

AMENDMENTS TO LB734

Introduced by Hunt, 8.

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

3 Section 1. Section 53-101, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

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

7 Sec. 2. Section 53-116.01, Revised Statutes Cumulative Supplement,
8 2018, is amended to read:

9 53-116.01 (1) The commission and local governing bodies shall cause
10 frequent inspection to be made on the premises of all retail licensees
11 and bottle club licensees, and if it is found that any such licensee is
12 violating any provision of the Nebraska Liquor Control Act or the rules
13 and regulations of the commission adopted and promulgated under the act
14 or is failing to observe in good faith the purposes of the act, the
15 license may be suspended, canceled, or revoked after the licensee is
16 given an opportunity to be heard in his or her defense.

17 (2) The commission and local governing bodies may inspect a charter
18 bus providing service under a certificate of public convenience and
19 necessity granted by the Public Service Commission when the owner or
20 operator of the charter allows the consumption of alcoholic liquor in the
21 charter bus by an individual who is twenty-one years of age or older so
22 long as the inspection is performed when the bus has stopped for the
23 purpose of allowing passengers to embark or disembark.

24 Sec. 3. Section 53-117, Revised Statutes Cumulative Supplement,
25 2018, is amended to read:

26 53-117 The commission has the following powers, functions, and
27 duties:

1 (1) To receive applications for and to issue licenses to and
2 suspend, cancel, and revoke licenses of manufacturers, wholesalers,
3 nonbeverage users, retailers, railroads including owners and lessees of
4 sleeping, dining, and cafe cars, airlines, boats, bottle clubs, special
5 party buses, and pedal-pub vehicles in accordance with the Nebraska
6 Liquor Control Act;

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

25 (3) To call upon other administrative departments of the state,
26 county and municipal governments, county sheriffs, city police
27 departments, village marshals, peace officers, and prosecuting officers
28 for such information and assistance as the commission deems necessary in
29 the performance of its duties. The commission shall enter into an
30 agreement with the Nebraska State Patrol in which the Nebraska State
31 Patrol shall hire six new patrol officers and, from the entire Nebraska

1 State Patrol, shall designate a minimum of six patrol officers who will
2 spend a majority of their time in administration and enforcement of the
3 Nebraska Liquor Control Act;

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

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

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

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

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

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

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

27 Sec. 4. Section 53-117.07, Revised Statutes Cumulative Supplement,
28 2018, is amended to read:

29 53-117.07 All proceedings for the suspension, cancellation, or
30 revocation of licenses of manufacturers, wholesalers, nonbeverage users,
31 craft breweries, microdistilleries, railroads, airlines, shippers, boats,

1 special party buses, and pedal-pub vehicles shall be before the
2 commission, and the proceedings shall be in accordance with rules and
3 regulations adopted and promulgated by it not inconsistent with law. No
4 such license shall be so suspended, canceled, or revoked except after a
5 hearing by the commission with reasonable notice to the licensee and
6 opportunity to appear and defend.

7 Sec. 5. Section 53-123, Revised Statutes Cumulative Supplement,
8 2018, is amended to read:

9 53-123 Licenses issued by the commission shall be of the following
10 types: (1) Manufacturer's license; (2) alcoholic liquor wholesale
11 license, except beer; (3) beer wholesale license; (4) retail license; (5)
12 railroad license; (6) airline license; (7) boat license; (8) nonbeverage
13 user's license; (9) farm winery license; (10) craft brewery license; (11)
14 shipping license; (12) special designated license; (13) catering license;
15 (14) microdistillery license; (15) entertainment district license; (16)
16 pedal-pub vehicle license; ~~and~~ (17) bottle club license; and (18) special
17 party bus license.

18 Sec. 6. (1) The commission may issue a license to any person
19 providing special party bus service under a certificate of public
20 convenience and necessity granted by the Public Service Commission when
21 the person allows the consumption of alcoholic liquor in its special
22 party bus by an individual who is twenty-one years of age or older. Each
23 licensee shall keep a duplicate of such license in each special party bus
24 where such alcoholic liquor is consumed.

25 (2) Each license shall expire on April 30 of each year. Each license
26 shall be good throughout this state as a state license. Only one license
27 shall be required for all special party buses operated in this state by
28 the same owner. No further license shall be required or tax levied by any
29 county, city, or village for the privilege of allowing consumption of
30 alcoholic liquor in such buses.

