

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 734

Introduced by Hunt, 8.

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, 53-117, 53-117.07, 53-123, 53-124, 53-124.01,
3 53-125, and 53-130, Revised Statutes Cumulative Supplement, 2018; to
4 provide for licensure for charter bus services; to provide for
5 procedures and fees; to harmonize provisions; and to repeal the
6 original sections.

7 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 5 of this act shall
4 be known and may be cited as the Nebraska Liquor Control Act.

5 Sec. 2. Section 53-117, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 53-117 The commission has the following powers, functions, and
8 duties:

9 (1) To receive applications for and to issue licenses to and
10 suspend, cancel, and revoke licenses of manufacturers, wholesalers,
11 nonbeverage users, retailers, railroads including owners and lessees of
12 sleeping, dining, and cafe cars, airlines, boats, bottle clubs, charter
13 bus services, and pedal-pub vehicles in accordance with the Nebraska
14 Liquor Control Act;

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

1 such licenses or shall be void;

2 (3) To call upon other administrative departments of the state,
3 county and municipal governments, county sheriffs, city police
4 departments, village marshals, peace officers, and prosecuting officers
5 for such information and assistance as the commission deems necessary in
6 the performance of its duties. The commission shall enter into an
7 agreement with the Nebraska State Patrol in which the Nebraska State
8 Patrol shall hire six new patrol officers and, from the entire Nebraska
9 State Patrol, shall designate a minimum of six patrol officers who will
10 spend a majority of their time in administration and enforcement of the
11 Nebraska Liquor Control Act;

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

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

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

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

23 (8) In the conduct of any hearing or audit authorized to be held by
24 the commission (a) to examine or cause to be examined, under oath, any
25 licensee and to examine or cause to be examined the books and records of
26 such licensee, (b) to hear testimony and take proof material for its
27 information in the discharge of its duties under the act, and (c) to
28 administer or cause to be administered oaths;

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

1 and

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

4 Sec. 3. Section 53-117.07, Revised Statutes Cumulative Supplement,
5 2018, is amended to read:

6 53-117.07 All proceedings for the suspension, cancellation, or
7 revocation of licenses of manufacturers, wholesalers, nonbeverage users,
8 craft breweries, microdistilleries, railroads, airlines, shippers, boats,
9 charter bus services, and pedal-pub vehicles shall be before the
10 commission, and the proceedings shall be in accordance with rules and
11 regulations adopted and promulgated by it not inconsistent with law. No
12 such license shall be so suspended, canceled, or revoked except after a
13 hearing by the commission with reasonable notice to the licensee and
14 opportunity to appear and defend.

15 Sec. 4. Section 53-123, Revised Statutes Cumulative Supplement,
16 2018, is amended to read:

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

26 Sec. 5. (1) The commission may issue a license to any person
27 holding a certificate of public convenience and necessity issued by the
28 Public Service Commission to operate a charter bus service which
29 authorizes the holder thereof to allow the consumption of alcoholic
30 liquor in its charter buses by individuals who are twenty-one years of
31 age or older. Each licensee shall keep a duplicate of such license posted

1 in each charter bus where such alcoholic liquor is consumed.

2 (2) Each license shall expire on April 30 of each year. Each license
3 shall be good throughout this state as a state license. Only one license
4 shall be required for all charter buses operated in this state by the
5 same owner. No further license shall be required or tax levied by any
6 county, city, or village for the privilege of allowing consumption of
7 alcoholic liquor in such buses.

8 Sec. 6. Section 53-124, Revised Statutes Cumulative Supplement,
9 2018, is amended to read:

10 53-124 (1) At the time application is made to the commission for a
11 license of any type, the applicant shall pay the fee provided in section
12 53-124.01 and, if the applicant is an individual, provide the applicant's
13 social security number. The commission shall issue the types of licenses
14 described in this section.

15 (2) There shall be an airline license, a boat license, a charter bus
16 service license, a pedal-pub vehicle license, and a railroad license. The
17 commission shall charge one dollar for each duplicate of an airline
18 license, a charter bus service license, a pedal-pub vehicle license, or a
19 railroad license.

