

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 632

Introduced by Larson, 40.

Read first time January 18, 2017

Committee: General Affairs

1 A BILL FOR AN ACT relating to government regulation; to amend sections
2 59-1401, 59-1403, 59-1404, 59-1405, and 59-1406, Reissue Revised
3 Statutes of Nebraska, and sections 53-101, 53-103, 53-123.01,
4 53-123.14, 53-123.15, 53-124.11, 53-134.01, 53-164.01, 53-186.01,
5 53-1,100, and 53-1,104, Revised Statutes Cumulative Supplement,
6 2016; to define bottle club; to require licensure of bottle clubs as
7 prescribed; to require annual reports by third-party shippers as
8 prescribed; to change provisions relating to manufacturers'
9 licenses, craft brewery licenses, and special designated licenses as
10 prescribed; to change requirements for the sale of beer by certain
11 licensees; to change provisions relating to taxation of beer; to
12 prohibit consumption of alcoholic liquor at bottle clubs as
13 prescribed; to change penalty provisions of the Nebraska Liquor
14 Control Act; to name the Music Licensing Agency Act; to define and
15 redefine terms; to eliminate obsolete references; to provide duties;
16 to require music licensing agencies to register with the Secretary
17 of State; to change penalties; to harmonize provisions; and to
18 repeal the original sections.
19 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-101, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

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

5 Sec. 2. Section 53-103, Revised Statutes Cumulative Supplement,
6 2016, is amended to read:

7 53-103 For purposes of the Nebraska Liquor Control Act, the
8 definitions found in sections 53-103.01 to 53-103.46 and section 3 of
9 this act apply.

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

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

24 Sec. 5. Section 53-123.01, Revised Statutes Cumulative Supplement,
25 2016, is amended to read:

26 53-123.01 (1) A manufacturer's license shall allow the manufacture,
27 storage, and sale of alcoholic liquor to wholesale licensees in this
28 state and to such persons outside the state as may be permitted by law,
29 except that nothing in the Nebraska Liquor Control Act shall prohibit a
30 manufacturer of beer from distributing tax-paid samples of beer at the
31 premises of a licensed manufacturer for consumption on the premises. A

1 manufacturer's license issued pursuant to this section shall be the only
2 license required by the Nebraska Liquor Control Act for the manufacture
3 and retail sale of beer manufactured on the licensed premises for
4 consumption on the licensed premises. All alcoholic beverages purchased
5 for resale in this state prior to being resold at retail shall physically
6 come into the possession of a licensed wholesaler and be unloaded into
7 and distributed from the licensed wholesaler's warehouse located in this
8 state.

9 (2)(a) A licensee who or which first obtains a craft brewery license
10 pursuant to section 53-123.14, holds such license for not less than three
11 years, and operates a brewpub or microbrewery on the licensed premises of
12 such craft brewery license shall obtain a manufacturer's license when the
13 manufacture of beer on the licensed premises exceeds twenty thousand
14 barrels per year. The manufacturer's license shall authorize the
15 continued retail sale of beer for consumption on or off the premises but
16 only to the extent the premises were previously licensed as a craft
17 brewery. The sale of any beer other than beer manufactured by the
18 licensee, wine, or alcoholic liquor for consumption on the licensed
19 premises shall require the appropriate retail license. Notwithstanding
20 section 53-123.14, if the holder of a craft brewery license or
21 manufacturer's license, or any person owning an interest in such license,
22 owned an interest in a retail license located off the craft brewery's or
23 manufacturer's licensed premises or off the licensed premises of a
24 brewpub owned by the craft brewery as of January 1, 2017, such holder or
25 owner of such interest in such license may continue to own an interest in
26 such off-site retail license but may not acquire an interest in any
27 additional off-site retail licenses. Notwithstanding subsection (1) of
28 this section, the holder of such craft brewery license or manufacturer's
29 license may sell and directly deliver, to any retail location that it
30 wholly owns, any beer manufactured by such craft brewery or manufacturer
31 on its licensed premises ~~The holder of such manufacturer's license may~~