31 Sec. 7. Section 53-124, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 53-124 (1) At the time application is made to the commission for a
3 license of any type, the applicant shall pay the fee provided in section
4 53-124.01 and, if the applicant is an individual, provide the applicant's
5 social security number. The commission shall issue the types of licenses
6 described in this section.

7 (2) There shall be an airline license, a boat license, a special
8 party bus license, a pedal-pub vehicle license, and a railroad license.
9 The commission shall charge one dollar for each duplicate of an airline
10 license, a special party bus license, a pedal-pub vehicle license, or a
11 railroad license.

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

- 15 (i) 1 to 100 barrel daily capacity, or any part thereof, tier one;
16 (ii) 100 to 150 barrel daily capacity, tier two;
17 (iii) 150 to 200 barrel daily capacity, tier three;
18 (iv) 200 to 300 barrel daily capacity, tier four;
19 (v) 300 to 400 barrel daily capacity, tier five;
20 (vi) 400 to 500 barrel daily capacity, tier six;
21 (vii) 500 barrel daily capacity, or more, tier seven.

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

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

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

1 (6)(a) There shall be six classes of retail licenses:

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

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

5 (iii) Class C: Alcoholic liquor, for consumption on the premises and
6 off the premises, sales in original packages only. If a Class C license
7 is held by a nonprofit corporation, it shall be restricted to consumption
8 on the premises only. A Class C license may have a sampling designation
9 restricting consumption on the premises to sampling, but such designation
10 shall not affect sales for consumption off the premises under such
11 license;

12 (iv) Class D: Alcoholic liquor, including beer, for consumption off
13 the premises, sales in the original packages only, except as provided in
14 subdivision (6)(a)(vi) of this section and subsection (2) of section
15 53-123.04;

16 (v) Class I: Alcoholic liquor, for consumption on the premises; and

17 (vi) Class J: Alcoholic liquor, including beer, for consumption off
18 the premises, sales in the original packages only, for a retail licensee
19 whose annual gross revenue from the sale of alcohol does not exceed
20 twenty percent of the licensee's total annual gross revenue from all
21 retail sales.

22 (b) All applicable license fees shall be paid by the applicant or
23 licensee directly to the city or village treasurer in the case of
24 premises located inside the corporate limits of a city or village and
25 directly to the county treasurer in the case of premises located outside
26 the corporate limits of a city or village.

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

30 (8) There shall be two types of wholesale licenses: Alcoholic liquor
31 and beer only. The annual fee shall be paid for the first and each

1 additional wholesale place of business operated in this state by the same
2 licensee and wholesaling the same product.

3 (9) There shall be a bottle club license. All applicable license
4 fees shall be paid by the applicant or licensee directly to the city or
5 village treasurer in the case of premises located inside the corporate
6 limits of a city or village and directly to the county treasurer in the
7 case of premises located outside the corporate limits of a city or
8 village.

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

21 Sec. 8. Section 53-124.01, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 53-124.01 (1) The fees for annual licenses finally issued by the
24 commission shall be as provided in this section and section 53-124.

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

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

27 (4) Bottle club license ... \$300

28 (5) Special party bus license ... \$75

29 (6) (5) Manufacturer's license:

30 Class Fee - In Dollars

1	Alcohol and spirits	1,000
2	Beer - tier one	100
3	Beer - tier two	200
4	Beer - tier three	350
5	Beer - tier four	500
6	Beer - tier five	650
7	Beer - tier six	700
8	Beer - tier seven	800
9	Wine	250
10	<u>(7)</u> (6) Nonbeverage user's license:	
11	Class	Fee - In Dollars
12	Class 1	5
13	Class 2	25
14	Class 3	50
15	Class 4	100
16	Class 5	250
17	<u>(8)</u> (7) Operator's license:	
18	Class	Fee - In Dollars
19	Craft brewery	250
20	Farm winery	250
21	Microdistillery	250
22	<u>(9)</u> (8) Pedal-pub vehicle license ... \$50	
23	<u>(10)</u> (9) Railroad license ... \$100	
24	<u>(11)</u> (10) Retail license:	
25	Class	Fee - In Dollars
26	Class A	100
27	Class B	100
28	Class C	300
29	Class D	200

1	Class I	250
2	Class J	50
3	<u>(12)</u> (11) Shipping license:	
4	Class	Fee - In Dollars
5	Manufacturer	1,000
6	Vintage wines	1,000
7	Manufacture direct sales	500
8	Retail direct sales	500
9	<u>(13)</u> (12) Wholesale license:	
10	Class	Fee - In Dollars
11	Alcoholic liquor	750
12	Beer	500