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

- 23 (i) 1 to 100 barrel daily capacity, or any part thereof, tier one;
24 (ii) 100 to 150 barrel daily capacity, tier two;
25 (iii) 150 to 200 barrel daily capacity, tier three;
26 (iv) 200 to 300 barrel daily capacity, tier four;
27 (v) 300 to 400 barrel daily capacity, tier five;
28 (vi) 400 to 500 barrel daily capacity, tier six;
29 (vii) 500 barrel daily capacity, or more, tier seven.

30 (b) For purposes of this subsection, daily capacity means the
31 average daily barrel production for the previous twelve months of

1 manufacturing operation. If no such basis for comparison exists, the
2 manufacturing licensee shall pay in advance for the first year's
3 operation a fee of five hundred dollars.

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

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

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

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

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

13 (iii) Class C: Alcoholic liquor, for consumption on the premises and
14 off the premises, sales in original packages only. If a Class C license
15 is held by a nonprofit corporation, it shall be restricted to consumption
16 on the premises only. A Class C license may have a sampling designation
17 restricting consumption on the premises to sampling, but such designation
18 shall not affect sales for consumption off the premises under such
19 license;

20 (iv) Class D: Alcoholic liquor, including beer, for consumption off
21 the premises, sales in the original packages only, except as provided in
22 subdivision (6)(a)(vi) of this section and subsection (2) of section
23 53-123.04;

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

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

30 (b) All applicable license fees shall be paid by the applicant or
31 licensee directly to the city or village treasurer in the case of

1 premises located inside the corporate limits of a city or village and
2 directly to the county treasurer in the case of premises located outside
3 the corporate limits of a city or village.

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

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

11 (9) There shall be a bottle club license. All applicable license
12 fees shall be paid by the applicant or licensee directly to the city or
13 village treasurer in the case of premises located inside the corporate
14 limits of a city or village and directly to the county treasurer in the
15 case of premises located outside the corporate limits of a city or
16 village.

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

29 Sec. 7. Section 53-124.01, Revised Statutes Cumulative Supplement,
30 2018, is amended to read:

31 53-124.01 (1) The fees for annual licenses finally issued by the

1 commission shall be as provided in this section and section 53-124.

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

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

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

5 (5) Charter bus service license ... \$75

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

7 Class	Fee - In Dollars
8 Alcohol and spirits	1,000
9 Beer - tier one	100
10 Beer - tier two	200
11 Beer - tier three	350
12 Beer - tier four	500
13 Beer - tier five	650
14 Beer - tier six	700
15 Beer - tier seven	800
16 Wine	250

17 (7) ~~(6)~~ Nonbeverage user's license:

18 Class	Fee - In Dollars
19 Class 1	5
20 Class 2	25
21 Class 3	50
22 Class 4	100
23 Class 5	250

24 (8) ~~(7)~~ Operator's license:

25 Class	Fee - In Dollars
26 Craft brewery	250
27 Farm winery	250
28 Microdistillery	250

29 (9) ~~(8)~~ Pedal-pub vehicle license ... \$50

30 (10) ~~(9)~~ Railroad license ... \$100

1 (11) ~~(10)~~ Retail license:

2	Class	Fee - In Dollars
3	Class A	100
4	Class B	100
5	Class C	300
6	Class D	200
7	Class I	250
8	Class J	50

9 (12) ~~(11)~~ Shipping license:

10	Class	Fee - In Dollars
11	Manufacturer	1,000
12	Vintage wines	1,000
13	Manufacture direct sales	500
14	Retail direct sales	500

15 (13) ~~(12)~~ Wholesale license:

