

LEGISLATIVE BILL 485

Approved by the Governor April 15, 2004

Introduced by General Affairs Committee: Janssen, 15, Chairperson;
Connealy, 16; Cunningham, 40; Erdman, 47; Friend, 10; Mossey, 3;
Schimek, 27

AN ACT relating to the Nebraska Liquor Control Act; to amend sections 9-329.03, 53-116.01, 53-119.01, 53-123, 53-123.13, 53-134.04, 53-135, 53-138.03, 53-168, and 53-179, Reissue Revised Statutes of Nebraska, sections 53-101, 53-116.02, 53-117, 53-122, 53-123.04, 53-123.15, 53-124, 53-124.12, 53-124.14, 53-129, 53-131, 53-132, 53-133, 53-134, 53-134.03, and 53-1,115, Revised Statutes Supplement, 2002, and sections 53-103, 53-123.02, and 53-123.03, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to licenses to sell alcoholic liquor; to change provisions relating to fees; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 53-123.08 and 53-124.01, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 9-329.03, Reissue Revised Statutes of Nebraska, is amended to read:

9-329.03. (1) Any sole proprietorship, partnership, limited liability company, or corporation, which holds a ~~retailer's license~~ retail license for the sale of alcoholic liquor for consumption on the premises or a bottle club license issued by the Nebraska Liquor Control Commission pursuant to the Nebraska Liquor Control Act or which holds a ~~retailer's license~~ retail license for the sale of alcoholic liquor for consumption off the premises, may apply for a pickle card operator's license to sell individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards.

(2) A pickle card operator licensed under the Nebraska Pickle Card Lottery Act shall not be connected with or interested in, directly or indirectly, any person, partnership, limited liability company, firm, corporation, or other party licensed as a distributor or manufacturer under section 9-330 or 9-332.

(3) A sole proprietor, partner in a partnership, member in a limited liability company, or officer or director of a corporation licensed as a pickle card operator shall not be licensed as a sales agent.

(4) A sole proprietor, partner in a partnership, member in a limited liability company, or officer or director of a corporation licensed as a pickle card operator shall not be a director, manager, trustee, or member of any governing committee, board, or body of the licensed organization on behalf of which the pickle card operator sells individual pickle cards.

Sec. 2. Section 53-101, Revised Statutes Supplement, 2002, is amended to read:

53-101. Sections 53-101 to 53-1,122 and section 16 of this act shall be known and may be cited as the Nebraska Liquor Control Act.

Sec. 3. Section 53-103, Revised Statutes Supplement, 2003, 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)~~ (23) Brand means alcoholic liquor identified as the product of a specific manufacturer;

~~(25)~~ (24) 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)~~ (25) Territory or sales territory means the wholesaler's area of sales responsibility for the brand or brands of the manufacturer;

~~(27)~~ (26) Suspend means to cause a temporary interruption of all rights and privileges of a license;

~~(28)~~ (27) Cancel means to discontinue all rights and privileges of a license;

~~(29)~~ (28) Revoke means to permanently void and recall all rights and privileges of a license;

~~(30)~~ (29) 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)~~ (30) Private label means a label which the purchasing wholesaler, or retailer, or bottle club licensee has protected, in whole or in part, by a trademark registration or which the purchasing wholesaler, or

retailer, ~~or bottle club licensee~~ has otherwise protected pursuant to state or federal statutory or common law;

~~(32)~~ (31) 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 of the finished product is grown in this state;

~~(33)~~ (32) 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)~~ (33) Brewpub means any restaurant or hotel which produces on its premises a maximum of ten thousand barrels of beer per year;

~~(35)~~ (34) 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)~~ (35) Shipping license means a license granted pursuant to section 53-123.15;

~~(37)~~ (36) 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)~~ (37) Microbrewery means any small brewery producing a maximum of ten thousand barrels of beer per year;

~~(39)~~ (38) Craft brewery means a brewpub or a microbrewery;

~~(40)~~ (39) 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, or (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 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; and

~~(41)~~ (40) Consume means knowingly and intentionally drinking or otherwise ingesting alcoholic liquor.

Sec. 4. Section 53-116.01, Reissue Revised Statutes of Nebraska, is amended to read:

53-116.01. The commission and local governing bodies shall cause frequent inspection to be made on the premises of all retail licensees and bottle club licensees, and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and regulations of the commission adopted and promulgated under the act or is failing to observe in good faith the purposes of the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense.

