

## LEGISLATIVE BILL 53

Approved by the Governor April 22, 1993

Introduced by Schellpeper, 18

AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-123.02 and 53-123.04, Revised Statutes Supplement, 1992, and section 53-124, Revised Statutes Supplement, 1992, as amended by section 9, Legislative Bill 183, Ninety-third Legislature, First Session, 1993; to allow the sampling of tax-paid wine upon the premises of a licensed retailer as prescribed; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 53-123.02, Revised Statutes Supplement, 1992, be amended to read as follows:

53-123.02. An alcoholic liquor wholesale license, except beer, shall (1) allow the wholesale purchase, importation, and storage of alcoholic liquor and sale of alcoholic liquor, except beer, to licensees in this state and to ~~such~~ persons outside the state as may be permitted by law and (2) allow the sampling of tax-paid alcoholic liquor, except beer, upon the premises of the licensed wholesaler by a licensed retailer or allow the sampling of tax-paid wine upon the premises of a licensed retailer as provided in subsection (2) of section 53-123.04 in the manner prescribed by the commission. ~~Such sampling~~ The sampling authorized under this section shall be limited to ~~such~~ persons licensed as wholesalers and retailers and their employees and agents.

Sec. 2. That section 53-123.04, Revised Statutes Supplement, 1992, be amended to read as follows:

53-123.04. (1) A retail license shall allow the licensee to sell and offer for sale at retail either in the original package or otherwise, as prescribed in the license, ~~in~~ on the premises specified in the license or ~~in~~ on the premises where catering is occurring, alcoholic liquor or beer for use or consumption but not for resale in any form except as provided in section 53-175, except that in all counties a holder of a bottle club license shall be authorized to sell alcoholic liquor for consumption on the premises without complying with that part of subdivision (23) of section 53-103 pertaining to membership and maintaining membership lists.

(2) Nothing in the Nebraska Liquor Control Act shall prohibit a holder of a Class D or Class K license from allowing the sampling of tax-paid wine for consumption on the premises by such licensee or his or her employees in cooperation with a licensed wholesaler in the manner prescribed by the commission.

Sec. 3. That section 53-124, Revised Statutes Supplement,

1992, as amended by section 9, Legislative Bill 183, Ninety-third Legislature, First Session, 1993, be amended to read as follows:

53-124. At the time application is made to the commission for a license of any type, the applicant shall pay the fee provided in this section. The fees for annual licenses finally issued by the commission shall be as follows:

- (1) For a license to manufacture alcohol and spirits ..... \$1,000.00;
- (2) For a license to manufacture beer and wine or to operate a farm winery or brewpub:
  - (a) Manufacture of beer, excluding beer produced by a brewpub:
    - (i) 1 to 100 barrel daily capacity, or any part thereof ..... \$100.00
    - (ii) 100 to 150 barrel daily capacity ..... 200.00
    - (iii) 150 to 200 barrel daily capacity ..... 350.00
    - (iv) 200 to 300 barrel daily capacity ..... 500.00
    - (v) 300 to 400 barrel daily capacity ..... 650.00
    - (vi) 400 to 500 barrel daily capacity ..... 700.00
    - (vii) 500 barrel daily capacity, or more ..... 800.00;
  - (b) Operation of a brewpub ..... \$250.00;
  - (c) Manufacture of wines ..... \$250.00;
  - (d) Operation of a farm winery ..... \$250.00.

For purposes of subdivision (2)(a) of this section, daily capacity shall mean the average daily barrel production for the previous twelve months of manufacturing operation. If no such basis for comparison exists, the manufacturing licensee shall pay in advance for the first year's operation a fee of five hundred dollars;

(3) Alcoholic liquor wholesale license, for the first and each additional wholesale place of business operated in this state by the same licensee and wholesaling alcoholic liquor, except beer and wines produced from farm wineries ..... \$500.00;

(4) Beer wholesale license, for the first and each additional wholesale place of business operated in this state by the same licensee and wholesaling beer only ..... \$250.00;

(5) For a retail license:

(a) Class A: Beer only except for brewpubs, inside the corporate limits of cities and villages, for consumption on the premises, the sum of ten dollars in villages having a population of five hundred inhabitants or less; twenty-five dollars in villages or cities having a population of more than five hundred inhabitants and not more than twenty-five hundred inhabitants; fifty dollars in cities having a population

of more than twenty-five hundred inhabitants and less than ten thousand inhabitants; and one hundred dollars in cities having a population of ten thousand inhabitants or more;

(b) Class B: Beer only except for brewpubs, for consumption off the premises, sales in the original packages only, the sum of twenty-five dollars;

(c) Class C: Alcoholic liquor inside the corporate limits of cities and villages, for consumption on the premises and off the premises, sales in original packages only, the sum of two hundred fifty dollars, except for farm winery or brewpub sales outlets. If a Class C license is held by a nonprofit corporation, it shall be restricted to consumption on the premises only;