16	Class	Fee - In Dollars
17	Alcoholic liquor	750
18	Beer	500

19 Sec. 8. Section 53-125, Revised Statutes Cumulative Supplement,
20 2018, is amended to read:

21 53-125 No license of any kind shall be issued to (1) a person who is
22 not a resident of Nebraska, except in case of railroad, airline, ~~or~~ boat,
23 or charter bus service licenses, (2) a person who is not of good
24 character and reputation in the community in which he or she resides, (3)
25 a person who is not a Nebraska resident and legally able to work in
26 Nebraska, (4) a person who has been convicted of or has pleaded guilty to
27 a felony under the laws of this state, any other state, or the United
28 States, (5) a person who has been convicted of or has pleaded guilty to
29 any Class I misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10,
30 11, or 12, or any similar offense under a prior criminal statute or in

1 another state, except that any additional requirements imposed by this
2 subdivision on May 18, 1983, shall not prevent any person holding a
3 license on such date from retaining or renewing such license if the
4 conviction or plea occurred prior to May 18, 1983, (6) a person whose
5 license issued under the Nebraska Liquor Control Act has been revoked for
6 cause, (7) a person who at the time of application for renewal of any
7 license issued under the act would not be eligible for such license upon
8 initial application, (8) a partnership, unless one of the partners is a
9 resident of Nebraska and unless all the members of such partnership are
10 otherwise qualified to obtain a license, (9) a limited liability company,
11 if any officer or director of the limited liability company or any member
12 having an ownership interest in the aggregate of more than twenty-five
13 percent of such company would be ineligible to receive a license under
14 this section for any reason other than the reasons stated in subdivisions
15 (1) and (3) of this section, or if a manager of a limited liability
16 company licensee would be ineligible to receive a license under this
17 section for any reason, (10) a corporation, if any officer or director of
18 the corporation or any stockholder owning in the aggregate more than
19 twenty-five percent of the stock of such corporation would be ineligible
20 to receive a license under this section for any reason other than the
21 reasons stated in subdivisions (1) and (3) of this section, or if a
22 manager of a corporate licensee would be ineligible to receive a license
23 under this section for any reason. This subdivision shall not apply to
24 railroad licenses, (11) a person whose place of business is conducted by
25 a manager or agent unless such manager or agent possesses the same
26 qualifications required of the licensee, (12) a person who does not own
27 the premises for which a license is sought or does not have a lease or
28 combination of leases on such premises for the full period for which the
29 license is to be issued, (13) except as provided in this subdivision, an
30 applicant whose spouse is ineligible under this section to receive and
31 hold a liquor license. Such applicant shall become eligible for a liquor

1 license only if the commission finds from the evidence that the public
2 interest will not be infringed upon if such license is granted. It shall
3 be prima facie evidence that when a spouse is ineligible to receive a
4 liquor license the applicant is also ineligible to receive a liquor
5 license. Such prima facie evidence shall be overcome if it is shown to
6 the satisfaction of the commission (a) that the licensed business will be
7 the sole property of the applicant and (b) that such licensed premises
8 will be properly operated, (14) a person seeking a license for premises
9 which do not meet standards for fire safety as established by the State
10 Fire Marshal, (15) a law enforcement officer, except that this
11 subdivision shall not prohibit a law enforcement officer from holding
12 membership in any nonprofit organization holding a liquor license or from
13 participating in any manner in the management or administration of a
14 nonprofit organization, or (16) a person less than twenty-one years of
15 age.

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

20 Sec. 9. Section 53-130, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 53-130 (1) New licenses to manufacturers, wholesalers, railroads,
23 airlines, boats, charter bus services, pedal-pub vehicles, and
24 nonbeverage users of alcoholic liquor may be issued by the commission
25 upon (a) written application in duplicate filed in the manner and on such
26 forms as the commission prescribes and in which the applicant for a beer
27 wholesale license sets forth the sales territory in Nebraska in which it
28 is authorized by a manufacturer or manufacturers to sell their brand or
29 brands and the name of such brand or brands, (b) receipt of bond, (c)
30 payment in advance of the nonrefundable application fee of forty-five
31 dollars and the license fee, and (d) such notice and hearing as the

1 commission fixes by its own order.

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

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

14 Sec. 10. Original sections 53-101, 53-117, 53-117.07, 53-123,
15 53-124, 53-124.01, 53-125, and 53-130, Revised Statutes Cumulative
16 Supplement, 2018, are repealed.