

LEGISLATIVE BILL 671  
Passed over the Governor's veto  
May 30, 2001.

Introduced by General Affairs Committee: Janssen, 15, Chairperson;  
Burling, 33; Cunningham, 18; Quandahl, 31; Schrock, 38; and  
Wickersham, 49

AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-123.15 and 53-124, Reissue Revised Statutes of Nebraska, and section 53-162, Revised Statutes Supplement, 2000; to provide for a shipping license, a fee, and a tax as prescribed; to provide and change duties; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 53-123.15, Reissue Revised Statutes of Nebraska, is amended to read:

53-123.15. (1) No person shall order or receive alcoholic liquor in this state which has been shipped directly to him or her from outside this state by any person other than a holder of a shipping license issued by the commission, except that a licensed wholesaler may receive not more than three gallons of wine in any calendar year from any person who is not a holder of a shipping license.

(2) The commission may issue a shipping license to a manufacturer. Such license shall allow the licensee to ship alcoholic liquor only to a licensed wholesaler, except that a licensed wholesaler may, without a shipping license and for the purposes of subdivision (2) of section 53-161, receive beer in this state which has been shipped from outside the state by a manufacturer in accordance with the Nebraska Liquor Control Act to the wholesaler, then transported by the wholesaler to another state for retail distribution, and then returned by the retailer to such wholesaler.

(3) The commission may issue a shipping license to any person who deals with vintage wines, which shipping license shall allow the licensee to distribute such wines to a licensed wholesaler in the state. For purposes of distributing vintage wines, a licensed shipper must utilize a designated wholesaler if the manufacturer has a designated wholesaler. For purposes of this section, vintage wine shall mean a wine verified to be ten years of age or older and not available from a primary American source of supply.

(4) The commission may issue a shipping license to any person who sells and ships alcoholic liquor from another state directly to a consumer in this state. A person who receives a license pursuant to this subsection shall pay the fee required in subdivision (12) of section 53-124.

(5) The application for a shipping license shall be in such form as the commission prescribes. The application shall contain all provisions the commission deems proper and necessary to effectuate the purpose of any section of the act and the rules and regulations of the commission that apply to manufacturers and shall include, but not be limited to, provisions that the applicant, in consideration of the issuance of such shipping license, agrees:

(a) To comply with and be bound by section 53-164.01 in making and filing reports, paying taxes, penalties, and interest, and keeping records;

(b) To permit and be subject to all of the powers granted by section 53-164.01 to the commission or its duly authorized employees or agents for inspection and examination of the applicant's premises and records and to pay the actual expenses, excluding salary, reasonably attributable to such inspections and examinations made by duly authorized employees of the commission if within the United States; and

(c) That if the applicant violates any of the provisions of the application or the license, any section of the act, or any of the rules and regulations of the commission that apply to manufacturers, the commission may revoke or suspend such shipping license for such period of time as it may determine.

Sec. 2. 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 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) 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) 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 craft brewery sales outlets;

(i) 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) 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.~~

(11) For a shipping license, except a shipping license issued pursuant to subsection (4) of section 53-123.15 ..... \$200.00; and

(12) For a shipping license issued pursuant to subsection (4) of section 53-123.15 ..... \$500.00.

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. 3. Section 53-162, Revised Statutes Supplement, 2000, is amended to read:

53-162. For the purpose of raising revenue, a tax is imposed upon persons holding a shipping license issued pursuant to subsection (4) of section 53-123.15 who ship alcoholic liquor to individuals who have received alcoholic liquor by transport pursuant to section 53-192 and for which the required taxes in the state of purchase or this state have not been paid. The tax, if due, shall be paid by the purchaser of the alcoholic liquor holder of the shipping license issued pursuant to subsection (4) of section 53-123.15. The amount of the tax shall be imposed as provided in section 53-160. The tax shall be collected by the Department of Revenue in the same manner as sales and use taxes under the Nebraska Revenue Act of 1967 commission, except that the tax shall not be due until December 31 of the year in which the purchase was made. The tax shall be delinquent if unpaid within twenty-five days after December 31. The revenue from the tax shall be credited to the General Fund. The ~~department and the~~ commission shall adopt and promulgate rules and regulations to carry out this section.

Sec. 4. Original sections 53-123.15 and 53-124, Reissue Revised Statutes of Nebraska, and section 53-162, Revised Statutes Supplement, 2000, are repealed.