1 ~~continue to operate up to five retail locations which are in operation at~~
2 ~~the time such manufacturer's license is issued and shall divest itself~~
3 ~~from retail locations in excess of five locations. The licensee shall not~~
4 ~~begin operation at any new retail location even if the licensee's~~
5 ~~production is reduced below twenty thousand barrels per year.~~

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

10 Sec. 6. Section 53-123.14, Revised Statutes Cumulative Supplement,
11 2016, is amended to read:

12 53-123.14 Any person who operates a craft brewery shall obtain a
13 license pursuant to the Nebraska Liquor Control Act. A license to operate
14 a craft brewery shall permit the production of a maximum of twenty
15 thousand barrels of beer per year in the aggregate from all physical
16 locations comprising the licensed premises. For purposes of this section,
17 licensed premises may include up to five separate craft brewery or
18 brewpub premises. A craft brewery may also sell to beer wholesalers for
19 sale and distribution to licensed retailers, and, except as provided in
20 this section and section 53-123.01, a craft brewery or any person owning
21 an interest in a craft brewery is prohibited from owning or selling
22 directly to licensed retailers. A craft brewery license issued pursuant
23 to this section shall be the only license required by the Nebraska Liquor
24 Control Act for the manufacture and retail sale of beer for consumption
25 on or off the licensed premises, except that the sale of any beer other
26 than beer manufactured by the craft brewery licensee, wine, or alcoholic
27 liquor by the drink for consumption on the licensed premises shall
28 require the appropriate retail license. Any license held by the operator
29 of a craft brewery shall be subject to the act. A holder of a craft
30 brewery license may obtain an annual catering license pursuant to section
31 53-124.12, a special designated license pursuant to section 53-124.11, or

1 an entertainment district license pursuant to section 53-123.17.—For
2 purposes of this section, licensed premises may include up to five
3 separate physical locations.

4 Sec. 7. Section 53-123.15, Revised Statutes Cumulative Supplement,
5 2016, is amended to read:

6 53-123.15 (1) No person shall order or receive alcoholic liquor in
7 this state which has been shipped directly to him or her from outside
8 this state by any person other than a holder of a shipping license issued
9 by the commission, except that a licensed wholesaler may receive not more
10 than three gallons of wine in any calendar year from any person who is
11 not a holder of a shipping license.

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

21 (3) The commission may issue a shipping license to any person who
22 deals with vintage wines, which shipping license shall allow the licensee
23 to distribute such wines to a licensed wholesaler in the state. For
24 purposes of distributing vintage wines, a licensed shipper must utilize a
25 designated wholesaler if the manufacturer has a designated wholesaler.
26 For purposes of this section, vintage wine shall mean a wine verified to
27 be ten years of age or older and not available from a primary American
28 source of supply. A person who receives a license pursuant to this
29 subsection shall pay the fee required in sections 53-124 and 53-124.01
30 for a vintage wine dealer's shipping license. Such fee shall be collected
31 by the commission and be remitted to the State Treasurer for credit to

1 the General Fund.

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

22 (6) The application for a shipping license under subsection (2) or
23 (3) of this section shall be in such form as the commission prescribes.
24 The application shall contain all provisions the commission deems proper
25 and necessary to effectuate the purpose of any section of the act and the
26 rules and regulations of the commission that apply to manufacturers and
27 shall include, but not be limited to, provisions that the applicant, in
28 consideration of the issuance of such shipping license, agrees:

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

1 (b) To permit and be subject to all of the powers granted by section
2 53-164.01 to the commission or its duly authorized employees or agents
3 for inspection and examination of the applicant's premises and records
4 and to pay the actual expenses, excluding salary, reasonably attributable
5 to such inspections and examinations made by duly authorized employees of
6 the commission if within the United States; and

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

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

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

27 (b) To permit and be subject to all of the powers granted by section
28 53-164.01 to the commission or its duly authorized employees or agents
29 for inspection and examination of the applicant's premises and records
30 and to pay the actual expenses, excluding salary, reasonably attributable
31 to such inspections and examinations made by duly authorized employees of

1 the commission if within the United States;

2 (c) That if the applicant violates any of the provisions of the
3 application or the license, any section of the act, or any of the rules
4 and regulations of the commission that apply to manufacturers or
5 retailers, the commission may suspend, cancel, or revoke such shipping
6 license for such period of time as it may determine;

