

LEGISLATIVE BILL 750

Approved by the Governor April 17, 1996

Introduced by Landis, 46; Schimek, 27; Freister, 5

AN ACT relating to liquor; to amend sections 53-117.07, 53-123, 53-123.01, 53-131, 53-169, 53-171, and 53-188, Reissue Revised Statutes of Nebraska, and sections 53-103, 53-123.14, 53-124, 53-124.11, 53-124.12, and 53-164.01, Revised Statutes Supplement, 1994; to provide for craft brewery licenses; to eliminate brewpub licenses; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

Section 1. Section 53-103, Revised Statutes Supplement, 1994, is amended to read:

53-103. For purposes of the Nebraska Liquor Control Act, unless the context otherwise requires:

(1) Alcohol shall mean the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and shall include synthetic ethyl alcohol. Alcohol shall not include denatured alcohol or wood alcohol;

(2) Spirits shall mean any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and shall include brandy, rum, whiskey, gin, or other spirituous liquors and such liquors when rectified, blended, or otherwise mixed with alcohol or other substances;

(3) Wine shall mean any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits;

(4) Beer shall mean a beverage obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt, and hops in water and shall include, but not be limited to, beer, ale, stout, lager beer, porter, and near beer;

(5) Alcoholic liquor shall include alcohol, spirits, wine, beer, and any liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being. Alcoholic liquor shall also include confections or candy with alcohol content of more than one-half of one percent alcohol. The act shall not apply to (a) alcohol used in the manufacture of denatured alcohol produced in accordance with acts of Congress and regulations adopted and promulgated pursuant to such acts, (b) flavoring extracts, syrups, medicinal, mechanical, scientific, culinary, or toilet preparations, or food products unfit for beverage purposes, but the act shall apply to alcoholic liquor used in the manufacture, preparation, or compounding of such products or confections or candy that contains more than one-half of one percent alcohol, or (c) wine intended for use and used by any church or religious organization for sacramental purposes;

(6) Near beer shall mean beer containing less than one-half of one percent of alcohol by volume;

(7) Original package shall mean any bottle, flask, jug, can, cask, barrel, keg, hogshead, or other receptacle or container used, corked or capped, sealed, and labeled by the manufacturer of alcoholic liquor to contain and to convey any alcoholic liquor;

(8) Manufacturer shall mean every brewer, fermenter, distiller, rectifier, winemaker, blender, processor, bottler, or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying, or bottling alcoholic liquor, including a wholly owned affiliate or duly authorized agent for a manufacturer;

(9) Nonbeverage user shall mean every manufacturer of any of the products set forth and described in subsection (4) of section 53-160, when such product contains alcoholic liquor, and all laboratories, hospitals, and sanatoria using alcoholic liquor for nonbeverage purposes;

(10) Manufacture shall mean to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor and shall include blending but shall not include the mixing or other preparation of drinks for serving by those persons authorized and permitted in the act to serve drinks for consumption on the premises where sold;

(11) Wholesaler shall mean a person importing or causing to be

imported into the state or purchasing or causing to be purchased within the state alcoholic liquor for sale or resale to retailers, licensed under the act, whether the business of the wholesaler is conducted under the terms of a franchise or any other form of an agreement with a manufacturer or manufacturers, or who has caused alcoholic liquor to be imported into the state or purchased in the state from a manufacturer or manufacturers and was licensed to conduct such a business by the commission on May 1, 1970, or has been so licensed since that date. Wholesaler shall not include any retailer licensed to sell alcoholic liquor for consumption off the premises who sells alcoholic liquor other than beer or wine to another retailer pursuant to section 53-175, except that any such retailer shall obtain the required federal wholesaler's basic permit and federal wholesale liquor dealer's special tax stamp. Wholesaler shall include a distributor, distributorship, and jobber;

(12) Person shall mean any natural person, trustee, corporation, partnership, or limited liability company;

(13) Retailer shall mean a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form except as provided in section 53-175;

(14) Sell at retail and sale at retail shall mean sale for use or consumption and not for resale in any form except as provided in section 53-175;

(15) Commission shall mean the Nebraska Liquor Control Commission;

(16) Sale shall mean any transfer, exchange, or barter in any manner or by any means for a consideration and shall include any sale made by any person, whether principal, proprietor, agent, servant, or employee;

