

## LEGISLATIVE BILL 278

Approved by the Governor May 25, 2001

Introduced by General Affairs Committee: Janssen, 15, Chairperson;  
Cunningham, 18; Quandahl, 31; Schrock, 38; and Hartnett, 45

AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-123.04, 53-124, 53-124.12, and 53-124.14, Reissue Revised Statutes of Nebraska, and sections 53-103, 53-122, 53-131, and 53-134, Revised Statutes Supplement, 2000; to provide for Class D-1 licenses; to harmonize provisions; 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, 2000, is amended to read:

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

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

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

(3) Wine means 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 means a beverage obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt, and hops in water and includes, but is not limited to, beer, ale, stout, lager beer, porter, and near beer;

(5) Alcoholic liquor includes 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 also includes confections or candy with alcohol content of more than one-half of one percent alcohol. The act does 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 applies 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 means beer containing less than one-half of one percent of alcohol by volume;

(7) Original package means 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 means 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 means 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 means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor and includes blending but does 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 means 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 does 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 includes a distributor, distributorship, and jobber;

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

(13) Retailer means 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 means sale for use or consumption and not for resale in any form except as provided in section 53-175;

(15) Commission means the Nebraska Liquor Control Commission;

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

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

(18) Restaurant means 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 means 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. 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 means 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 means 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 means 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. This section does not 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 means any person, male or female, under twenty-one years of age, regardless of marital status;

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

(25) Franchise or agreement, with reference to the relationship between a manufacturer and wholesaler, includes 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 means the wholesaler's area of sales responsibility for the brand or brands of the manufacturer;

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

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

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

(30) Generic label means 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 means 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 means 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, means the south right-of-way line of R Street and abandoned R Street from 10th to 17th streets;

(34) Brewpub means any restaurant or hotel which produces on its premises a maximum of ten thousand barrels of beer per year;

(35) Manager means 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 means a license granted pursuant to section 53-123.15;

(37) Sampling means 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 means any small brewery producing a maximum of ten thousand barrels of beer per year;

(39) Craft brewery means a brewpub or a microbrewery; and

(40) Local governing body means (a) the city council or village board of trustees of a city or village within which the licensed premises are located, (b) in the case of a Class D-1 license, the city council or village board of trustees of the city or incorporated village outside whose corporate limits but within whose extraterritorial zoning jurisdiction the licensed premises is located, or, (c) if such the licensed premises are not licensed pursuant to a Class D-1 license and are not within the corporate limits of a city or village, the county board of the county within which the licensed premises are located.

Sec. 2. Section 53-122, Revised Statutes Supplement, 2000, is amended to read:

53-122. (1) The commission may issue licenses for the sale of alcoholic liquor, except beer, by the drink subject to all the terms and

conditions of the Nebraska Liquor Control Act in all cities and villages in this state, except in those cases when it affirmatively appears that the issuance will render null and void prior conveyances of land to such city or village for public uses and purposes by purchase, gift, or devise, under the conditions and in the manner provided in this section.

(2) If (a) a sufficient petition is signed by the registered voters of any such city or village of such number as equals twenty percent of the votes cast at the last general election held in such city or village, which petition requests that the question of licensing the sale of alcoholic liquor, except beer, by the drink in the city or village be submitted to the registered voters of the city or village at a special election to be called for that purpose and (b) such petition is presented to the clerk of the city or village, the clerk shall cause to be published one time in a legal newspaper published in or of general circulation in the city or village a notice of a special election to be held not less than ten days nor more than twenty days after the date of such publication. The notice shall state the proposition to be submitted at such special election.

(3) The question of licensing the sale of alcoholic liquor either by the drink or in the original package, or both by the drink and in the original package, may also be submitted at any general municipal election, except as otherwise provided in section 53-121, in any city or village in this state subject to the following:

(a) Upon the filing with the clerk of the city or village of a petition signed by registered voters of the city or village in a number equal to twenty percent of the votes cast at the last general election held in the city or village, such proposition or propositions shall be submitted;

(b) Each petition shall conform to the requirements of section 32-628;

(c) At the top of each sheet shall be stated the proposition or propositions to be submitted and the date of the general municipal election at which it is proposed to be submitted;

(d) No signature on the petition shall be valid unless appended to the petition within the last ninety days prior to the date of filing the petition with the clerk of the city or village; and

(e) The petition shall be filed thirty days prior to the day of the general municipal election at which the proposition is to be submitted, and during such thirty-day period no signature shall be withdrawn and no signature shall be added.