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

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

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

25 (a) Only ship the brands of alcoholic liquor identified on the
26 application;

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

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

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

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

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

31 (9) For purposes of sections 53-160, 77-2703, and 77-27,142, each

1 shipment of alcoholic liquor by the holder of a shipping license under
2 subsection (3), (4), or (5) of this section shall constitute a sale in
3 Nebraska by establishing a nexus in the state. The holder of the shipping
4 license shall collect all the taxes due to the State of Nebraska and any
5 political subdivision and remit any excise taxes monthly to the
6 commission and any sales taxes to the Department of Revenue.

7 (10) A third-party shipper shall file an annual report with the
8 commission, in the form and manner prescribed by the commission,
9 regarding shipments of alcohol the third-party shipper has made into the
10 state ~~By July 1, 2014, the commission shall report to the General Affairs~~
11 ~~Committee of the Legislature the number of shipping licenses issued for~~
12 ~~license years 2013-14 and 2014-15. The report shall be made~~
13 ~~electronically.~~

14 Sec. 8. Section 53-124.11, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 53-124.11 (1) The commission may issue a special designated license
17 for sale or consumption of alcoholic liquor at a designated location to a
18 retail licensee, a craft brewery licensee, a microdistillery licensee, a
19 farm winery licensee, the holder of a manufacturer's license issued
20 pursuant to subsection (2) of section 53-123.01, a municipal corporation,
21 a fine arts museum incorporated as a nonprofit corporation, a religious
22 nonprofit corporation which has been exempted from the payment of federal
23 income taxes, a political organization which has been exempted from the
24 payment of federal income taxes, or any other nonprofit corporation the
25 purpose of which is fraternal, charitable, or public service and which
26 has been exempted from the payment of federal income taxes, under
27 conditions specified in this section. The applicant shall demonstrate
28 meeting the requirements of this subsection.

29 (2) No retail licensee, craft brewery licensee, microdistillery
30 licensee, farm winery licensee, holder of a manufacturer's license issued
31 pursuant to subsection (2) of section 53-123.01, organization, or

1 corporation enumerated in subsection (1) of this section may be issued a
2 special designated license under this section for more than six calendar
3 days in any one calendar year, and not more than twelve special
4 designated licenses shall be issued to any licensee in any calendar year.
5 Only one special designated license shall be required for any application
6 for two or more consecutive days. This subsection shall not apply to any
7 holder of a catering license.

8 (3) Except for any special designated license issued to a holder of
9 a catering license, there shall be a fee of forty dollars for each day
10 identified in the special designated license. Such fee shall be submitted
11 with the application for the special designated license, collected by the
12 commission, and remitted to the State Treasurer for credit to the General
13 Fund. The applicant shall be exempt from the provisions of the Nebraska
14 Liquor Control Act requiring an application or renewal fee and the
15 provisions of the act requiring the expiration of forty-five days from
16 the time the application is received by the commission prior to the
17 issuance of a license, if granted by the commission. The retail
18 licensees, craft brewery licensees, microdistillery licensees, farm
19 winery licensees, holders of manufacturer's licenses issued pursuant to
20 subsection (2) of section 53-123.01, municipal corporations,
21 organizations, and nonprofit corporations enumerated in subsection (1) of
22 this section seeking a special designated license shall file an
23 application on such forms as the commission may prescribe. Such forms
24 shall contain, along with other information as required by the
25 commission, (a) the name of the applicant, (b) the premises for which a
26 special designated license is requested, identified by street and number
27 if practicable and, if not, by some other appropriate description which
28 definitely locates the premises, (c) the name of the owner or lessee of
29 the premises for which the special designated license is requested, (d)
30 sufficient evidence that the holder of the special designated license, if
31 issued, will carry on the activities and business authorized by the

1 license for himself, herself, or itself and not as the agent of any other
2 person, group, organization, or corporation, for profit or not for
3 profit, (e) a statement of the type of activity to be carried on during
4 the time period for which a special designated license is requested, and
5 (f) sufficient evidence that the activity will be supervised by persons
6 or managers who are agents of and directly responsible to the holder of
7 the special designated license.

