

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

1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend  
2 sections 53-103.13 and 53-124.13, Reissue Revised Statutes of  
3 Nebraska, and sections 53-123.11, 53-123.13, and 53-124.11, Revised  
4 Statutes Cumulative Supplement, 2018; to redefine a term; to change  
5 provisions relating to farm wineries; to provide for a festival  
6 special designated license; to provide for a fee; to harmonize  
7 provisions; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-103.13, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 53-103.13 Farm winery means any enterprise which produces and sells  
4 wines produced from grapes, other fruit, or other suitable agricultural  
5 products of which at least sixty ~~seventy-five~~ percent of the finished  
6 product is grown in this state or which meets the requirements of section  
7 53-123.13.

8 Sec. 2. Section 53-123.11, Revised Statutes Cumulative Supplement,  
9 2018, is amended to read:

10 53-123.11 (1) A farm winery license shall entitle the holder to:

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

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

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

27 (d) Ship wines produced at the farm winery by common carrier and  
28 sold at retail to recipients in and outside the State of Nebraska, if the  
29 output of such farm winery for each calendar year as reported to the  
30 commission by December 31 of each year does not exceed fifty ~~thirty~~  
31 thousand gallons. In the event such amount exceeds fifty ~~thirty~~ thousand

1 gallons, the farm winery shall be required to use a licensed wholesaler  
2 to distribute its wines for the following calendar year, except that this  
3 requirement shall not apply to wines produced and sold onsite at the farm  
4 winery pursuant to subdivision (1)(a) of this section;

5 (e) Allow sampling and sale of the wine at the farm winery and at  
6 four ~~one~~ branch outlets ~~outlet~~ in the state in reasonable amounts;

7 (f) Sell wines produced at the farm winery to other Nebraska farm  
8 winery licensees, in bulk, bottled, labeled, or unlabeled, in accordance  
9 with 27 C.F.R. 24.308, 27 C.F.R. 24.309, and 27 C.F.R. 24.314, as such  
10 regulations existed on January 1, 2008;

11 (g) Purchase distilled spirits from licensed microdistilleries in  
12 Nebraska, in bulk or bottled, made entirely from Nebraska-licensed farm  
13 winery wine to be used in the production of fortified wine at the  
14 purchasing licensed farm winery; and

15 (h) Store and warehouse products produced at the farm winery in a  
16 designated, secure, offsite storage facility if the holder of the farm  
17 winery license notifies the commission of the location of the facility  
18 and maintains, at the farm winery and at the facility, a separate  
19 perpetual inventory of the product stored at the facility. Consumption of  
20 alcoholic liquor at the facility is strictly prohibited.

21 (2) No farm winery shall manufacture wine in excess of fifty  
22 thousand gallons per year.

23 (3) A farm winery may manufacture and sell hard cider on its  
24 licensed premises. A farm winery shall not otherwise distribute the hard  
25 cider it manufactures except by sale to a wholesaler licensed under the  
26 Nebraska Liquor Control Act.

27 (4) A holder of a farm winery license may sell beer or other  
28 alcoholic beverages at the farm winery if the licensee also holds the  
29 appropriate class of license for such sales at such location.

30 (5) ~~(4)~~ A holder of a farm winery license may obtain a special  
31 designated license pursuant to section 53-124.11.

1           (6) ~~(5)~~ A holder of a farm winery license may obtain an annual  
2 catering license pursuant to section 53-124.12.

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

5           53-123.13 (1) If the operator of a farm winery is unable to produce  
6 or purchase sixty ~~seventy-five~~ percent of the grapes, fruit, or other  
7 suitable agricultural products used in the farm winery from within the  
8 state due to natural disaster which causes substantial loss to the  
9 Nebraska-grown crop, such operator may petition the commission to waive  
10 the sixty-percent ~~seventy-five-percent~~ requirement prescribed in section  
11 53-103.13 for one year.

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

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

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

28           Sec. 4. Section 53-124.11, Revised Statutes Cumulative Supplement,  
29 2018, is amended to read:

30           53-124.11 (1) The commission may issue a special designated license  
31 for sale or consumption of alcoholic liquor at a designated location to a

1 retail licensee, a craft brewery licensee, a microdistillery licensee, a  
2 farm winery licensee, the holder of a manufacturer's license issued  
3 pursuant to subsection (2) of section 53-123.01, a municipal corporation,  
4 a fine arts museum incorporated as a nonprofit corporation, a religious  
5 nonprofit corporation which has been exempted from the payment of federal  
6 income taxes, a political organization which has been exempted from the  
7 payment of federal income taxes, or any other nonprofit corporation the  
8 purpose of which is fraternal, charitable, or public service and which  
9 has been exempted from the payment of federal income taxes, under  
10 conditions specified in this section. The applicant shall demonstrate  
11 meeting the requirements of this subsection.