(17) To sell shall mean to solicit or receive an order for, to keep or expose for sale, or to keep with intent to sell;

(18) Restaurant shall mean any public place (a) which is kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served, (b) which has no sleeping accommodations, and (c) which has adequate and sanitary kitchen and dining room equipment and capacity and a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests;

(19) Club shall mean a corporation (a) which is organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquor, (b) which is kept, used, and maintained by its members through the payment of annual dues, (c) which owns, hires, or leases a building or space in a building suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, and (d) which has suitable and adequate kitchen and dining room space and equipment and a sufficient number of servants and employees for cooking, preparing, and serving food and meals for its members and their guests. Such club shall file with the local governing body at the time of application for a license under the act two copies of a list of names and residences of its members and similarly shall file within ten days of the election of any additional member his or her name and address. The affairs and management of such club shall be conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting, and no member, officer, agent, or employee of the club shall be paid or shall directly or indirectly receive, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members other than any salary fixed and voted at any annual meeting by the members or by the governing body of the club out of the general revenue of the club;

(20) Hotel shall mean any building or other structure (a) which is kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, (b) in which twenty-five or more rooms are used for the sleeping accommodations of such guests, and (c) which has one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same buildings in connection therewith and such building or buildings or structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity;

(21) Nonprofit corporation shall mean any corporation organized under the laws of this state, not for profit, which has been exempted from the payment of federal income taxes;

(22) Bottle club shall mean an operation, whether formally organized as a club having a regular membership list, dues, officers, and meetings or

not, keeping and maintaining premises where persons who have made their own purchases of alcoholic liquor congregate for the express purpose of consuming such alcoholic liquor upon the payment of a fee or other consideration, including among other services the sale of food, ice, mixes, or other fluids for alcoholic drinks and the maintenance of space for the storage of alcoholic liquor belonging to such persons and facilities for the dispensing of such liquor through a locker system, card system, or pool system, which shall not be deemed or considered a sale of alcoholic liquor. Such operation may be conducted by a club, an individual, a partnership, a limited liability company, or a corporation. An accurate and current membership list shall be maintained upon the premises which contains the names and residences of its members. Nothing in this section shall be deemed to prohibit the sale of alcoholic liquor for consumption on the premises to any person who is not a current member of such bottle club;

(23) Minor shall mean any person, male or female, under twenty-one years of age, regardless of marital status;

(24) Brand shall mean alcoholic liquor identified as the product of a specific manufacturer;

(25) Franchise or agreement, with reference to the relationship between a manufacturer and wholesaler, shall include one or more of the following: (a) A commercial relationship of a definite duration or continuing indefinite duration which is not required to be in writing; (b) a relationship by which the wholesaler is granted the right to offer and sell the manufacturer's brands by the manufacturer; (c) a relationship by which the franchise, as an independent business, constitutes a component of the manufacturer's distribution system; (d) a relationship by which the operation of the wholesaler's business is substantially associated with the manufacturer's brand, advertising, or other commercial symbol designating the manufacturer; and (e) a relationship by which the operation of the wholesaler's business is substantially reliant on the manufacturer for the continued supply of beer;

(26) Territory or sales territory shall mean the wholesaler's area of sales responsibility for the brand or brands of the manufacturer;

(27) Suspend shall mean to cause a temporary interruption of all rights and privileges of a license;

(28) Cancel shall mean to discontinue all rights and privileges of a license;

(29) Revoke shall mean to permanently void and recall all rights and privileges of a license;

(30) Generic label shall mean a label which is not protected by a registered trademark, either in whole or in part, or to which no person has acquired a right pursuant to state or federal statutory or common law;

(31) Private label shall mean a label which the purchasing wholesaler, retailer, or bottle club licensee has protected, in whole or in part, by a trademark registration or which the purchasing wholesaler, retailer, or bottle club licensee has otherwise protected pursuant to state or federal statutory or common law;

(32) Farm winery shall mean any enterprise which produces and sells wines produced from grapes, other fruit, or other suitable agricultural products of which at least seventy-five percent is grown in this state;

(33) Campus, as it pertains to the southern boundary of the main campus of the University of Nebraska-Lincoln, shall mean the south right-of-way line of R Street and abandoned R Street from 10th to 17th streets;

