the licensee may elect to pay a cash
25 penalty. For purposes of this subsection, second suspension for violation
26 of section 53-180 shall include suspension for a violation of section
27 53-180.02 following suspension for a violation of section 53-180 and
28 second suspension for violation of section 53-180.02 shall include
29 suspension for a violation of section 53-180 following suspension for a
30 violation of section 53-180.02;

31 (b) For a third or subsequent suspension for violation of section

1 53-180 or 53-180.02 occurring within four years after the date of the
2 first suspension, the commission, in its discretion, may order that the
3 licensee be required to suspend sales of alcoholic liquor for a period of
4 time not to exceed fifteen days and that the licensee may not elect to
5 pay a cash penalty. The commission may use the required suspension of
6 sales of alcoholic liquor penalty either alone or in conjunction with
7 suspension periods for which the licensee may elect to pay a cash
8 penalty. For purposes of this subsection, third or subsequent suspension
9 for violation of section 53-180 shall include suspension for a violation
10 of section 53-180.02 following suspension for a violation of section
11 53-180 and third or subsequent suspension for violation of section
12 53-180.02 shall include suspension for a violation of section 53-180
13 following suspension for a violation of section 53-180.02; and

14 (c) For a first suspension based upon a finding that a licensee or
15 an employee or agent of the licensee has been convicted of possession of
16 a gambling device on a licensee's premises in violation of sections
17 28-1107 to 28-1111, the commission, in its discretion, may order that the
18 licensee be required to suspend sales of alcoholic liquor for thirty days
19 and that the licensee may not elect to pay a cash penalty. For a second
20 or subsequent suspension for such a violation of sections 28-1107 to
21 28-1111 occurring within four years after the date of the first
22 suspension, the commission shall order that the license be canceled.

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

26 (5) The election provided for in subsection (2) of this section
27 shall be filed with the commission in writing one week before the
28 suspension is ordered to commence and shall be accompanied by payment in
29 full of the sum required by this section. If such election has not been
30 received by the commission by the close of business one week before the
31 day such suspension is ordered to commence, it shall be conclusively

1 presumed that the licensee has elected to close for the period of the
2 suspension and any election received later shall be absolutely void and
3 the payment made shall be returned to the licensee. The election shall be
4 made on a form prescribed by the commission. The commission shall remit
5 all funds collected under this section to the State Treasurer for
6 distribution in accordance with Article VII, section 5, of the
7 Constitution of Nebraska.

8 (6) Recognizing that suspension of the license of a licensee
9 domiciled outside of the state poses unique enforcement difficulties, the
10 commission may, at its discretion, mandate that a licensee domiciled
11 outside of the state pay the cash penalty found in subsection (2) of this
12 section rather than serve the suspension.

13 Sec. 17. Section 59-1401, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 59-1401 Sections 59-1401 to 59-1406 and sections 18 and 20 to 24 of
16 this act shall be known and may be cited as the Music Licensing Agency
17 Act. As used in sections 59-1401 to 59-1406, person means any individual,
18 resident or nonresident of this state, and every domestic, foreign, or
19 alien partnership, limited liability company, society, association, or
20 corporation and the words performing rights refer to public performance
21 for profit.

22 Sec. 18. For purposes of the Music Licensing Agency Act:

23 (1) Copyright owner means the owner of a copyright of a nondramatic
24 musical work recognized and enforceable under the copyright laws of the
25 United States pursuant to 17 U.S.C. 101 et seq., as such sections existed
26 on January 1, 2017, and does not include the owner of a copyright in a
27 motion picture or audiovisual work or in part of a motion picture or
28 audiovisual work;

29 (2) Music licensing agency means an association or corporation that
30 licenses the public performance of nondramatic musical works on behalf of
31 copyright owners;

1 (3) Performing right means the right to perform a copyrighted
2 nondramatic musical work publicly for profit;

3 (4) Person means any individual, resident or nonresident of this
4 state, and every domestic, foreign, or alien partnership, limited
5 liability company, society, association, corporation, or music licensing
6 agency;

7 (5) Proprietor means the owner of a retail establishment,
8 restaurant, inn, bar, tavern, sports or entertainment facility, or other
9 similar place of business or professional office located in this state in
10 which the public may assemble and in which nondramatic musical works or
11 similar copyrighted works may be performed, broadcast, or otherwise
12 transmitted for the enjoyment of members of the public there assembled;
13 and

14 (6) Royalty means the fees payable to a copyright owner for a
15 performing right.