Sec. 5. Section 53-116.02, Revised Statutes Supplement, 2002, is amended to read:

53-116.02. Whenever any retail licensee, bottle club licensee, or craft brewery licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of his or her license and all money that had been paid for the license. The local governing body may conditionally revoke the license subject to a final order of the commission, or the commission may revoke the license in an original proceeding brought before it for that purpose.

Sec. 6. Section 53-117, Revised Statutes Supplement, 2002, is amended to read:

53-117. The commission has the following powers, functions, and duties:

(1) To receive applications for and to issue licenses to and suspend, cancel, and revoke licenses of manufacturers, wholesalers, nonbeverage users, retailers, railroads including owners and lessees of sleeping, dining, and cafe cars, airlines, and boats in accordance with the Nebraska Liquor Control Act;

(2) To fix by rules and regulations the standards of manufacture of alcoholic liquor not inconsistent with federal laws in order to insure the use of proper ingredients and methods in the manufacture and distribution thereof and to adopt and promulgate rules and regulations not inconsistent with federal laws for the proper labeling of containers, barrels, casks, or other bulk containers or of bottles of alcoholic liquor manufactured or sold in this state. The Legislature intends, by the grant of power to adopt and promulgate rules and regulations, that the commission have broad discretionary powers to

govern the traffic in alcoholic liquor and to enforce strictly all provisions of the act in the interest of sanitation, purity of products, truthful representations, and honest dealings in a manner that generally will promote the public health and welfare. All such rules and regulations shall be absolutely binding upon all licensees and enforceable by the commission through the power of suspension or cancellation of licenses, except that all rules and regulations of the commission affecting a ~~Class H license, a bottle club license, or~~ a club possessing any form of retail license shall have equal application to all such licenses or shall be void;

(3) To call upon other administrative departments of the state, county and municipal governments, county sheriffs, city police departments, village marshals, peace officers, and prosecuting officers for such information and assistance as the commission deems necessary in the performance of its duties;

(4) To recommend to local governing bodies rules and regulations not inconsistent with law for the distribution and sale of alcoholic liquor throughout the state;

(5) To inspect or cause to be inspected any premises where alcoholic liquor is manufactured, distributed, or sold and, when sold on unlicensed premises or on any premises in violation of law, to bring an action to enjoin the use of the property for such purpose;

(6) To hear and determine appeals from orders of a local governing body in accordance with the act;

(7) To conduct or cause to be conducted an audit to inspect any licensee's records and books;

(8) In the conduct of any hearing or audit authorized to be held by the commission (a) to examine or cause to be examined, under oath, any licensee and to examine or cause to be examined the books and records of such licensee, (b) to hear testimony and take proof material for its information in the discharge of its duties under the act, and (c) to administer or cause to be administered oaths;

(9) To investigate the administration of laws in relation to alcoholic liquor in this and other states and to recommend to the Governor and through him or her to the Legislature amendments to the act; and

(10) To receive, account for, and remit to the State Treasurer state license fees and taxes provided for in the act.

Sec. 7. Section 53-119.01, Reissue Revised Statutes of Nebraska, is amended to read:

53-119.01. The ~~Nebraska Liquor Control Commission~~ commission may request the State Fire Marshal to inspect for fire safety pursuant to section 81-502 any premises for which an annually renewable retail ~~or bottle club license as defined in section 53-124~~ license, or renewal of such a license, is sought. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 and which shall be payable by the licensee or applicant for a license. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502.

Sec. 8. Section 53-122, Revised Statutes Supplement, 2002, 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)(h) and (9)~~ Subdivision (5)(e) of section 53-124 ~~are~~ is not subject to this section.

Sec. 9. 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)~~ (10) craft brewery license; ~~(12)~~ (11) shipping license; ~~(13)~~ (12) special designated license; and ~~(14)~~ (13) catering license.

Sec. 10. Section 53-123.02, Revised Statutes Supplement, 2003, is amended to read:

53-123.02. An alcoholic liquor wholesale license, except beer, shall (1) allow the wholesale purchase, importation, and storage of alcoholic liquor and sale of alcoholic liquor, except beer, to licensees in this state and to persons outside the state as may be permitted by law and (2) allow the sampling of tax-paid alcoholic liquor, except beer, upon the premises of the licensed wholesaler by a licensed retailer or allow sampling on the premises of any licensed retailer, whether the license permits consumption on or off the licensed premises, or both, ~~or bottle club~~ in the manner prescribed by the commission. The sampling authorized under this section shall be limited to persons licensed as wholesalers, or retailers, ~~bottle clubs~~, and their employees.

