

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 734

FINAL READING

Introduced by Hunt, 8; Briese, 41; Wayne, 13.

Read first time January 23, 2019

Committee: General Affairs

1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 sections 53-101, 53-116.01, 53-117, 53-117.07, 53-123, 53-124,
3 53-124.01, 53-125, and 53-130, Revised Statutes Cumulative
4 Supplement, 2018; to provide for the regulation of charter bus
5 services and the licensure of special party buses; to provide for
6 procedures and fees; to harmonize provisions; and to repeal the
7 original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-101, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

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

5 Sec. 2. Section 53-116.01, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 53-116.01 (1) The commission and local governing bodies shall cause
8 frequent inspection to be made on the premises of all retail licensees
9 and bottle club licensees, and if it is found that any such licensee is
10 violating any provision of the Nebraska Liquor Control Act or the rules
11 and regulations of the commission adopted and promulgated under the act
12 or is failing to observe in good faith the purposes of the act, the
13 license may be suspended, canceled, or revoked after the licensee is
14 given an opportunity to be heard in his or her defense.

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

22 Sec. 3. Section 53-117, Revised Statutes Cumulative Supplement,
23 2018, is amended to read:

24 53-117 The commission has the following powers, functions, and
25 duties:

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

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

19 (3) To call upon other administrative departments of the state,
20 county and municipal governments, county sheriffs, city police
21 departments, village marshals, peace officers, and prosecuting officers
22 for such information and assistance as the commission deems necessary in
23 the performance of its duties. The commission shall enter into an
24 agreement with the Nebraska State Patrol in which the Nebraska State
25 Patrol shall hire six new patrol officers and, from the entire Nebraska
26 State Patrol, shall designate a minimum of six patrol officers who will
27 spend a majority of their time in administration and enforcement of the
28 Nebraska Liquor Control Act;

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

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

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

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

9 (8) In the conduct of any hearing or audit authorized to be held by
10 the commission (a) to examine or cause to be examined, under oath, any
11 licensee and to examine or cause to be examined the books and records of
12 such licensee, (b) to hear testimony and take proof material for its
13 information in the discharge of its duties under the act, and (c) to
14 administer or cause to be administered oaths;

15 (9) To investigate the administration of laws in relation to
16 alcoholic liquor in this and other states and to recommend to the
17 Governor and through him or her to the Legislature amendments to the act;
18 and

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

21 Sec. 4. Section 53-117.07, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 53-117.07 All proceedings for the suspension, cancellation, or
24 revocation of licenses of manufacturers, wholesalers, nonbeverage users,
25 craft breweries, microdistilleries, railroads, airlines, shippers, boats,
26 special party buses, and pedal-pub vehicles shall be before the
27 commission, and the proceedings shall be in accordance with rules and
28 regulations adopted and promulgated by it not inconsistent with law. No
29 such license shall be so suspended, canceled, or revoked except after a
30 hearing by the commission with reasonable notice to the licensee and
31 opportunity to appear and defend.

1 Sec. 5. Section 53-123, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

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

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

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

25 Sec. 7. Section 53-124, Revised Statutes Cumulative Supplement,
26 2018, is amended to read:

27 53-124 (1) At the time application is made to the commission for a
28 license of any type, the applicant shall pay the fee provided in section
29 53-124.01 and, if the applicant is an individual, provide the applicant's
30 social security number. The commission shall issue the types of licenses
31 described in this section.

1 (2) There shall be an airline license, a boat license, a special
2 party bus license, a pedal-pub vehicle license, and a railroad license.
3 The commission shall charge one dollar for each duplicate of an airline
4 license, a special party bus license, a pedal-pub vehicle license, or a
5 railroad license.

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

- 9 (i) 1 to 100 barrel daily capacity, or any part thereof, tier one;
10 (ii) 100 to 150 barrel daily capacity, tier two;
11 (iii) 150 to 200 barrel daily capacity, tier three;
12 (iv) 200 to 300 barrel daily capacity, tier four;
13 (v) 300 to 400 barrel daily capacity, tier five;
14 (vi) 400 to 500 barrel daily capacity, tier six;
15 (vii) 500 barrel daily capacity, or more, tier seven.