8 (4) No special designated license provided for by this section shall
9 be issued by the commission without the approval of the local governing
10 body. The local governing body may establish criteria for approving or
11 denying a special designated license. The local governing body may
12 designate an agent to determine whether a special designated license is
13 to be approved or denied. Such agent shall follow criteria established by
14 the local governing body in making his or her determination. The
15 determination of the agent shall be considered the determination of the
16 local governing body unless otherwise provided by the local governing
17 body. For purposes of this section, the local governing body shall be the
18 city or village within which the premises for which the special
19 designated license is requested are located or, if such premises are not
20 within the corporate limits of a city or village, then the local
21 governing body shall be the county within which the premises for which
22 the special designated license is requested are located.

23 (5) If the applicant meets the requirements of this section, a
24 special designated license shall be granted and issued by the commission
25 for use by the holder of the special designated license. All statutory
26 provisions and rules and regulations of the commission that apply to a
27 retail licensee shall apply to the holder of a special designated license
28 with the exception of such statutory provisions and rules and regulations
29 of the commission so designated by the commission and stated upon the
30 issued special designated license, except that the commission may not
31 designate exemption of sections 53-123.01 to 53-123.03, 53-123.14,

1 53-169, and 53-180 to 53-180.07. The commission shall not designate
2 exemption of statutes, rules, and regulations except upon a showing of
3 substantial need and undue hardship. The decision of the commission shall
4 be final. If the applicant does not qualify for a special designated
5 license, the application shall be denied by the commission.

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

10 Sec. 9. Section 53-134.01, Revised Statutes Cumulative Supplement,
11 2016, is amended to read:

12 53-134.01 (1) The holder of a Class C license may obtain a limited
13 bottling endorsement for such license as prescribed in this section. The
14 endorsement shall be issued for the same period and may be renewed in the
15 same manner as the Class C license. A limited bottling endorsement may
16 not be used in conjunction with a special designated license.

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

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

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

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

1 (c) The licensee seals the container in a manner designed so that it
2 is visibly apparent whether the sealed container has been tampered with
3 or opened or seals the container and places the container in a bag
4 designed so that it is visibly apparent whether the sealed container has
5 been tampered with or opened; and

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

9 Sec. 10. Section 53-164.01, Revised Statutes Cumulative Supplement,
10 2016, is amended to read:

11 53-164.01 Payment of the tax provided for in section 53-160 on
12 alcoholic liquor shall be paid by the manufacturer or wholesaler as
13 follows:

14 (1)(a) All manufacturers or wholesalers, except farm winery
15 producers, whether inside or outside this state shall, on or before the
16 twenty-fifth day of each calendar month following the month in which
17 shipments were made, submit a report to the commission upon forms
18 furnished by the commission showing the total amount of alcoholic liquor
19 in gallons or fractional parts thereof shipped by such manufacturer or
20 wholesaler, whether inside or outside this state, during the preceding
21 calendar month;

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

28 (c)(i) Except as provided in subdivision (ii) of this subdivision,
29 farm winery producers which paid less than one thousand dollars of excise
30 taxes pursuant to section 53-160 for the previous calendar year and which
31 will pay less than one thousand dollars of excise taxes pursuant to

1 section 53-160 for the current calendar year shall, on or before the
2 twenty-fifth day of the calendar month following the end of the year in
3 which wine was packaged and released from bond, submit a report to the
4 commission upon forms furnished by the commission showing the total
5 amount of wine in gallons or fractional parts thereof packaged and
6 released from bond by such producer during the preceding calendar year;
7 and

8 (ii) Farm winery producers which paid one thousand dollars or more
9 of excise taxes pursuant to section 53-160 for the previous calendar year
10 or which become liable for one thousand dollars or more of excise taxes
11 pursuant to section 53-160 during the current calendar year shall, on or
12 before the twenty-fifth day of each calendar month following the month in
13 which wine was packaged and released from bond, submit a report to the
14 commission upon forms furnished by the commission showing the total
15 amount of wine in gallons or fractional parts thereof packaged and
16 released from bond by such producer during the preceding calendar month.
17 A farm winery producer which becomes liable for one thousand dollars or
18 more of excise taxes pursuant to section 53-160 during the current
19 calendar year shall also pay such excise taxes immediately;

