

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 452

Introduced by Murman, 38; Brewer, 43; Vargas, 7.

Read first time January 13, 2023

Committee: General Affairs

1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 sections 53-123.16, 53-169, and 53-171, Revised Statutes Cumulative
3 Supplement, 2022; to change provisions relating to
4 microdistilleries; to authorize self-distribution of microdistilled
5 products as prescribed; 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 53-123.16, Revised Statutes Cumulative
2 Supplement, 2022, is amended to read:

3 53-123.16 (1) Any person who operates a microdistillery shall
4 obtain a license pursuant to the Nebraska Liquor Control Act. A license
5 to operate a microdistillery shall permit the licensee to produce a
6 maximum of one hundred thousand gallons of liquor per year in the
7 aggregate from all physical locations comprising the licensed premises.
8 For purposes of this section, licensed premises may include up to five
9 separate physical locations. A microdistillery may also sell to licensed
10 wholesalers for sale and distribution to licensed retailers. A
11 microdistillery license issued pursuant to this section shall be the only
12 license required by the Nebraska Liquor Control Act for the manufacture
13 and retail sale of microdistilled product for consumption on or off the
14 licensed premises, except that the sale of any beer, wine, or alcoholic
15 liquor, other than microdistilled product manufactured by the
16 microdistillery licensee, by the drink for consumption on the
17 microdistillery premises shall require the appropriate retail license.
18 Any license held by the operator of a microdistillery shall be subject to
19 the act. A holder of a microdistillery license may obtain an annual
20 catering license pursuant to section 53-124.12, a special designated
21 license pursuant to section 53-124.11, an entertainment district license
22 pursuant to section 53-123.17, or a promotional farmers market special
23 designated license pursuant to section 53-124.16. The commission may,
24 upon the conditions it determines, grant to any microdistillery licensed
25 under this section a special license authorizing the microdistillery to
26 purchase and to import, from such persons as are entitled to sell the
27 same, wines or spirits to be used solely as ingredients and for the sole
28 purpose of blending with and flavoring microdistillery products as a part
29 of the microdistillation process.

30 (2)(a) A holder of a microdistillery license may directly sell for
31 resale up to two thousand gallons per calendar year of microdistilled

1 products manufactured at its licensed premises directly to retail
2 licensees located in the State of Nebraska which hold the appropriate
3 retail license if:

4 (i) At least fifty-one percent of the finished microdistilled
5 product is produced from agricultural products grown in this state;

6 (ii) The holder of the microdistillery license self-distributes such
7 products using only persons exclusively and solely employed by the holder
8 in vehicles exclusively and solely owned or leased by the holder; and

9 (iii) The holder of the microdistillery license complies with all
10 relevant statutes, rules, and regulations that apply to Nebraska liquor
11 wholesalers regarding distribution of such products.

12 (b) A holder of a microdistillery license which self-distributes
13 microdistilled products in accordance with subdivision (2)(a) of this
14 section shall only self-distribute microdistilled products manufactured
15 at its licensed microdistillery premises and shall not distribute liquor
16 produced by any other licensee.

17 Sec. 2. Section 53-169, Revised Statutes Cumulative Supplement,
18 2022, is amended to read:

19 53-169 (1) Except as provided in subsection (2) of this section, no
20 manufacturer or wholesaler shall directly or indirectly: (a) Pay for any
21 license to sell alcoholic liquor at retail or advance, furnish, lend, or
22 give money for payment of such license; (b) purchase or become the owner
23 of any note, mortgage, or other evidence of indebtedness of such licensee
24 or any form of security therefor; (c) be interested in the ownership,
25 conduct, or operation of the business of any licensee authorized to sell
26 alcoholic liquor at retail; or (d) be interested directly or indirectly
27 or as owner, part owner, lessee, or lessor thereof in any premises upon
28 which alcoholic liquor is sold at retail.

29 (2) This section does not apply to the holder of a farm winery
30 license. The holder of a craft brewery license shall have the privileges
31 and duties listed in section 53-123.14 and the holder of a manufacturer's

1 license shall have the privileges and duties listed in section 53-123.01
2 with respect to the manufacture, distribution, and retail sale of beer,
3 and except as provided in subsection (2) of section 53-123.14, the
4 Nebraska Liquor Control Act shall not be construed to permit the holder
5 of a craft brewery license or of a manufacturer's license issued pursuant
6 to section 53-123.01 to engage in the wholesale distribution of beer. The
7 holder of a microdistillery license shall have the privileges and duties
8 listed in section 53-123.16 with respect to the manufacture of alcoholic
9 liquor, and except as provided in subsection (2) of section 53-123.16,
10 the Nebraska Liquor Control Act shall not be construed to permit the
11 holder of a microdistillery license to engage in the wholesale
12 distribution of alcoholic liquor.

13 Sec. 3. Section 53-171, Revised Statutes Cumulative Supplement,
14 2022, is amended to read:

15 53-171 (1) No person licensed as a wholesaler of alcoholic liquor
16 shall be permitted to receive any retail license at the same time. No
17 person licensed as a manufacturer shall be permitted to receive any
18 retail license at the same time except as set forth in subsection (2) of
19 section 53-123.01 with respect to the manufacture, distribution, and
20 retail sale of beer, and the Nebraska Liquor Control Act shall not be
21 construed to permit the holder of a manufacturer's license issued
22 pursuant to such subsection to engage in the wholesale distribution of
23 alcoholic liquor. No person licensed as a retailer of alcoholic liquor
24 shall be permitted to receive any manufacturer's or wholesale license at
25 the same time.

26 (2) This section shall not apply to the holder of a farm winery
27 license. The holder of a craft brewery license shall have the privileges
28 and duties listed in section 53-123.14 with respect to the manufacture,
29 distribution, and retail sale of beer, and except as provided in
30 subsection (2) of section 53-123.14, the Nebraska Liquor Control Act
31 shall not be construed to permit the holder of a craft brewery license to

1 engage in the wholesale distribution of beer. The holder of a
2 microdistillery license shall have the privileges and duties listed in
3 section 53-123.16 with respect to the manufacture of alcoholic liquor,
4 and except as provided in subsection (2) of section 53-123.16, the
5 Nebraska Liquor Control Act shall not be construed to permit the holder
6 of a microdistillery license to engage in the wholesale distribution of
7 alcoholic liquor.

8 Sec. 4. Original sections 53-123.16, 53-169, and 53-171, Revised
9 Statutes Cumulative Supplement, 2022, are repealed.