(d) Class D: Alcoholic liquor, including beer, inside the corporate limits of cities and villages, for consumption off the premises, sales in the original packages only, except as provided in subsection (2) of section 53-123.04, the sum of one hundred fifty dollars, except for farm winery or brewpub sales outlets;

(e) Class E: Alcoholic liquor outside the corporate limits of cities and villages in any county in which there is no incorporated city or village or in which the county seat is not located in an incorporated city or village, for consumption off the premises, sales in the original packages only, not less than one hundred fifty dollars for each license, except for farm winery or brewpub sales outlets;

(f) Class F: Beer only except for brewpubs, outside the corporate limits of cities and villages, for consumption on the premises, not less than twenty-five dollars for each license, the precise amount in each case to be such sum as equals the amount of license fee fixed in this section plus the occupation tax fixed by ordinance, if any, in the nearest incorporated city or village in the same county;

(g) Class H: Alcoholic liquor, including beer, issued to a nonprofit corporation, for consumption on the premises:

(i) Inside the corporate limits of cities and villages, regardless of alcoholic content, the sum of twenty dollars in villages having a population of five hundred inhabitants or less; fifty dollars in villages or cities having a population of more than five hundred inhabitants and not more than twenty-five hundred inhabitants; one hundred dollars in cities having a population of more than twenty-five hundred inhabitants and less than ten thousand inhabitants; and two hundred dollars in cities having a population of ten thousand inhabitants or more; and

(ii) Outside the corporate limits of cities and villages, not less than two hundred fifty dollars for each license, the precise amount in each case to be such sum as equals the amount of license fee fixed in this section plus the occupation tax fixed by ordinance, if any, in the nearest incorporated city or village in the same county. If the incorporated city or village does not have an occupation tax for nonprofit corporation licenses, then the licensee shall pay an amount equal to a Class C license occupation tax for such city or village.

A Class H license shall not be issued to any corporation

authorized by law to receive a Class C license unless the nonprofit corporation is open for sale of alcoholic liquor, including beer, for consumption on the premises not more than two days in any week;

(h) Class I: Alcoholic liquor, inside the corporate limits of cities and villages, for consumption on the premises, the sum of two hundred dollars, except for farm winery or brewpub sales outlets;

(i) Class J: Beer and wine only except for brewpubs, inside the corporate limits of cities and villages, for consumption on the premises of restaurants only, the sum of fifty dollars in villages having a population of five hundred inhabitants or less; seventy-five dollars in villages or cities having a population of more than five hundred inhabitants and not more than twenty-five hundred inhabitants; one hundred twenty-five dollars in cities having a population of more than twenty-five hundred inhabitants and less than ten thousand inhabitants; and two hundred twenty-five dollars in cities having a population of ten thousand inhabitants or more; and

(j) Class K: Wine only, for consumption off the premises, sales in original packages only, except as provided in subsection (2) of section 53-123.04, the sum of one hundred twenty-five dollars.

All applicable license fees shall be paid by the applicant or licensee directly to the city or village treasurer in the case of premises located inside the corporate limits of a city or village and directly to the county treasurer in the case of premises located outside the corporate limits of a city or village, except that the fee for a Class D license shall be paid directly to the commission;

(6) For a railroad license ..... \$100.00  
and \$1.00 for each duplicate;

(7) For a boat license ..... \$50.00;

(8) For a nonbeverage user's license:

Class 1 .....	\$5.00
Class 2 .....	25.00
Class 3 .....	50.00
Class 4 .....	100.00
Class 5 .....	250.00;

(9) For a bottle club license, two hundred fifty dollars in any county having a population of less than five thousand five hundred inhabitants and five hundred dollars in any county having a population of five thousand five hundred inhabitants or more. No such license shall be issued within the corporate limits of any city or village when a license as provided in subdivision (5)(c) of this section has been issued in such city or village. The applicable fee shall be paid by the applicant or licensee directly to the city or village treasurer in the case of a bottle club license within the corporate limits of a city or village and directly to the county treasurer in the case of a bottle club license outside the limits of any city or village;

(10) For an airline license ..... \$100.00  
and \$1.00 for each duplicate; and

(11) For a shipping license ..... \$200.00.

The license year, unless otherwise provided in the Nebraska Liquor Control Act, shall commence on May 1 of each year and shall end on the following April 30, except that the license year for a Class C license shall commence on November 1 of each year and shall end on the following October 31. During the license year, no license shall be issued for a sum less than the amount of the annual license fee as fixed in this section, regardless of the time when the application for such license has been made.

Sec. 4. That original sections 53-123.02 and 53-123.04, Revised Statutes Supplement, 1992, and section 53-124, Revised Statutes Supplement, 1992, as amended by section 9, Legislative Bill 183, Ninety-third Legislature, First Session, 1993, are repealed.