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

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

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

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

11 (3) The tax imposed pursuant to section 53-160 shall be due on the
12 date the report is due less a discount of one percent of the tax on
13 alcoholic liquor for submitting the report and paying the tax in a timely
14 manner. The discount shall be deducted from the payment of the tax before
15 remittance to the commission and shall be shown in the report to the
16 commission as required in this section. If the tax is not paid within the
17 time provided in this section, the discount shall not be allowed and
18 shall not be deducted from the tax. The tax imposed on beer pursuant to
19 section 53-160 shall be paid by beer wholesalers to the extent that they
20 are selling the beer to retailers. The tax imposed on beer pursuant to
21 section 53-160 shall be paid by craft brewers to the extent that they are
22 selling the beer directly to consumers and retailers;

23 (4) If the report is not submitted by the twenty-fifth day of the
24 calendar month or if the tax is not paid to the commission by the twenty-
25 fifth day of the calendar month, the following penalties shall be
26 assessed on the amount of the tax: One to five days late, three percent;
27 six to ten days late, six percent; and over ten days late, ten percent.
28 In addition, interest on the tax shall be collected at the rate of one
29 percent per month, or fraction of a month, from the date the tax became
30 due until paid;

31 (5) No tax shall be levied or collected on alcoholic liquor

1 manufactured inside this state and shipped or transported outside this
2 state for sale and consumption outside this state;

3 (6) In order to insure the payment of all state taxes on alcoholic
4 liquor, together with interest and penalties, persons required to submit
5 reports and payment of the tax shall, at the time of application for a
6 license under sections 53-124 and 53-124.01, enter into a surety bond
7 with corporate surety, both the bond form and surety to be approved by
8 the commission. Subject to the limitations specified in this subdivision,
9 the amount of the bond required of any taxpayer shall be fixed by the
10 commission and may be increased or decreased by the commission at any
11 time. In fixing the amount of the bond, the commission shall require a
12 bond equal to the amount of the taxpayer's estimated maximum monthly
13 excise tax ascertained in a manner as determined by the commission.
14 Nothing in this section shall prevent or prohibit the commission from
15 accepting and approving bonds which run for a term longer than the
16 license period. The amount of a bond required of any one taxpayer shall
17 not be less than one thousand dollars. The bonds required by this section
18 shall be filed with the commission; and

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

27 Sec. 11. Section 53-186.01, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 53-186.01 (1) It shall be unlawful for any person owning, operating,
30 managing, or conducting any bottle club, dance hall, restaurant, cafe, or
31 club or any place open to the general public to permit or allow any

1 person to consume alcoholic liquor upon the premises except as permitted
2 by a license issued for such premises pursuant to the Nebraska Liquor
3 Control Act.

4 (2) It shall be unlawful for any person to consume alcoholic liquor
5 in any bottle club, dance hall, restaurant, cafe, or club or any place
6 open to the general public except as permitted by a license issued for
7 such premises pursuant to the act.

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

11 (4) Any person violating subsection (1) of this section shall, upon
12 conviction thereof, be subject to the penalties contained in section
13 53-1,100.

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

16 Sec. 12. Section 53-1,100, Revised Statutes Cumulative Supplement,
17 2016, is amended to read:

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

1 Class II misdemeanor and subject to subsection (5) of this section, if
2 applicable.

3 (2) Any person who manufactures spirits at any place within the
4 state without having first obtained a valid license to do so under the
5 act shall be guilty of a Class I misdemeanor for a first offense and a
6 Class IV felony for a second or subsequent offense and subject to
7 subsection (5) of this section, if applicable.

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

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

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

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

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

30 Sec. 13. Section 53-1,104, Revised Statutes Cumulative Supplement,
31 2016, is amended to read:

1 53-1,104 (1) Any licensee which sells or permits the sale of any
2 alcoholic liquor not authorized under the terms of such license on the
3 licensed premises or in connection with such licensee's business or
4 otherwise shall be subject to suspension, cancellation, or revocation of
5 such license by the commission.