16 Sec. 19. Section 59-1403, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 59-1403 ~~There From and after August 10, 1945,~~ there is hereby
19 levied and there shall be collected a tax for the act or privilege of
20 selling, licensing, or otherwise disposing in this state of performing
21 rights in any musical composition, which has been copyrighted under the
22 laws of the United States, in an amount equal to three percent of the
23 gross receipts of all such sales, licenses, or other dispositions of
24 performing rights in this state payable to the Department of Revenue
25 ~~Secretary of State on or before March 15, 1946, with respect to all such~~
26 ~~gross receipts for the portion of the calendar year 1945 from August 10,~~
27 ~~1945, and annually thereafter,~~ on or before March 15 of each succeeding
28 year with respect to the gross receipts of the preceding calendar year.
29 ~~At the time of paying the said tax the Secretary of State shall issue a~~
30 ~~receipt therefor in duplicate, one of which shall be given to the~~
31 ~~taxpayer and one filed with the State Treasurer at the time the tax~~

1 ~~collected is paid by the Secretary of State to the state treasury.~~ The
2 department Secretary of State shall adopt and promulgate publish rules
3 and regulations not in conflict with this section herewith, as well as a
4 form of return and any other forms necessary to carry out ~~the provisions~~
5 ~~of this section.~~

6 Sec. 20. (1) Beginning January 1, 2018, a music licensing agency
7 shall not license or attempt to license the use of or collect or attempt
8 to collect any compensation with regard to any sale, license, or other
9 disposition of a performing right unless the music licensing agency
10 registers and files annually, on or before January 1, with the Department
11 of Revenue an electronic copy of each performing-rights agreement
12 providing for the payment of royalties made available from the music
13 licensing agency to any proprietor within this state. The registration
14 shall be valid for the calendar year. The department shall charge a late
15 fee of ten thousand dollars for each thirty-day period which has passed
16 since January 1 of the registration year when a music licensing agency
17 fails to renew a registration or engages in business without
18 registration. The department shall remit the fees collected pursuant to
19 this section to the State Treasurer for credit to the Department of
20 Revenue Enforcement Fund.

21 (2) Each registered music licensing agency shall make available
22 electronically to proprietors the most current available list of members
23 and affiliates represented by the music licensing agency and the most
24 current available list of the performed works that the music licensing
25 agency licenses.

26 Sec. 21. (1) Beginning January 1, 2018, no music licensing agency
27 may enter into, or offer to enter into, a contract for the payment of
28 royalties by a proprietor unless at least seventy-two hours prior to the
29 execution of that contract it provides to the proprietor or the
30 proprietor's employees, in writing, the following:

31 (a) A schedule of the rates and terms of royalties under the

1 contract; and

2 (b) Notice that the proprietor is entitled to the information filed
3 with the Department of Revenue pursuant to section 20 of this act.

4 (2) Beginning January 1, 2018, a contract for the payment of
5 royalties executed in this state shall:

6 (a) Be in writing;

7 (b) Be signed by the parties; and

8 (c) Include, at least, the following information:

9 (i) The proprietor's name and business address;

10 (ii) The name and location of each place of business to which the
11 contract applies;

12 (iii) The duration of the contract; and

13 (iv) The schedule of rates and terms of the royalties to be
14 collected under the contract, including any sliding scale or schedule for
15 any increase or decrease of those rates for the duration of the contract.

16 Sec. 22. (1) Beginning January 1, 2018, before seeking payment or a
17 contract for payment of royalties for the use of copyrighted works by
18 that proprietor, a representative or agent for a music licensing agency
19 shall identify himself or herself to the proprietor or the proprietor's
20 employees, disclose that he or she is acting on behalf of a music
21 licensing agency, and disclose the purpose for being on the premises.