(34) Brewpub shall mean any restaurant or hotel which produces on its premises a maximum of five ~~ten~~ thousand barrels of beer per year, ~~for sale at retail for consumption on the licensed premises and which sells not more than ten percent of its annual production for consumption off the premises;~~

(35) Manager shall mean a person appointed by a corporation to oversee the daily operation of the business licensed in Nebraska. A manager shall meet all the requirements of the act as though he or she were the applicant, except for residency and citizenship;

(36) Shipping license shall mean a license granted pursuant to section 53-123.15; and

(37) Sampling shall mean consumption on the premises of a retail licensee of not more than five samples of one fluid ounce or less of alcoholic liquor by the same person in a twenty-four-hour period;

(38) Microbrewery shall mean any small brewery producing a maximum of ten thousand barrels of beer per year; and

(39) Craft brewery shall mean a brewpub or a microbrewery.

Sec. 2. Section 53-117.07, Reissue Revised Statutes of Nebraska, is amended to read:

53-117.07. All proceedings for the suspension, cancellation, or revocation of licenses of manufacturers, wholesalers, nonbeverage users, ~~brewpubs~~ craft breweries, railroads, airlines, shippers, and boats shall be before the commission, and the proceedings shall be in accordance with rules and regulations adopted and promulgated by it not inconsistent with law. No such license shall be so suspended, canceled, or revoked except after a hearing by the commission with reasonable notice to the licensee and opportunity to appear and defend.

Sec. 3. Section 53-123, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 4. Section 53-123.01, Reissue Revised Statutes of Nebraska, is amended to read:

53-123.01. A manufacturer's license shall allow the manufacture, storage, and sale of alcoholic liquor, ~~including the wholesale distribution of beer;~~ to licensees in this state and to such persons outside the state as may be permitted by law, except that nothing in the Nebraska Liquor Control Act shall prohibit a manufacturer of beer from distributing tax-paid samples of beer at the premises of a licensed manufacturer for consumption on the premises.

Sec. 5. Section 53-123.14, Revised Statutes Supplement, 1994, is amended to read:

53-123.14. Any person who operates a brewpub craft brewery shall obtain a license pursuant to the Nebraska Liquor Control Act. A license to operate a brewpub craft brewery shall permit the holder a brewpub or microbrewery to produce on the brewpub craft brewery premises a maximum of five ten thousand barrels of beer per year. A craft brewery may also sell to beer wholesalers for sale and distribution to licensed retailers. A craft brewery for sale on draught for consumption on the premises. The holder of a brewpub license may also sell not more than fifty percent of his or her annual production for consumption off the premises. The license holder shall serve food on the premises and shall otherwise be a restaurant. A brewpub license issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of beer for consumption on or off the licensed premises, except that the sale of any beer other than beer manufactured by the brewpub craft brewery licensee, wine, or alcoholic liquor by the drink for consumption on the brewpub craft brewery premises shall require the appropriate retail license. Any license held by the operator of a brewpub craft brewery shall be subject to the act. A holder of a brewpub craft brewery license may obtain an annual catering license pursuant to section 53-124.12 or a special designated license pursuant to section 53-124.11.

Sec. 6. Section 53-124, Revised Statutes Supplement, 1994, is amended to read:

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 craft brewery:
 - (a) Manufacture of beer, excluding beer produced by a brewpub craft brewery:
 - (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;~~ 800.00;
- (b) ~~Operation of a craft brewery~~ ~~\$250.00;~~ 800.00;
- (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~~ craft breweries, 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~~ craft breweries, 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~~ craft brewery sales outlets. If a Class C license is held by a nonprofit corporation, it shall be restricted to consumption on the premises only. A Class C license may have a sampling designation restricting consumption on the premises to sampling, but such designation shall not affect sales for consumption off the premises under such license;

(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~~ craft brewery 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~~ craft brewery sales outlets;

(f) Class F: Beer only except for ~~brewpubs~~ craft breweries, 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 craft brewery sales outlets;

(i) Class J: Beer and wine only except for brewpubs craft breweries, 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. 7. Section 53-124.11, Revised Statutes Supplement, 1994, is amended to read:

53-124.11. (1) The commission may issue a special designated license for sale or consumption of alcoholic liquor at a designated location to a retail licensee, a brewpub craft brewery licensee, a municipal corporation, a fine arts museum incorporated as a nonprofit corporation, a religious nonprofit corporation which has been exempted from the payment of federal income taxes, a political organization which has been exempted from the payment of federal income taxes, or any other nonprofit corporation the purpose of which is fraternal, charitable, or public service and which has been exempted from the payment of federal income taxes, under conditions specified in this section. The applicant shall demonstrate meeting the requirements of this subsection.