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

21 (3)(a) For a second suspension for violation of section 53-180 or
22 53-180.02 occurring within four years after the date of the first
23 suspension, the commission, in its discretion, may order that the
24 licensee be required to suspend sales of alcoholic liquor for a period of
25 time not to exceed forty-eight hours and that the licensee may not elect
26 to pay a cash penalty. The commission may use the required suspension of
27 sales of alcoholic liquor penalty either alone or in conjunction with
28 suspension periods for which the licensee may elect to pay a cash
29 penalty. For purposes of this subsection, second suspension for violation
30 of section 53-180 shall include suspension for a violation of section
31 53-180.02 following suspension for a violation of section 53-180 and

1 second suspension for violation of section 53-180.02 shall include
2 suspension for a violation of section 53-180 following suspension for a
3 violation of section 53-180.02;

4 (b) For a third or subsequent suspension for violation of section
5 53-180 or 53-180.02 occurring within four years after the date of the
6 first suspension, the commission, in its discretion, may order that the
7 licensee be required to suspend sales of alcoholic liquor for a period of
8 time not to exceed fifteen days and that the licensee may not elect to
9 pay a cash penalty. The commission may use the required suspension of
10 sales of alcoholic liquor penalty either alone or in conjunction with
11 suspension periods for which the licensee may elect to pay a cash
12 penalty. For purposes of this subsection, third or subsequent suspension
13 for violation of section 53-180 shall include suspension for a violation
14 of section 53-180.02 following suspension for a violation of section
15 53-180 and third or subsequent suspension for violation of section
16 53-180.02 shall include suspension for a violation of section 53-180
17 following suspension for a violation of section 53-180.02; and

18 (c) For a first suspension based upon a finding that a licensee or
19 an employee or agent of the licensee has been convicted of possession of
20 a gambling device on a licensee's premises in violation of sections
21 28-1107 to 28-1111, the commission, in its discretion, may order that the
22 licensee be required to suspend sales of alcoholic liquor for thirty days
23 and that the licensee may not elect to pay a cash penalty. For a second
24 or subsequent suspension for such a violation of sections 28-1107 to
25 28-1111 occurring within four years after the date of the first
26 suspension, the commission shall order that the license be canceled.

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

30 (5) The election provided for in subsection (2) of this section
31 shall be filed with the commission in writing one week before the

1 suspension is ordered to commence and shall be accompanied by payment in
2 full of the sum required by this section. If such election has not been
3 received by the commission by the close of business one week before the
4 day such suspension is ordered to commence, it shall be conclusively
5 presumed that the licensee has elected to close for the period of the
6 suspension and any election received later shall be absolutely void and
7 the payment made shall be returned to the licensee. The election shall be
8 made on a form prescribed by the commission. The commission shall remit
9 all funds collected under this section to the State Treasurer for
10 distribution in accordance with Article VII, section 5, of the
11 Constitution of Nebraska.

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

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

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

26 Sec. 15. For purposes of the Music Licensing Agency Act:

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

1 audiovisual work;

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

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

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

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

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

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

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

1 the gross receipts of the preceding calendar year. ~~At the time of paying~~
2 ~~the said tax the Secretary of State shall issue a receipt therefor in~~
3 ~~duplicate, one of which shall be given to the taxpayer and one filed with~~
4 ~~the State Treasurer at the time the tax collected is paid by the~~
5 ~~Secretary of State to the state treasury.~~ The Secretary of State shall
6 adopt and promulgate ~~publish~~ rules and regulations not in conflict with
7 this section herewith, as well as a form of return and any other forms
8 necessary to carry out ~~the provisions of~~ this section.

9 Sec. 17. (1) A music licensing agency shall not license or attempt
10 to license the use of or collect or attempt to collect any compensation
11 with regard to any sale, license, or other disposition of a performing
12 right unless the music licensing agency registers and files annually with
13 the Secretary of State an electronic copy of each performing-rights
14 agreement providing for the payment of royalties made available from the
15 music licensing agency to any proprietor within this state.

16 (2) Each music licensing agency shall make available electronically
17 to proprietors the most current available list of members and affiliates
18 represented by the music licensing agency and the most current available
19 list of the performed works that the music licensing agency licenses.