22 (2) A representative or agent of a music licensing agency shall not:

23 (a) Use obscene, abusive, or profane language when communicating
24 with a proprietor or his or her employees;

25 (b) Communicate by telephone or in-person with a proprietor other
26 than at the proprietor's place of business during the hours when the
27 proprietor's business is open to the public unless otherwise authorized
28 by the proprietor or the proprietor's agents, employees, or
29 representatives;

30 (c) Engage in any coercive conduct, act, or practice that is
31 substantially disruptive to a proprietor's business;

1 (d) Use or attempt to use any unfair or deceptive act or practice in
2 negotiating with a proprietor; or

3 (e) Communicate with an unlicensed proprietor about licensing
4 performances of musical works at the proprietor's establishment after
5 receiving notification in writing from an attorney representing the
6 proprietor that all further communications related to the licensing of
7 the proprietor's establishment by the music licensing agency should be
8 addressed to the attorney unless the attorney fails to respond to
9 communications from the music licensing agency within sixty days, or the
10 attorney becomes nonresponsive for a period of sixty days or more.

11 Sec. 23. The Department of Revenue shall inform proprietors of their
12 rights and responsibilities regarding the public performance of
13 copyrighted music as part of the business licensing service.

14 Sec. 24. Nothing in the Music Licensing Agency Act may be construed
15 to prohibit a music licensing agency from conducting an investigation to
16 determine the existence of music use by a proprietor's business or
17 informing a proprietor of the proprietor's obligations under the
18 copyright laws of the United States pursuant to 17 U.S.C. 101 et seq., as
19 such sections existed on January 1, 2017.

20 Sec. 25. Section 59-1404, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 59-1404 Upon compliance with the Music Licensing Agency Act,
23 provisions of sections 59-1401 to 59-1406 the copyright owner, and his or
24 her proprietors, their assigns and licensees, of a nondramtic musical
25 work compositions copyrighted under the laws of the United States shall
26 be entitled to all the benefits thereof.

27 Sec. 26. Section 59-1405, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 59-1405 All music licensing agencies persons who sell, license the
30 use of, or in any manner whatsoever dispose of, in this state, the
31 performing rights in or to any copyrighted musical composition shall

1 refrain from discriminating in price or terms between licensees similarly
2 situated, except ; ~~Provided, however,~~ that differentials based upon
3 applicable business factors which justify different prices or terms shall
4 not be considered discriminations within the meaning of this section.
5 Nothing ; ~~and provided further, that nothing~~ contained in this section
6 shall prevent price changes from time to time by reason of changing
7 conditions affecting the market for or marketability of performing
8 rights.

9 Sec. 27. Section 59-1406, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 59-1406 Any person violating the Music Licensing Agency Act sections
12 ~~59-1401 to 59-1406~~ shall be fined an amount not less than five ~~one~~
13 hundred dollars and not more than two ~~one~~ thousand dollars. Multiple
14 violations on a single day may be considered separate violations.

15 Sec. 28. Sections 12 and 31 of this act become operative on January
16 1, 2018. The other sections of this act become operative on their
17 effective date.

18 Sec. 29. If any section in this act or any part of any section is
19 declared invalid or unconstitutional, the declaration shall not affect
20 the validity or constitutionality of the remaining portions.

21 Sec. 30. Original sections 53-118, 59-1401, 59-1403, 59-1404,
22 59-1405, and 59-1406, Reissue Revised Statutes of Nebraska, and sections
23 53-101, 53-103, 53-123.01, 53-123.14, 53-123.15, 53-124.11, 53-134.01,
24 53-164.01, 53-175, 53-186.01, 53-1,100, and 53-1,104, Revised Statutes
25 Cumulative Supplement, 2016, are repealed.

26 Sec. 31. Original section 53-168, Reissue Revised Statutes of
27 Nebraska, is repealed.

28 Sec. 32. Since an emergency exists, this act takes effect when
29 passed and approved according to law.