(2) No retail licensee, brewpub craft brewery licensee, organization, or corporation enumerated in subsection (1) of this section may

be issued a special designated license under this section for more than six calendar days in any one calendar year. Only one special designated license shall be required for any application for two or more consecutive days. This subsection shall not apply to any holder of a catering license.

(3) Except for any special designated license issued to a holder of a catering license, there shall be a fee of twenty-five dollars for each day identified in the special designated license. Such fee shall be submitted with the application for the special designated license, collected by the commission, and remitted to the State Treasurer for credit to the General Fund. The applicant shall be exempt from the provisions of the Nebraska Liquor Control Act requiring a registration fee and the provisions of the act requiring the expiration of forty-five days from the time the application is received by the commission prior to the issuance of a license, if granted by the commission. The retail licensees, ~~brewpub~~ craft brewery licensees, municipal corporations, organizations, and nonprofit corporations enumerated in subsection (1) of this section seeking a special designated license shall file an application on such forms as the commission may prescribe. Such forms shall contain, along with other information as required by the commission, (a) the name of the applicant, (b) the premises for which a special designated license is requested, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (c) the name of the owner or lessee of the premises for which the special designated license is requested, (d) sufficient evidence that the holder of the special designated license, if issued, will carry on the activities and business authorized by the license for himself, herself, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (e) a statement of the type of activity to be carried on during the time period for which a special designated license is requested, and (f) sufficient evidence that the activity will be supervised by persons or managers who are agents of and directly responsible to the holder of the special designated license.

(4) No special designated license provided for by this section shall be issued by the commission without the approval of the local governing body. The local governing body may establish criteria for approving or denying a special designated license. The local governing body may designate an agent to determine whether a special designated license is to be approved or denied. Such agent shall follow criteria established by the local governing body in making his or her determination. The determination of the agent shall be considered the determination of the local governing body unless otherwise provided by the local governing body. For purposes of this section, the local governing body shall be the city or village within which the premises for which the special designated license is requested are located or, if such premises are not within the corporate limits of a city or village, then the local governing body shall be the county within which the premises for which the special designated license is requested are located.

(5) If the applicant meets the requirements of this section, a special designated license shall be granted and issued by the commission for use by the holder of the special designated license. All statutory provisions and rules and regulations of the commission that apply to a retail licensee shall apply to the holder of a special designated license with the exception of such statutory provisions and rules and regulations of the commission so designated by the commission and stated upon the issued special designated license, except that the commission may not designate exemption of sections 53-180 to 53-180.07. The decision of the commission shall be final. If the applicant does not qualify for a special designated license, the application shall be denied by the commission.

(6) A special designated license issued by the commission shall be mailed or delivered to the city, village, or county clerk who shall deliver such license to the licensee upon receipt of any fee or tax imposed by such city, village, or county.

Sec. 8. Section 53-124.12, Revised Statutes Supplement, 1994, is amended to read:

53-124.12. (1) The holder of a Class C, Class D, or Class I license issued under subdivision (5) of section 53-124 or a ~~brewpub~~ craft brewery license may obtain an annual catering license as prescribed in this section. The catering license shall be issued for the same period and may be renewed in the same manner as the Class C, Class D, or Class I license or ~~brewpub~~ craft brewery license.

(2) Any person desiring to obtain a catering license shall file with the commission:

(a) An application in triplicate original upon such forms as the commission prescribes; and

(b) A license fee of seventy-five dollars payable to the commission, which fee shall be returned to the applicant if the application is denied.

(3) When an application for a catering license is filed, the commission shall notify, by registered or certified mail, return receipt requested with postage prepaid, the clerk of the city or incorporated village in which such applicant is located or, if the applicant is not located within a city or incorporated village, the county clerk of the county in which such applicant is located of the receipt of the application. The commission shall enclose with such notice one copy of the application. The local governing body and the commission shall process the application in the same manner as provided in section 53-132.

