LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 584

Introduced by Hilgers, 21.

Read first time January 22, 2019

Committee: General Affairs

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-103.13 and 53-124.13, Reissue Revised Statutes of Nebraska, and sections 53-123.11, 53-123.13, and 53-124.11, Revised Statutes Cumulative Supplement, 2018; to redefine a term; to change provisions relating to farm wineries; to provide for a festival special designated license; to provide for a fee; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 53-103.13, Reissue Revised Statutes of Nebraska, is amended to read:

53-103.13 Farm winery means any enterprise which produces and sells wines produced from grapes, other fruit, or other suitable agricultural products of which at least sixty percent of the finished product is grown in this state or which meets the requirements of section 53-123.13.

Sec. 2. Section 53-123.11, Revised Statutes Cumulative Supplement, 2018, is amended to read:

53-123.11 (1) A farm winery license shall entitle the holder to:

(a) Sell wines produced at the farm winery onsite at wholesale and retail and to sell wines produced at the farm winery at off-premises sites holding the appropriate retail license;

(b) Sell wines produced at the farm winery at retail for consumption on the premises;

(c) (c)(i) Permit a customer to remove one unsealed bottle of wine for consumption off the premises. The licensee or his or her agent shall (i) (A) securely reseal such bottle and place the bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been opened or tampered with and (ii) (B) provide a dated receipt to the customer and attach to such bag a copy of the dated receipt for the resealed bottle of wine. (ii) If the resealed bottle of wine is transported in a motor vehicle, it must be placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk;

(d) Ship wines produced at the farm winery by common carrier and sold at retail to recipients in and outside the State of Nebraska, if the output of such farm winery for each calendar year as reported to the commission by December 31 of each year does not exceed fifty thousand gallons. In the event such amount exceeds fifty thousand gallons.
gallons, the farm winery shall be required to use a licensed wholesaler
to distribute its wines for the following calendar year, except that this
requirement shall not apply to wines produced and sold onsite at the farm
winery pursuant to subdivision (1)(a) of this section;
(e) Allow sampling and sale of the wine at the farm winery and at
four one branch outlets outlet in the state in reasonable amounts;
(f) Sell wines produced at the farm winery to other Nebraska farm
winery licensees, in bulk, bottled, labeled, or unlabeled, in accordance
regulations existed on January 1, 2008;
(g) Purchase distilled spirits from licensed microdistilleries in
Nebraska, in bulk or bottled, made entirely from Nebraska-licensed farm
winery wine to be used in the production of fortified wine at the
purchasing licensed farm winery; and
(h) Store and warehouse products produced at the farm winery in a
designated, secure, offsite storage facility if the holder of the farm
winery license notifies the commission of the location of the facility
and maintains, at the farm winery and at the facility, a separate
perpetual inventory of the product stored at the facility. Consumption of
alcoholic liquor at the facility is strictly prohibited.
(2) No farm winery shall manufacture wine in excess of fifty
thousand gallons per year.
(3) A farm winery may manufacture and sell hard cider on its
licensed premises. A farm winery shall not otherwise distribute the hard
cider it manufactures except by sale to a wholesaler licensed under the
Nebraska Liquor Control Act.
(4) A holder of a farm winery license may sell beer or other
alcoholic beverages at the farm winery if the licensee also holds the
appropriate class of license for such sales at such location.
(5) (4) A holder of a farm winery license may obtain a special
designated license pursuant to section 53-124.11.
A holder of a farm winery license may obtain an annual catering license pursuant to section 53-124.12.

Sec. 3. Section 53-123.13, Reissue Revised Statutes of Nebraska, is amended to read:

53-123.13 (1) If the operator of a farm winery is unable to produce or purchase sixty-seven 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 sixty-percent seventy-five percent requirement prescribed in section 53-103.13 for one year.

(2) It shall be within the discretion of the commission to waive the sixty-percent 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.

(3) If the operator of a farm winery is granted a waiver, any product purchased as concentrated juice from grapes or other fruits from outside of Nebraska, when reconstituted from concentrate, may not exceed in total volume along with other products purchased the total percentage allowed by the waiver.

(4) Any product purchased under the waiver or as part of the forty twenty-five percent of allowable product purchased that is not Nebraska-grown for the production of wine shall not exceed the forty twenty-five percent volume allowed under state law if made from concentrated grapes or other fruit, when reconstituted. The concentrate shall not be reduced to less than twenty-two degrees Brix in accordance with 27 C.F.R. 24.180.