Sec. 11. Section 53-123.03, Revised Statutes Supplement, 2003, is amended to read:

53-123.03. A beer wholesale license shall (1) allow the wholesale purchase, importation, and storage of beer and sale, including delivery, of the brand or brands described in such license to licensees in this state in the sales territory prescribed in the license for each brand and to such persons outside the state as may be permitted by law, (2) allow the licensed wholesaler to do all things incident to the carrying on of the wholesale beer business, including the sampling of tax-paid beer upon the premises of the licensed wholesaler by a licensed retailer in the manner prescribed by the commission, and (3) allow the sampling of tax-paid beer upon the premises of any retailer, whether the license permits consumption on or off the licensed premises, or both, ~~or bottle club~~ in a manner prescribed by the commission.

The sampling authorized under subdivision (3) of this section shall be limited to persons licensed as wholesalers, or retailers, ~~or bottle clubs~~ and their employees.

The license shall designate the territory within which the licensed wholesaler may sell the designated product of any brewer as agreed upon by the licensee and the brewer.

Sec. 12. Section 53-123.04, Revised Statutes Supplement, 2002, 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. 13. Section 53-123.13, Reissue Revised Statutes of Nebraska, is amended to read:

53-123.13. (1) ~~In the event~~ If the operator of a farm winery is unable to produce or purchase seventy-five percent of the grapes, fruit, or other suitable agricultural products used in the farm winery from within the state due to natural disaster which causes substantial loss to the Nebraska-grown crop, such operator may petition the commission to waive the seventy-five-percent requirement prescribed in subdivision ~~(32)~~ (31) of section 53-103 for one year.

(2) It shall be within the discretion of the commission to waive the seventy-five-percent requirement taking into consideration the availability of products used in farm wineries in this area and the ability of such operator to produce wine from products that are abundant within the state.

Sec. 14. Section 53-123.15, Revised Statutes Supplement, 2002, 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)~~ (11) 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. 15. Section 53-124, Revised Statutes Supplement, 2002, 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;~~
~~and wines produced from farm wineries \$750.00;~~

(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;~~
~~the same licensee and wholesaling beer only \$500.00;~~

(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 one hundred~~ 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 one hundred~~ 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 three~~ 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 two hundred~~ dollars, except for farm winery or craft brewery sales outlets; and

~~(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;~~

~~(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;~~

~~(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;

(i) Class I: Alcoholic liquor, inside the corporate limits of cities and villages, for consumption on the premises, the sum of two hundred fifty dollars, except for farm winery or craft brewery sales outlets. +

(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

(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

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

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

(12) (11) 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, except that (a) when there is a purchase of an existing licensed business and a new license of the same class is issued or (b) upon the issuance of a new license for a location which has not been previously licensed, the license fee and occupation taxes shall be prorated on a quarterly basis as of the date of issuance.

Sec. 16. On the operative date of this act, the holder of a Class D-1 license, Class E license, or Class K license shall be issued a Class D license, the holder of a Class F license shall be issued a Class A license, and the holder of a Class H license, Class J license, or bottle club license shall be issued a Class I license. Any conditions placed on a Class D-1, Class E, Class F, Class H, Class J, Class K, or bottle club license by the local governing body or the commission prior to the operative date of this act shall continue to apply to the license issued to such holder on such date.

Sec. 17. Section 53-124.12, Revised Statutes Supplement, 2002, is amended to read:

53-124.12. (1) The holder of a ~~Class C, Class D, Class D-1, or Class F~~ license to sell alcoholic liquor at retail 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 F~~ retail 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~~ one hundred 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) or (b) 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 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 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) or (b) 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 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. 18. Section 53-124.14, Revised Statutes Supplement, 2002, 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 Nebraska State Fair Board.

~~(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)(h) or (9) of section 53-124.~~

Sec. 19. Section 53-129, Revised Statutes Supplement, 2002, is amended to read:

53-129. Retail, ~~bottle club~~, and craft brewery licenses issued under the Nebraska Liquor Control Act apply only to that part of the premises described in the application approved by the commission and in the license issued on the application, and only one location shall be described in each license. After such license has been granted for particular premises, the commission, with the approval of the local governing body and upon proper showing, may endorse upon the license permission to add to, delete from, or abandon the premises described in such license and, if applicable, to move from the premises to other premises approved by it, but in order to obtain such approval the retail, ~~bottle club~~, or craft brewery licensee shall file with the local governing body a request in writing and a statement under oath which shows that the premises as added to or deleted from or to which such move is to be made comply in all respects with the requirements of the act. No such addition, deletion, or move shall be made by any such licensee until his or her license has been endorsed to that effect in writing by the local governing body and by the commission and the licensee furnishes proof of payment of the state registration fee prescribed in section 53-131.