(4) Any person who signs any proposal or petition contemplated under this section knowing that he or she is not a registered voter in the place where such proposal or petition is made, who signs any name other than his or her own to such proposal or petition, or who aids or abets any other person in doing any of the acts mentioned is guilty of a Class I misdemeanor. Any person who bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such proposal or petition, who accepts money for signing such proposal or petition, or who aids or abets any other person in doing any of such acts is guilty of a Class IV felony.

(5) Upon the ballot either at the special election or at any general municipal election, the proposition or propositions shall be stated as follows:

Shall the sale of alcoholic liquor, except beer, by the drink be licensed in (here insert the name of the city or village)?

.... For license to sell by drink.

.... Against license to sell by drink.

Shall the sale of alcoholic liquor, except beer, by the package be licensed in (here insert the name of the city or village)?

.... For license to sell by the package.

.... Against license to sell by the package.

The provisions of the Election Act relating to election officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, calling of elections, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition or propositions under the Nebraska Liquor Control Act, and a majority vote of those voting on the question shall be mandatory upon the commission.

(6) If the question is to be submitted at a statewide primary or general election, the petitions shall be filed with the clerk of the city or village not less than sixty days prior to the election. The provisions for the required number of signers and the form of petition shall be the same as for a special election. The clerk of the city or village shall verify the signatures on the petitions with the voter registration records in the office

of the county clerk or election commissioner. During the ten-day period while the petitions are being checked, no signatures shall be withdrawn and no signatures shall be added.

If the clerk of the city or village finds the petitions to be valid, he or she shall, not less than fifty days prior to the statewide primary or general election, give notice in writing to the county clerk or election commissioner that the question is to be submitted at the time of the statewide primary or general election. The election notices, issuing of the official ballots on election day, issuing of the official absentee ballots, and counting and canvassing of the ballots shall be conducted by the county clerk or election commissioner as provided in the Election Act and the official results certified to the clerk of the city or village.

(7) An election may not be held in the same city or village under this section more often than once every twenty-three months. Subdivisions ~~(5)(g)~~ (5)(h) and (9) of section 53-124 are not subject to this section.

Sec. 3. Section 53-123.04, Reissue Revised Statutes of Nebraska, is amended to read:

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, on the premises specified in the license or 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 (22) 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, Class D-1, 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. 4. Section 53-124, Reissue Revised Statutes of Nebraska, 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 and, if the applicant is an individual, provide the applicant's social security number. 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 craft brewery:
  - (a) Manufacture of beer, excluding beer produced by a 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 craft brewery ..... \$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 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 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 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 craft brewery sales outlets;

(e) Class D-1: Alcoholic liquor, including beer, outside the corporate limits but within the extraterritorial zoning jurisdiction of cities and incorporated 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 craft brewery sales outlets;

(f) 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 craft brewery sales outlets;

~~(f)~~ (g) Class F: Beer only except for 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)~~ (h) 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)~~ (i) 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 craft brewery sales outlets;

~~(i)~~ (j) Class J: Beer and wine only except for 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)~~ (k) 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 or Class D-1 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. 5. Section 53-124.12, Reissue Revised Statutes of Nebraska, is amended to read:

53-124.12. (1) The holder of a Class C, Class D, Class D-1, or Class I license issued under subdivision (5) of section 53-124 or a 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, Class D-1, or Class I license or 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, (a) the clerk of the city or incorporated village in which such applicant is located, (b) if the applicant is the holder of a Class D-1 license, the clerk of the city or incorporated village outside of whose corporate limits but within whose extraterritorial zoning jurisdiction the applicant is located, or, (c) if the applicant is not the holder of a Class D-1 license and 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~~ liquor license jurisdiction as provided in subsection (5) of this section may cancel a catering license for cause for the remainder of the period for which such catering 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~~ means (a) the governing body of the city or village in which the catering licensee is located, (b) if the licensee has a Class D-1 license, the governing body of the city or incorporated village within whose zoning jurisdiction the licensee is located, or, (c) if such licensee is not the holder of a Class D-1 license and 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. The local governing body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the local governing body as provided in subsection (5) of this section. Such tax may not exceed double the license fee to be paid under this section.~~

Sec. 6. Section 53-124.14, Reissue Revised Statutes of Nebraska, is amended to read:

53-124.14. (1) The commission may license the sale of alcoholic liquor at retail in the original package to applicants who reside 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 if the licensed premises are situated in an unincorporated village having a population of twenty-five inhabitants or more.