13 Sec. 9. Section 53-125, Revised Statutes Cumulative Supplement,
14 2018, is amended to read:

15 53-125 No license of any kind shall be issued to (1) a person who is
16 not a resident of Nebraska, except in case of railroad, airline, ~~or~~ boat,
17 or special party bus licenses, (2) a person who is not of good character
18 and reputation in the community in which he or she resides, (3) a person
19 who is not a Nebraska resident and legally able to work in Nebraska, (4)
20 a person who has been convicted of or has pleaded guilty to a felony
21 under the laws of this state, any other state, or the United States, (5)
22 a person who has been convicted of or has pleaded guilty to any Class I
23 misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10, 11, or 12, or
24 any similar offense under a prior criminal statute or in another state,
25 except that any additional requirements imposed by this subdivision on
26 May 18, 1983, shall not prevent any person holding a license on such date
27 from retaining or renewing such license if the conviction or plea
28 occurred prior to May 18, 1983, (6) a person whose license issued under
29 the Nebraska Liquor Control Act has been revoked for cause, (7) a person
30 who at the time of application for renewal of any license issued under

1 the act would not be eligible for such license upon initial application,
2 (8) a partnership, unless one of the partners is a resident of Nebraska
3 and unless all the members of such partnership are otherwise qualified to
4 obtain a license, (9) a limited liability company, if any officer or
5 director of the limited liability company or any member having an
6 ownership interest in the aggregate of more than twenty-five percent of
7 such company would be ineligible to receive a license under this section
8 for any reason other than the reasons stated in subdivisions (1) and (3)
9 of this section, or if a manager of a limited liability company licensee
10 would be ineligible to receive a license under this section for any
11 reason, (10) a corporation, if any officer or director of the corporation
12 or any stockholder owning in the aggregate more than twenty-five percent
13 of the stock of such corporation would be ineligible to receive a license
14 under this section for any reason other than the reasons stated in
15 subdivisions (1) and (3) of this section, or if a manager of a corporate
16 licensee would be ineligible to receive a license under this section for
17 any reason. This subdivision shall not apply to railroad licenses, (11) a
18 person whose place of business is conducted by a manager or agent unless
19 such manager or agent possesses the same qualifications required of the
20 licensee, (12) a person who does not own the premises for which a license
21 is sought or does not have a lease or combination of leases on such
22 premises for the full period for which the license is to be issued, (13)
23 except as provided in this subdivision, an applicant whose spouse is
24 ineligible under this section to receive and hold a liquor license. Such
25 applicant shall become eligible for a liquor license only if the
26 commission finds from the evidence that the public interest will not be
27 infringed upon if such license is granted. It shall be prima facie
28 evidence that when a spouse is ineligible to receive a liquor license the
29 applicant is also ineligible to receive a liquor license. Such prima
30 facie evidence shall be overcome if it is shown to the satisfaction of
31 the commission (a) that the licensed business will be the sole property

1 of the applicant and (b) that such licensed premises will be properly
2 operated, (14) a person seeking a license for premises which do not meet
3 standards for fire safety as established by the State Fire Marshal, (15)
4 a law enforcement officer, except that this subdivision shall not
5 prohibit a law enforcement officer from holding membership in any
6 nonprofit organization holding a liquor license or from participating in
7 any manner in the management or administration of a nonprofit
8 organization, or (16) a person less than twenty-one years of age.

9 When a trustee is the licensee, the beneficiary or beneficiaries of
10 the trust shall comply with the requirements of this section, but nothing
11 in this section shall prohibit any such beneficiary from being a minor or
12 a person who is mentally incompetent.

13 Sec. 10. Section 53-130, Revised Statutes Cumulative Supplement,
14 2018, is amended to read:

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

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

30 (3) A license so issued may be renewed without formal application
31 upon payment of license fees and a renewal fee of forty-five dollars

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

7 Sec. 11. The Public Service Commission shall, in consultation with
8 the Nebraska Liquor Control Commission, adopt and promulgate rules and
9 regulations for signs or other indicia distinguishing between buses
10 providing special party services and buses providing charter services.

11 Sec. 12. Original sections 53-101, 53-116.01, 53-117, 53-117.07,
12 53-123, 53-124, 53-124.01, 53-125, and 53-130, Revised Statutes
13 Cumulative Supplement, 2018, are repealed.