Sec. 20. Section 53-131, Revised Statutes Supplement, 2002, 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) or~~ (b) 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. 21. Section 53-132, Revised Statutes Supplement, 2002, is amended to read:

53-132. (1) If no hearing is required pursuant to subdivision (1)(a) or (b) of section 53-133 and the commission has no objections pursuant to subdivision (1)(c) of such section, the commission may waive the forty-five-day objection period and, if not otherwise prohibited by law, cause a retail license, ~~bottle club license~~, or craft brewery license to be signed by its chairperson, attested by its executive director over the seal of the commission, and issued in the manner provided in subsection (4) of this section as a matter of course.

(2) A retail license, ~~bottle club license~~, or craft brewery license shall be issued to any qualified applicant if the commission finds that (a) the applicant is fit, willing, and able to properly provide the service proposed within the city, village, or county where the premises described in the application are located, (b) the applicant can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, (c) the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act, and (d) the issuance of the license is or will be required by the present or future public convenience and necessity.

(3) In making its determination pursuant to subsection (2) of this section the commission shall consider:

(a) The recommendation of the local governing body;

(b) The existence of a citizens' protest made in accordance with section 53-133;

(c) The existing population of the city, village, or county and its

projected growth;

(d) The nature of the neighborhood or community of the location of the proposed licensed premises;

(e) The existence or absence of other retail licenses, ~~bottle club licenses~~, or craft brewery licenses with similar privileges within the neighborhood or community of the location of the proposed licensed premises;

(f) The existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises;

(g) The adequacy of existing law enforcement;

(h) Zoning restrictions;

(i) The sanitation or sanitary conditions on or about the proposed licensed premises; and

(j) Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

(4) Retail licenses, ~~bottle club licenses~~, or craft brewery licenses issued or renewed by the commission shall be mailed or delivered to the clerk of the city, village, or county who shall deliver the same to the licensee upon receipt from the licensee of proof of payment of (a) the license fee if by the terms of subdivision (5) of section 53-124 the fee is payable to the treasurer of such city, village, or county, (b) any fee for publication of notice of hearing before the local governing body upon the application for the license, (c) the fee for publication of notice of renewal as provided in section 53-135.01, and (d) occupation taxes, if any, imposed by such city, village, or county. Notwithstanding any ordinance or charter power to the contrary, no city, ~~or~~ village, or county shall impose an occupation tax on the business of any person, firm, or corporation licensed under the act and doing business within the corporate limits of such city or village or within the boundaries of such county in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.

(5) Each license shall designate the name of the licensee, the place of business licensed, and the type of license issued.

Sec. 22. Section 53-133, Revised Statutes Supplement, 2002, is amended to read:

53-133. (1) The commission shall set for hearing before it any application for a retail license, ~~bottle club license~~, or craft brewery license relative to which it has received:

(a) Within forty-five days after the date of receipt of such application by the city, village, or county clerk, a recommendation of denial from the city, village, or county;

(b) Within ten days after the receipt of a recommendation from the city, village, or county, or, if no recommendation is received, within forty-five days after the date of receipt of such application by the city, village, or county clerk, objections in writing by not less than three persons residing within such city, village, or county, protesting the issuance of the license. Withdrawal of the protest does not prohibit the commission from conducting a hearing based upon the protest as originally filed and making an independent finding as to whether the license should or should not be issued; or

(c) Within forty-five days after the date of receipt of such application by the city, village, or county clerk, objections by the commission or any duly appointed employee of the commission, protesting the issuance of the license.

(2) Hearings upon such applications shall be in the following manner: Notice indicating the time and place of such hearing shall be mailed to the applicant, the local governing body, and each individual protesting a license pursuant to subdivision (1)(b) of this section, by certified mail, return receipt requested, at least fifteen days prior to such hearing. The notice shall state that the commission will receive evidence for the purpose of determining whether to approve or deny the application. Mailing to the attorney of record of a party shall be deemed to fulfill the purposes of this section. The commission may receive evidence, including testimony and documentary evidence, and may hear and question witnesses concerning the application.