(4) The local governing body with respect to catering licensees within its corporate limits may cancel a catering license for cause for the remainder of the period for which such license is issued. Any person whose catering license is canceled may appeal to the district court of the county in which the local governing body is located.

(5) For purposes of this section, local governing body shall mean the governing body of the city or village in which the catering licensee is located or, if such licensee is not located within a city or village, the governing body of the county in which such licensee is located.

(6) The city, village, or county in which the catering licensee is located may impose an occupation tax on the business of any person, firm, or corporation receiving a catering license pursuant to this section and doing business within such city, village, or county. Such tax may not exceed double the license fee to be paid under this section.

Sec. 9. Section 53-131, Reissue Revised Statutes of Nebraska, is amended to read:

53-131. Any person desiring to obtain a new license to sell alcoholic liquor at retail or a ~~brewpub~~ craft brewery license shall file with the commission:

(1) An application in triplicate original upon such forms as the commission prescribes;

(2) The license fee if under section 53-124 such fee is payable to the commission, which fee shall be returned to the applicant if the application is not approved; and

(3) The state registration fee in the sum of thirty dollars.

The commission shall notify, by registered or certified mail, return receipt requested with postage prepaid, the clerk of the city or incorporated village in which such license is sought or, if the license is not sought within a city or incorporated village, the county clerk of the county in which such license is sought of the receipt of the application and shall enclose with the notice one copy of the application.

Sec. 10. Section 53-164.01, Revised Statutes Supplement, 1994, is amended to read:

53-164.01. Payment of the tax provided for in section 53-160 on alcoholic liquor shall be paid by the manufacturer or wholesaler as follows:

(1)(a) All manufacturers or wholesalers, except farm winery producers, whether inside or outside this state shall, on or before the twenty-fifth day of each calendar month following the month in which shipments were made, submit a report under oath or affirmation to the commission upon forms furnished by the commission showing the total amount of alcoholic liquor in gallons or fractional parts thereof shipped by such manufacturer or wholesaler, whether inside or outside this state, during the preceding calendar month;

(b) All beer wholesalers shall, on or before the twenty-fifth day of each calendar month following the month in which shipments were made, submit a report under oath or affirmation to the commission upon forms furnished by the commission showing the total amount of beer in gallons or fractional parts thereof shipped by all manufacturers, whether inside or outside this state, during the preceding calendar month to such wholesaler;

(c) Farm winery producers shall, on or before the twenty-fifth day of each calendar month following the month in which wine was packaged or bottled for sale, submit a report under oath or affirmation to the commission upon forms furnished by the commission showing the total amount of wine in gallons or fractional parts thereof packaged or bottled by such producer during the preceding calendar month;

(d) A ~~brewpub~~ craft brewery shall, on or before the twenty-fifth day of each calendar month following the month in which the beer was produced for sale, submit a report under oath or affirmation to the commission on forms furnished by the commission showing the total amount of beer in gallons or fractional parts thereof produced for sale by the ~~brewpub~~ craft brewery during the preceding calendar month; and

(e) Reports submitted pursuant to subdivision (a), (b), or (c) of this subdivision shall also contain a statement of the total amount of alcoholic liquor, except beer, in gallons or fractional parts thereof shipped to licensed retailers inside this state and such other information as the commission may require;

(2) The wholesaler or farm winery producer shall at the time of the filing of the report pay to the commission the tax due on alcoholic liquor, except beer, shipped to licensed retailers inside this state at the rate fixed in accordance with section 53-160. The tax due on beer shall be paid by the wholesaler on beer shipped from all manufacturers;

(3) The tax imposed pursuant to section 53-160 shall be due on the date the report is due less a discount of one percent of the tax on alcoholic liquor for submitting the report and paying the tax in a timely manner. The discount shall be deducted from the payment of the tax before remittance to the commission and shall be shown in the report to the commission as required in this section. If the tax is not paid within the time provided in this section, the discount shall not be allowed and shall not be deducted from the tax;