(2) The commission may license the sale of beer at retail in any county outside the corporate limits of any city or village therein and license the sale of alcoholic liquor at retail for consumption on the premises and off the premises, sales in the original package only.

(3) The commission may license the sale of alcoholic liquor for consumption on the premises as provided in subdivision (5)(c) of section 53-124 on lands controlled by airport authorities when such land is located on and under county jurisdiction or by the State Board of Agriculture.

(4) The commission may license the sale at retail of alcoholic liquor, including beer, in the original package only, except as provided in subsection (2) of section 53-123.04, to applicants who are located outside the corporate limits but within the extraterritorial zoning jurisdiction of cities or incorporated villages.

(5) This section shall not be construed to limit the commission in the issuance of licenses described in subdivision ~~(5)(g)~~ (5)(h) or (9) of section 53-124.

Sec. 7. Section 53-131, Revised Statutes Supplement, 2000, is amended to read:

53-131. (1) Any person desiring to obtain a new license to sell alcoholic liquor at retail, a bottle club license, or a craft brewery license shall file with the commission:

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

(b) 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 denied; and

(c) The state registration fee in the sum of forty-five dollars.

(2) The commission shall notify, by registered or certified mail, return receipt requested with postage prepaid, (a) the clerk of the city or village in which such license is sought, (b) if the license sought is a Class D-1 license, the clerk of the city or incorporated village outside of whose corporate limits but within whose extraterritorial zoning jurisdiction the applicant is located, or, (c) if the license sought is not a Class D-1 license and is not sought within a city or village, the county clerk of the county in which such license is sought, of the receipt of the application and shall enclose one copy of the application with the notice. No such license shall be issued or denied by the commission until the expiration of the time allowed for the receipt of a recommendation of denial or an objection requiring a hearing under subdivision (1)(a) or (b) of section 53-133. During the period of forty-five days after the date of receiving such application from the commission, the local governing body of such city, village, or county may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

Sec. 8. Section 53-134, Revised Statutes Supplement, 2000, is amended to read:

53-134. The local governing body of any city or village with respect to licenses within its corporate limits, the local governing body of any city or incorporated village with respect to Class D-1 licenses outside its corporate limits but within its extraterritorial zoning jurisdiction, and the local governing body of any county with respect to licenses other than Class D-1 licenses not within the corporate limits of any city or village but within the county shall have the following powers, functions, and duties with respect to retail, bottle club, and craft brewery licenses:

(1) To cancel or revoke for cause retail, bottle club, or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the local governing body has been or is being violated and at such time examine the premises of such licensee in connection with such determination;

(3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the act;

(4) To receive retail license fees, bottle club license fees, and craft brewery license fees as provided in section 53-124 and pay the same, after the license has been delivered to the applicant, to the city, village, or county treasurer;

(5) To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the local governing body may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the commission within thirty days after the date of the order by filing a notice of appeal with the commission. The commission shall handle the appeal in the manner provided for hearing on an application in section 53-133; and

(7) Upon receipt from the commission of the notice and copy of application as provided in section 53-131, to fix a time and place for a hearing at which the local governing body shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in such city, village, or county one time not less than seven and not more than fourteen days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the local governing body in support of or in protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than forty-five days after the date of receipt of the notice from the commission, and after such hearing the local governing body shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The clerk of such city, village, or county shall mail to the commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commission refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs.

Sec. 9. Original sections 53-123.04, 53-124, 53-124.12, and 53-124.14, Reissue Revised Statutes of Nebraska, and sections 53-103, 53-122, 53-131, and 53-134, Revised Statutes Supplement, 2000, are repealed.