Sec. 23. Section 53-134, Revised Statutes Supplement, 2002, 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, resolution, rule, 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. 24. Section 53-134.03, Revised Statutes Supplement, 2002, is amended to read:

53-134.03. The governing bodies of cities and villages are authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, ~~bottle club~~, or craft brewery licensees carried on within the corporate limits of the city or village.

Sec. 25. Section 53-134.04, Reissue Revised Statutes of Nebraska, is amended to read:

53-134.04. Any five residents of the city or village shall have the right to file a complaint with the local governing body of such city or village stating that any retail ~~or bottle club~~ licensee subject to the jurisdiction of such local governing body has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations

issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the local governing body and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the local governing body is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the local governing body within thirty days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the commission as provided in section 53-1,115.

Sec. 26. Section 53-135, Reissue Revised Statutes of Nebraska, is amended to read:

53-135. A retail ~~or bottle club~~ license issued by the commission and outstanding may be automatically renewed by the commission without formal application upon payment of the state registration fee and license fee if payable to the commission. The payment shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the local governing body.

If a licensee files an application form in triplicate original upon seeking renewal of his or her license, the application shall be processed as set forth in section 53-131.

Any licensed retail ~~or bottle club~~ premises located in an area which is annexed to any governmental subdivision shall file a formal application for a license, and while such application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If such license expires within sixty days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year.

Sec. 27. Section 53-138.03, Reissue Revised Statutes of Nebraska, is amended to read:

53-138.03. ~~No~~ A nonprofit corporation shall not engage in the sale of alcoholic liquor ~~or the operation of a bottle club, nor shall any bottle club operate,~~ without first having obtained a license required by ~~Chapter 53~~ the Nebraska Liquor Control Act. ~~Sales made under a nonprofit license shall be made only to bona fide members of the licensee and their guests. No guest of a member who is the licensee or an employee on duty in the licensed premises shall be permitted to purchase or have dispensed to him or her alcoholic liquor in any form. Such sales or service made under a nonprofit license shall be limited to areas of the licensed premises physically separated from any areas open to the general public. Any violation of the provisions of this section shall be subject to the penalties provided in Chapter 53 and shall, in addition, constitute a nuisance which may be abated in an action brought in the county in which such violation occurs by the county attorney or, if the county attorney shall fail or refuse to act, by the Attorney General.~~

Sec. 28. Section 53-168, Reissue Revised Statutes of Nebraska, is amended to read:

53-168. (1) It shall be unlawful for any person having a retail license to sell beer to accept credit for the purchase of beer from any manufacturer or wholesaler of beer and for any person having a retail license to sell alcoholic liquor or any officer, associate, member, representative, or agent of such licensee to accept, receive, or borrow money or anything else of value or to accept or to receive credit, other than merchandising credit in the ordinary course of business for a period not to exceed thirty days, directly or indirectly, from (a) any person, partnership, limited liability company, or corporation engaged in manufacturing or wholesaling such liquor, (b) any person connected with or in any way representing such manufacturer or wholesaler, (c) any member of the family of such manufacturer or wholesaler, (d) any stockholders in any corporation engaged in manufacturing or wholesaling such liquor, or (e) any officer, manager, agent, member, or representative of such manufacturer or wholesaler.

(2) It shall be unlawful for any manufacturer or wholesaler to give or lend money or otherwise loan or extend credit, except the merchandising credit referred to in subsection (1) of this section, directly or indirectly,

to any such licensee or to the manager, representative, agent, member, officer, or director of such licensee. It shall be unlawful for any wholesaler to participate in any manner in a merchandising and coupon plan of any manufacturer involving alcoholic liquor and the redemption in cash. The redemption of any merchandising and coupon plan involving cash shall be made by the manufacturer to the consumer.

(3) If any holder of a license to sell alcoholic liquor at retail or wholesale violates subsection (1) or (2) of this section, such license shall be suspended or revoked by the commission in the manner provided by the Nebraska Liquor Control Act.

(4) It shall not be a violation of subsection (1) or (2) of this section for a manufacturer or wholesaler to sell or provide alcoholic liquor exclusively or in minimum quantities in containers bearing a private label or to sell or provide alcoholic liquor in containers bearing a generic label to a wholesaler, or retailer, or ~~bottle club licensee.~~

(5) It shall not be a violation of subsection (1) or (2) of this section for a wholesaler, or retailer, or ~~bottle club licensee~~ to accept or purchase from a manufacturer or wholesaler alcoholic liquor exclusively or in minimum quantities in containers bearing a private label or for a wholesaler, or retailer, or ~~bottle club licensee~~ to accept or purchase from a manufacturer or wholesaler alcoholic liquor in containers bearing a generic label.