(4) If the report is not submitted by the twenty-fifth day of the calendar month or if the tax is not paid to the commission by the twenty-fifth day of the calendar month, the following penalties shall be assessed on the amount of the tax: One to five days late, three percent; six to ten days late, six percent; and over ten days late, ten percent. In addition, interest on the tax shall be collected at the rate of one percent per month, or fraction of a month, from the date the tax became due until paid;

(5) No tax shall be levied or collected on alcoholic liquor manufactured inside this state and shipped or transported outside this state for sale and consumption outside this state;

(6) In order to insure the payment of all state taxes on alcoholic liquor, together with interest and penalties, persons required to submit reports and payment of the tax shall, at the time of application for a license under section 53-124, enter into a surety bond with corporate surety, both the bond form and surety to be approved by the commission. Subject to the limitations specified in this subdivision, the amount of the bond required of any taxpayer shall be fixed by the commission and may be increased or decreased by the commission at any time. In fixing the amount of the bond, the commission shall require a bond equal to the amount of the taxpayer's estimated maximum monthly excise tax ascertained in a manner as determined by the commission. Nothing in this section shall prevent or prohibit the commission from accepting and approving bonds which run for a term longer than the license period. The amount of a bond required of any one taxpayer shall not be less than one thousand dollars. The bonds required by this section shall be filed with the commission; and

(7) When a manufacturer or wholesaler sells and delivers alcoholic liquor upon which the tax has been paid to any instrumentality of the armed forces of the United States engaged in resale activities as provided in section 53-160.01, the manufacturer or wholesaler shall be entitled to a credit in the amount of the tax paid in the event no tax is due on such alcoholic liquor as provided in such section. The amount of the credit, if any, shall be deducted from the tax due on the following monthly report and subsequent reports until liquidated.

Sec. 11. Section 53-169, Reissue Revised Statutes of Nebraska, is amended to read:

53-169. (1) No manufacturer or wholesaler shall directly or indirectly: (a) Pay for any license to sell alcoholic liquor at retail or advance, furnish, lend, or give money for payment of such license; (b) purchase or become the owner of any note, mortgage, or other evidence of indebtedness of such licensee or any form of security therefor; (c) be interested in the ownership, conduct, or operation of the business of any licensee authorized to sell alcoholic liquor at retail; or (d) be interested directly or indirectly or as owner, part owner, lessee, or lessor thereof in any premises upon which alcoholic liquor is sold at retail.

(2) This section shall not apply to the holder of a farm winery license, or a brewpub license. The holder of a craft brewery license shall have the privileges and duties listed in section 53-123.14 with respect to the manufacture, distribution, and retail sale of beer, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a craft brewery license to engage in the wholesale distribution of beer.

Sec. 12. Section 53-171, Reissue Revised Statutes of Nebraska, is amended to read:

53-171. No person licensed as a manufacturer or wholesaler of alcoholic liquor shall be permitted to receive any retail license at the same

time. No person licensed as a retailer of alcoholic liquor shall be permitted to receive any manufacturer's or wholesale license at the same time. This section shall not apply to the holder of a farm winery license, ~~or a brewpub license~~ The holder of a craft brewery license shall have the privileges and duties listed in section 53-123.14 with respect to the manufacture, distribution, and retail sale of beer, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a craft brewery license to engage in the wholesale distribution of beer.

Sec. 13. Section 53-188, Reissue Revised Statutes of Nebraska, is amended to read:

53-188. No person shall operate a ~~brewpub~~ craft brewery or sell alcoholic liquor at retail, and the commission shall not grant, issue, or cause to be granted or issued any license to operate a ~~brewpub~~ craft brewery or to sell alcoholic liquor at retail, within the limits of any governmental subdivision of this state while a prohibition against such sales arising under sections 53-121 and 53-122 or otherwise as provided in the Nebraska Liquor Control Act is in effect, and any such license granted or issued in violation thereof shall be void. This section shall not prohibit the issuance of a manufacturer's or wholesale license in accordance with law by the commission in such prohibited territory.

Sec. 14. This act becomes operative on March 1, 1997.

Sec. 15. Original sections 53-117.07, 53-123, 53-123.01, 53-131, 53-169, 53-171, and 53-188, Reissue Revised Statutes of Nebraska, and sections 53-103, 53-123.14, 53-124, 53-124.11, 53-124.12, and 53-164.01, Revised Statutes Supplement, 1994, are repealed.