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

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

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

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

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

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

30 (iii) Class C: Alcoholic liquor, for consumption on the premises and
31 off the premises, sales in original packages only. If a Class C license

1 is held by a nonprofit corporation, it shall be restricted to consumption
2 on the premises only. A Class C license may have a sampling designation
3 restricting consumption on the premises to sampling, but such designation
4 shall not affect sales for consumption off the premises under such
5 license;

6 (iv) Class D: Alcoholic liquor, including beer, for consumption off
7 the premises, sales in the original packages only, except as provided in
8 subdivision (6)(a)(vi) of this section and subsection (2) of section
9 53-123.04;

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

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

16 (b) All applicable license fees shall be paid by the applicant or
17 licensee directly to the city or village treasurer in the case of
18 premises located inside the corporate limits of a city or village and
19 directly to the county treasurer in the case of premises located outside
20 the corporate limits of a city or village.

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

24 (8) There shall be two types of wholesale licenses: Alcoholic liquor
25 and beer only. The annual fee shall be paid for the first and each
26 additional wholesale place of business operated in this state by the same
27 licensee and wholesaling the same product.

28 (9) There shall be a bottle club license. All applicable license
29 fees shall be paid by the applicant or licensee directly to the city or
30 village treasurer in the case of premises located inside the corporate
31 limits of a city or village and directly to the county treasurer in the

1 case of premises located outside the corporate limits of a city or
2 village.

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

15 Sec. 8. Section 53-124.01, Revised Statutes Cumulative Supplement,
16 2018, is amended to read:

17 53-124.01 (1) The fees for annual licenses finally issued by the
18 commission shall be as provided in this section and section 53-124.

- 19 (2) Airline license ... \$100
- 20 (3) Boat license ... \$50
- 21 (4) Bottle club license ... \$300
- 22 (5) Special party bus license ... \$75
- 23 (6) ~~(5)~~ Manufacturer's license:

24 Class	Fee - In Dollars
25 Alcohol and spirits	1,000
26 Beer - tier one	100
27 Beer - tier two	200
28 Beer - tier three	350
29 Beer - tier four	500
30 Beer - tier five	650
31 Beer - tier six	700

1	Beer - tier seven	800
2	Wine	250
3	<u>(7)</u> (6) Nonbeverage user's license:	
4	Class	Fee - In Dollars
5	Class 1	5
6	Class 2	25
7	Class 3	50
8	Class 4	100
9	Class 5	250
10	<u>(8)</u> (7) Operator's license:	
11	Class	Fee - In Dollars
12	Craft brewery	250
13	Farm winery	250
14	Microdistillery	250
15	<u>(9)</u> (8) Pedal-pub vehicle license ...	\$50
16	<u>(10)</u> (9) Railroad license ...	\$100
17	<u>(11)</u> (10) Retail license:	
18	Class	Fee - In Dollars
19	Class A	100
20	Class B	100
21	Class C	300
22	Class D	200
23	Class I	250
24	Class J	50
25	<u>(12)</u> (11) Shipping license:	
26	Class	Fee - In Dollars
27	Manufacturer	1,000
28	Vintage wines	1,000
29	Manufacture direct sales	500
30	Retail direct sales	500

1 (13) ~~(12)~~ Wholesale license:

2 Class	Fee - In Dollars
3 Alcoholic liquor	750
4 Beer	500

5 Sec. 9. Section 53-125, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 53-125 No license of any kind shall be issued to (1) a person who is
8 not a resident of Nebraska, except in case of railroad, airline, ~~or~~ boat,
9 or special party bus licenses, (2) a person who is not of good character
10 and reputation in the community in which he or she resides, (3) a person
11 who is not a Nebraska resident and legally able to work in Nebraska, (4)
12 a person who has been convicted of or has pleaded guilty to a felony
13 under the laws of this state, any other state, or the United States, (5)
14 a person who has been convicted of or has pleaded guilty to any Class I
15 misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10, 11, or 12, or
16 any similar offense under a prior criminal statute or in another state,
17 except that any additional requirements imposed by this subdivision on
18 May 18, 1983, shall not prevent any person holding a license on such date
19 from retaining or renewing such license if the conviction or plea
20 occurred prior to May 18, 1983, (6) a person whose license issued under
21 the Nebraska Liquor Control Act has been revoked for cause, (7) a person
22 who at the time of application for renewal of any license issued under
23 the act would not be eligible for such license upon initial application,
24 (8) a partnership, unless one of the partners is a resident of Nebraska
25 and unless all the members of such partnership are otherwise qualified to
26 obtain a license, (9) a limited liability company, if any officer or
27 director of the limited liability company or any member having an
28 ownership interest in the aggregate of more than twenty-five percent of
29 such company would be ineligible to receive a license under this section
30 for any reason other than the reasons stated in subdivisions (1) and (3)
31 of this section, or if a manager of a limited liability company licensee