20 Sec. 18. (1) No music licensing agency may enter into, or offer to
21 enter into, a contract for the payment of royalties by a proprietor
22 unless at least seventy-two hours prior to the execution of that contract
23 it provides to the proprietor or the proprietor's employees, in writing,
24 the following:

25 (a) A schedule of the rates and terms of royalties under the
26 contract; and

27 (b) Notice that the proprietor is entitled to the information filed
28 with the Secretary of State pursuant to section 17 of this act.

29 (2) A contract for the payment of royalties executed in this state
30 shall:

31 (a) Be in writing;

1 (b) Be signed by the parties; and

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

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

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

6 (iii) The duration of the contract; and

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

10 Sec. 19. (1) Before seeking payment or a contract for payment of
11 royalties for the use of copyrighted works by that proprietor, a
12 representative or agent for a music licensing agency shall identify
13 himself or herself to the proprietor or the proprietor's employees,
14 disclose that he or she is acting on behalf of a music licensing agency,
15 and disclose the purpose for being on the premises.

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

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

19 (b) Communicate by telephone or in-person with a proprietor other
20 than at the proprietor's place of business during the hours when the
21 proprietor's business is open to the public unless otherwise authorized
22 by the proprietor or the proprietor's agents, employees, or
23 representatives;

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

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

28 (e) Communicate with an unlicensed proprietor about licensing
29 performances of musical works at the proprietor's establishment after
30 receiving notification in writing from an attorney representing the
31 proprietor that all further communications related to the licensing of

1 the proprietor's establishment by the music licensing agency should be
2 addressed to the attorney unless the attorney fails to respond to
3 communications from the music licensing agency within sixty days, or the
4 attorney becomes nonresponsive for a period of sixty days or more.

5 Sec. 20. The Secretary of State shall inform proprietors of their
6 rights and responsibilities regarding the public performance of
7 copyrighted music as part of the business licensing service.

8 Sec. 21. Nothing in the Music Licensing Agency Act may be construed
9 to prohibit a music licensing agency from conducting an investigation to
10 determine the existence of music use by a proprietor's business or
11 informing a proprietor of the proprietor's obligations under the
12 copyright laws of the United States pursuant to 17 U.S.C. 101 et seq., as
13 such sections existed on January 1, 2017.

14 Sec. 22. Section 59-1404, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 59-1404 Upon compliance with the Music Licensing Agency Act,
17 ~~provisions of sections 59-1401 to 59-1406~~ the copyright owner, and his or
18 her proprietors, their assigns and licensees, of a nondramatic musical
19 work compositions copyrighted under the laws of the United States shall
20 be entitled to all the benefits thereof.

21 Sec. 23. Section 59-1405, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 59-1405 All music licensing agencies ~~persons~~ who sell, license the
24 use of, or in any manner whatsoever dispose of, in this state, the
25 performing rights in or to any copyrighted musical composition shall
26 refrain from discriminating in price or terms between licensees similarly
27 situated, except ~~;~~ ~~Provided, however,~~ that differentials based upon
28 applicable business factors which justify different prices or terms shall
29 not be considered discriminations within the meaning of this section.
30 ~~Nothing ; and provided further, that nothing~~ contained in this section
31 shall prevent price changes from time to time by reason of changing

1 conditions affecting the market for or marketability of performing
2 rights.

3 Sec. 24. Section 59-1406, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 59-1406 Any person violating the Music Licensing Agency Act sections
6 ~~59-1401 to 59-1406~~ shall be fined an amount not less than five ~~one~~
7 hundred dollars and not more than two ~~one~~ thousand dollars. Multiple
8 violations on a single day may be considered separate violations.

9 Sec. 25. Original sections 59-1401, 59-1403, 59-1404, 59-1405, and
10 59-1406, Reissue Revised Statutes of Nebraska, and sections 53-101,
11 53-103, 53-123.01, 53-123.14, 53-123.15, 53-124.11, 53-134.01, 53-164.01,
12 53-186.01, 53-1,100, and 53-1,104, Revised Statutes Cumulative
13 Supplement, 2016, are repealed.