

Updated for the 2018 Legislative Session and includes any amendments adopted to-date.

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

| ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates) | | | | |
|--|--------------|-----------|--------------|-----------|
| | FY 2018-19 | | FY 2019-20 | |
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | \$33,864 | \$100,000 | \$0 | \$100,000 |
| CASH FUNDS | | | | |
| FEDERAL FUNDS | | | | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | \$33,864 | \$100,000 | \$0 | \$100,000 |

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 632, as amended by AM1303, changes the Nebraska Liquor Control Act to amend a number of sections of Chapter 53 and adds new language to Chapter 59 to create the Music Licensing Agency Act.

Section 53-103 is amended to define a bottle club and to provide a licensing requirement for the operator of a bottle club.

Section 53-123.01, as amended by AM1303 (as amended by AM1350) requires that all alcoholic beverages purchased for resale in Nebraska, prior to being resold must physically come into the possession of a licensed wholesaler.

This section is also amended to provide that a craft brewery may hold retail licenses for up to five satellite locations and that these locations are disclosed to the Liquor Control Commission and are 100% owned by the brewery. The brewery may also transfer its product directly to a satellite location without the use of a Nebraska licensed wholesaler but any other transfer must first come into possession of a licensed wholesaler.

Section 53-123.01 is also amended to define “bar” and “satellite location.”

Section 53-123.14 is amended to provide that a craft brewery is prohibited from owning or selling directly to licensed retailers.

Section 53-123.15 is amended to require a third-party shipper to file an annual report regarding shipments into Nebraska with the Liquor Commission.

Section 53-134.01 is amended to increase the container size under a limited bottling endorsement from 32 ounces to 64 ounces.

Section 53-164.01 is amended regarding the payment of taxes imposed by Section 53-160 (tax on manufacturer and wholesaler) to provide that the tax on beer sold by a wholesaler to a retailer shall be paid by a wholesaler and that the tax on beer sold by a craft brewer directly to a consumer or retailer shall be paid by the craft brewer.

Section 53-168 is amended to make it illegal for a wholesaler to sell to a retail licensee who has a payment on account which is more than 34 days overdue. It also provides for reporting requirements to the Commission, requirements regarding the invoice, requires the Commission to maintain and update daily a list of retail licensees with overdue accounts, and makes it unlawful for a wholesaler to accept a postdated check, a note, or a memorandum for sale of liquor.

Section 53-175 is amended to allow the Commission to waive the requirement that a Special Designated License holder purchase from a wholesaler. The Commission may waive for certain nonprofit organizations, municipal corporations, fine art organizations, and religious organizations.

Section 53-1,100 regarding penalties is amended to say that a second violation of this section occurring within four years after the date of a first violation may result in the licensee being required to suspend sales for up to 48 hours. A third or subsequent violation in the same time period may result in the licensee being required to suspend sales for up to 15 days.

Chapter 59 is amended to create the Music Licensing Agency Act. Provisions of the Act require a “music licensing agency” to register annually with the Department of Revenue and file an annual electronic copy of each performing-rights agreement providing for the payment of royalties made available from the music licensing agency to any proprietor in Nebraska. The Department of Revenue is also required to inform proprietors of their rights and responsibilities regarding the public performance of copyrighted music.

The Act provides responsibilities for music licensing agencies regarding contracts for royalties; duties regarding their conduct in seeking payment or communicating with a proprietor; and conducting investigations on the use of copyrighted music.

The Act provides for a late fee for failure to register on or before January 1 of each year of \$10,000 per 30-day period which passes after January 1. Any such fees collected are to be credited to the Department of Revenue Enforcement Fund.

Section 59-1405 is amended to provide a penalty of not less than \$500 and not more than \$2,000 for violations of the Act. Multiple violations on a single day may be considered separate violations.

The bill now contains the emergency clause.

FISCAL IMPACT:

The fiscal impact of LB 632 that amends Chapter 53 is minimal. Costs to implement the provisions of LB 632 that amend Chapter 53 would also be minimal.

The Liquor Control Commission indicates no fiscal impact or cost.

We agree with the Commission's estimate of fiscal impact and cost.

The Department of Revenue estimates the fiscal impact of the portions of LB 632 that amend Chapter 59 to create the Music Licensing Agency Act would include 0.5 FTE for a Revenue Specialist at \$33,864, with PSL of \$25,586 for FY18-19.

We agree with the Department of Revenue's estimate of cost.

We estimate an increase to the General Fund of \$100,000 per fiscal year. We are aware of at least three music licensing agencies which have conducted and continue to conduct business in Nebraska. It appears that only one of these entities currently pays the Nebraska tax imposed by Section 59-1403. It is anticipated that Department of Revenue collection efforts will result in the additional revenue impact.

2018

FISCAL NOTE

Nebraska Secretary of State's Office

| | FY 2018-19 | | FY 2019-20 | |
|---------------|---------------------|----------------|---------------------|----------------|
| | <u>EXPENDITURES</u> | <u>REVENUE</u> | <u>EXPENDITURES</u> | <u>REVENUE</u> |
| GENERAL FUNDS | _____ | (190,000) | _____ | (190,000) |
| CASH FUNDS | _____ | _____ | _____ | _____ |
| FEDERAL FUNDS | _____ | _____ | _____ | _____ |
| OTHER FUNDS | _____ | _____ | _____ | _____ |
| TOTAL FUNDS | ===== | (190,000) | _____ | (190,000) |

LB 632 AM 1303 transfers responsibility for collection of taxes for the act of selling, licensing or otherwise disposing of performing rights in any copyrighted musical composition from the Secretary of State to the Department of Revenue. Reduced General Fund revenues will be offset by increased revenue at Department of Revenue.

All additional enforcement duties required by LB 632 were also transferred to Department of Revenue by AM 1303. There will be no increase in expenditures for Secretary of State. No resources were previously committed to this activity other than receipting and depositing the money, so there will be no decrease in expenditures for Secretary of State.

Personal Services:

| POSITION TITLE | NUMBER OF POSITIONS | | 2018-19 | 2019-20 |
|---------------------------|---------------------|-------|--------------|--------------|
| | 18-19 | 19-20 | EXPENDITURES | EXPENDITURES |
| Benefits..... | | | | |
| Operating..... | | | | |
| Travel..... | | | | |
| Capital outlay..... | | | | |
| Aid..... | | | | |
| Capital improvements..... | | | | |
| TOTAL..... | | | | |