Sec. 4. Section 53-124.11, Revised Statutes Cumulative Supplement, 2018, is amended to read:

53-124.11 (1) The commission may issue a special designated license for sale or consumption of alcoholic liquor at a designated location to a
(2) Except as otherwise provided in subsection (3) of this section, no retail licensee, craft brewery licensee, microdistillery licensee, farm winery licensee, holder of a manufacturer's license issued pursuant to subsection (2) of section 53-123.01, organization, or corporation enumerated in subsection (1) of this section may be issued a special designated license under this section for more than six calendar days in any one calendar year. Only one special designated license shall be required for any application for two or more consecutive days. This subsection shall not apply to any holder of a catering license.

(3) The commission may issue a promotional special designated license to a craft brewery, microdistillery, or farm winery licensee for the sale or consumption of alcoholic liquor at a festival, bazaar, picnic, carnival, or similar function conducted by the licensee outside of the manufacturer's designated premises at one location per twelve-month period commencing May 1 of each year or such other date as the commission may prescribe by rule and regulation. A licensee shall apply thirty days prior to the promotional event. A promotional special designated license may be issued to a licensee for the duration of an annual event without reapplying to the commission. The licensee shall comply with the rules and regulations adopted and promulgated by the
(4) Except for any special designated license issued to a holder of a catering license, there shall be a fee of forty dollars for each day identified in the special designated license other than a promotional special designated license and a fee of two hundred fifty dollars for a promotional special designated license. Such fee shall be submitted with the application for the special designated license, collected by the commission, and remitted to the State Treasurer for credit to the General Fund. The applicant shall be exempt from the provisions of the Nebraska Liquor Control Act requiring an application or renewal fee and the provisions of the act requiring the expiration of forty-five days from the time the application is received by the commission prior to the issuance of a license, if granted by the commission. The retail licensees, craft brewery licensees, microdistillery licensees, farm winery licensees, holders of manufacturer's licenses issued pursuant to subsection (2) of section 53-123.01, municipal corporations, organizations, and nonprofit corporations enumerated in subsection (1) of this section seeking any a special designated license under this section shall file an application on such forms as the commission may prescribe. Such forms shall contain, along with other information as required by the commission, (a) the name of the applicant, (b) the premises for which a special designated license is requested, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (c) the name of the owner or lessee of the premises for which the special designated license is requested, (d) sufficient evidence that the holder of the special designated license, if issued, will carry on the activities and business authorized by the license for himself, herself, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (e) a statement of the type of activity to be carried on during the time period for which a special designated license is requested, and
(f) sufficient evidence that the activity will be supervised by persons
or managers who are agents of and directly responsible to the holder of
the special designated license.

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

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

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

Sec. 5. Section 53-124.13, Reissue Revised Statutes of Nebraska, is amended to read:

53-124.13 (1) The holder of a catering license may deliver, sell, or dispense alcoholic liquor, including beer, for consumption at premises designated in a special designated license issued pursuant to section 53-124.11.

(2) At least twenty-one days prior to the event for which the special designated license is to be used, the holder of the catering license shall file an application seeking a special designated license for the event. In addition to the information required by subsection (4) of section 53-124.11, the applicant shall inform the commission of (a) the time of the event, (b) the name of the person or organization requesting the applicant's services, (c) the opening and closing dates of the event, and (d) any other information the commission or local governing body deems necessary. A holder of a catering license shall not cater an event unless such licensee receives a special designated license for the event.

(3) If the organization for which the holder of a catering license is catering is a nonprofit organization exempted from the payment of federal income taxes, such organization may share with such licensee a part or all of the proceeds from the sale of any alcoholic liquor sold and dispensed pursuant to this section.

(4) For purposes of this section, local governing body shall mean the governing body of the city or village in which the event will be held or, if the event will not be held within the corporate limits of a city or village, the governing body of the county in which such event will be held.

(5) Only the holder of a special designated license or employees of
such licensee may dispense alcoholic liquor at the event which is being catered. Violation of any provision of this section or section 53-124.12 or any rules or regulations adopted and promulgated pursuant to such sections occurring during an event being catered by such licensee may be cause to revoke, cancel, or suspend the class of retail license issued under section 53-124 held by such licensee.

Sec. 6. Original sections 53-103.13, 53-123.13, and 53-124.13, Reissue Revised Statutes of Nebraska, and sections 53-123.11 and 53-124.11, Revised Statutes Cumulative Supplement, 2018, are repealed.