Sec. 29. Section 53-179, Reissue Revised Statutes of Nebraska, is amended to read:

53-179. (1) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1 a.m. and 6 a.m. The local governing body of any city or village with respect to area inside the corporate limits of such city or village, or the county board with respect to area outside the corporate limits of any city or village, may by ordinance or resolution require closing prior to 1 a.m. on any day.

(2) Except as provided for and allowed by ordinance of a local governing body applicable to area inside the corporate limits of a city or village or by resolution of a county board applicable to area inside such county and outside the corporate limits of any city or village, no alcoholic liquor, including beer, shall be sold at retail or dispensed between the hours of 6 a.m. Sunday and 1 a.m. Monday. No ordinance or resolution allowed by this subsection shall permit alcoholic liquor, other than beer and wine, to be sold at retail or dispensed between the hours of 6 a.m. Sunday and 12 noon Sunday. This subsection shall not apply after 12 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C license or a Class H I license. ~~issued pursuant to subdivision (5) of section 53-124.~~

(3) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of 1:15 a.m. and 6 a.m. on any day. When any city or village provides by ordinance or any county provides by resolution for an earlier closing hour, the provisions of this subsection shall become effective fifteen minutes after such closing hour instead of 1:15 a.m.

(4) Nothing in this section shall prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section.

Sec. 30. Section 53-1,115, Revised Statutes Supplement, 2002, is amended to read:

53-1,115. (1) A copy of the rule, regulation, order, or decision of the commission denying an application or suspending, canceling, or revoking a license or of any notice required by any proceeding before it, certified under the seal of the commission, shall be served upon each party of record to the proceeding before the commission. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the commission shall enter his or her appearance and indicate to the commission his or her address for such service. The mailing of a copy of any rule, regulation, order, or decision of the commission or of any notice by the commission, in the proceeding, to such party at such address shall be deemed to be service upon such party.

(2) Within thirty days after the service of any rule, regulation, order, or decision of the commission suspending, canceling, or revoking any license upon any party to the proceeding, as provided for by subsection (1) of this section, such party may apply for a rehearing with respect to any matters determined by the commission. The commission shall receive and consider such application for a rehearing within thirty days after its filing with the executive director of the commission. If such application for rehearing is granted, the commission shall proceed as promptly as possible to consider the matters presented by such application. No appeal shall be allowed from any

decision of the commission except as provided in section 53-1,116.

(3) Upon final disposition of any proceeding, costs shall be paid by the party or parties against whom a final decision is rendered. Costs may be taxed or retaxed to local governing bodies as well as individuals. Only one rehearing referred to in subsection (2) of this section shall be granted by the commission on application of any one party.

(4) For purposes of this section, party of record means:

(a) In the case of an administrative proceeding before the commission on the application for a retail, ~~bottle club~~, or craft brewery license:

(i) The applicant;

(ii) Each individual protesting the issuance of such license pursuant to subdivision (1)(b) of section 53-133;

(iii) The local governing body if it is entering an appearance to protest the issuance of the license or if it is requesting a hearing pursuant to subdivision (1)(c) of section 53-133; and

(iv) The commission;

(b) In the case of an administrative proceeding before a local governing body to cancel or revoke a retail, ~~bottle club~~, or craft brewery license:

(i) The licensee; and

(ii) The local governing body; and

(c) In the case of an administrative proceeding before the commission to suspend, cancel, or revoke a retail, ~~bottle club~~, or craft brewery license:

(i) The licensee; and

(ii) The commission.

Sec. 31. This act becomes operative on May 1, 2005.

Sec. 32. Original sections 9-329.03, 53-116.01, 53-119.01, 53-123, 53-123.13, 53-134.04, 53-135, 53-138.03, 53-168, and 53-179, Reissue Revised Statutes of Nebraska, sections 53-101, 53-116.02, 53-117, 53-122, 53-123.04, 53-123.15, 53-124, 53-124.12, 53-124.14, 53-129, 53-131, 53-132, 53-133, 53-134, 53-134.03, and 53-1,115, Revised Statutes Supplement, 2002, and sections 53-103, 53-123.02, and 53-123.03, Revised Statutes Supplement, 2003, are repealed.

Sec. 33. The following sections are outright repealed: Sections 53-123.08 and 53-124.01, Reissue Revised Statutes of Nebraska.