1 would be ineligible to receive a license under this section for any
2 reason, (10) a corporation, if any officer or director of the corporation
3 or any stockholder owning in the aggregate more than twenty-five percent
4 of the stock of such corporation would be ineligible to receive a license
5 under this section for any reason other than the reasons stated in
6 subdivisions (1) and (3) of this section, or if a manager of a corporate
7 licensee would be ineligible to receive a license under this section for
8 any reason. This subdivision shall not apply to railroad licenses, (11) a
9 person whose place of business is conducted by a manager or agent unless
10 such manager or agent possesses the same qualifications required of the
11 licensee, (12) a person who does not own the premises for which a license
12 is sought or does not have a lease or combination of leases on such
13 premises for the full period for which the license is to be issued, (13)
14 except as provided in this subdivision, an applicant whose spouse is
15 ineligible under this section to receive and hold a liquor license. Such
16 applicant shall become eligible for a liquor license only if the
17 commission finds from the evidence that the public interest will not be
18 infringed upon if such license is granted. It shall be prima facie
19 evidence that when a spouse is ineligible to receive a liquor license the
20 applicant is also ineligible to receive a liquor license. Such prima
21 facie evidence shall be overcome if it is shown to the satisfaction of
22 the commission (a) that the licensed business will be the sole property
23 of the applicant and (b) that such licensed premises will be properly
24 operated, (14) a person seeking a license for premises which do not meet
25 standards for fire safety as established by the State Fire Marshal, (15)
26 a law enforcement officer, except that this subdivision shall not
27 prohibit a law enforcement officer from holding membership in any
28 nonprofit organization holding a liquor license or from participating in
29 any manner in the management or administration of a nonprofit
30 organization, or (16) a person less than twenty-one years of age.

31 When a trustee is the licensee, the beneficiary or beneficiaries of

1 the trust shall comply with the requirements of this section, but nothing
2 in this section shall prohibit any such beneficiary from being a minor or
3 a person who is mentally incompetent.

4 Sec. 10. Section 53-130, Revised Statutes Cumulative Supplement,
5 2018, is amended to read:

6 53-130 (1) New licenses to manufacturers, wholesalers, railroads,
7 airlines, boats, special party buses, pedal-pub vehicles, and nonbeverage
8 users of alcoholic liquor may be issued by the commission upon (a)
9 written application in duplicate filed in the manner and on such forms as
10 the commission prescribes and in which the applicant for a beer wholesale
11 license sets forth the sales territory in Nebraska in which it is
12 authorized by a manufacturer or manufacturers to sell their brand or
13 brands and the name of such brand or brands, (b) receipt of bond, (c)
14 payment in advance of the nonrefundable application fee of forty-five
15 dollars and the license fee, and (d) such notice and hearing as the
16 commission fixes by its own order.

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

21 (3) A license so issued may be renewed without formal application
22 upon payment of license fees and a renewal fee of forty-five dollars
23 prior to or within thirty days after the expiration of the license. The
24 payment of such fees shall be an affirmative representation and
25 certification by the licensee that all answers contained in an
26 application, if submitted, would be the same in all material respects as
27 the answers contained in the last previous application. The commission
28 may at any time require a licensee to submit an application.

29 Sec. 11. The Public Service Commission shall, in consultation with
30 the Nebraska Liquor Control Commission, adopt and promulgate rules and
31 regulations for signs or other indicia distinguishing between buses

1 providing special party services and buses providing charter services.

2 Sec. 12. Original sections 53-101, 53-116.01, 53-117, 53-117.07,
3 53-123, 53-124, 53-124.01, 53-125, and 53-130, Revised Statutes
4 Cumulative Supplement, 2018, are repealed.