12 (2) Except as otherwise provided in subsection (3) of this section,  
13 no ~~no~~ retail licensee, craft brewery licensee, microdistillery licensee,  
14 farm winery licensee, holder of a manufacturer's license issued pursuant  
15 to subsection (2) of section 53-123.01, organization, or corporation  
16 enumerated in subsection (1) of this section may be issued a special  
17 designated license under this section for more than six calendar days in  
18 any one calendar year. Only one special designated license shall be  
19 required for any application for two or more consecutive days. This  
20 subsection shall not apply to any holder of a catering license.

21 (3) The commission may issue a promotional special designated  
22 license to a craft brewery, microdistillery, or farm winery licensee for  
23 the sale or consumption of alcoholic liquor at a festival, bazaar,  
24 picnic, carnival, or similar function conducted by the licensee outside  
25 of the manufacturer's designated premises at one location per twelve-  
26 month period commencing May 1 of each year or such other date as the  
27 commission may prescribe by rule and regulation. A licensee shall apply  
28 thirty days prior to the promotional event. A promotional special  
29 designated license may be issued to a licensee for the duration of an  
30 annual event without reapplying to the commission. The licensee shall  
31 comply with the rules and regulations adopted and promulgated by the

1 commission.

2       ~~(4) (3)~~ Except for any special designated license issued to a holder  
3 of a catering license, there shall be a fee of forty dollars for each day  
4 identified in the special designated license other than a promotional  
5 special designated license and a fee of two hundred fifty dollars for a  
6 promotional special designated license. Such fee shall be submitted with  
7 the application for the special designated license, collected by the  
8 commission, and remitted to the State Treasurer for credit to the General  
9 Fund. The applicant shall be exempt from the provisions of the Nebraska  
10 Liquor Control Act requiring an application or renewal fee and the  
11 provisions of the act requiring the expiration of forty-five days from  
12 the time the application is received by the commission prior to the  
13 issuance of a license, if granted by the commission. The retail  
14 licensees, craft brewery licensees, microdistillery licensees, farm  
15 winery licensees, holders of manufacturer's licenses issued pursuant to  
16 subsection (2) of section 53-123.01, municipal corporations,  
17 organizations, and nonprofit corporations enumerated in subsection (1) of  
18 this section seeking any a special designated license under this section  
19 shall file an application on such forms as the commission may prescribe.  
20 Such forms shall contain, along with other information as required by the  
21 commission, (a) the name of the applicant, (b) the premises for which a  
22 special designated license is requested, identified by street and number  
23 if practicable and, if not, by some other appropriate description which  
24 definitely locates the premises, (c) the name of the owner or lessee of  
25 the premises for which the special designated license is requested, (d)  
26 sufficient evidence that the holder of the special designated license, if  
27 issued, will carry on the activities and business authorized by the  
28 license for himself, herself, or itself and not as the agent of any other  
29 person, group, organization, or corporation, for profit or not for  
30 profit, (e) a statement of the type of activity to be carried on during  
31 the time period for which a special designated license is requested, and

1 (f) sufficient evidence that the activity will be supervised by persons  
2 or managers who are agents of and directly responsible to the holder of  
3 the special designated license.

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

19 (6) ~~(5)~~ If the applicant meets the requirements of this section, a  
20 special designated license shall be granted and issued by the commission  
21 for use by the holder of the special designated license. All statutory  
22 provisions and rules and regulations of the commission that apply to a  
23 retail licensee shall apply to the holder of a special designated license  
24 with the exception of such statutory provisions and rules and regulations  
25 of the commission so designated by the commission and stated upon the  
26 issued special designated license, except that the commission may not  
27 designate exemption of sections 53-180 to 53-180.07. The decision of the  
28 commission shall be final. If the applicant does not qualify for a  
29 special designated license, the application shall be denied by the  
30 commission.

31 (7) ~~(6)~~ A special designated license issued by the commission shall

1 be mailed or delivered to the city, village, or county clerk who shall  
2 deliver such license to the licensee upon receipt of any fee or tax  
3 imposed by such city, village, or county.

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

6 53-124.13 (1) The holder of a catering license may deliver, sell, or  
7 dispense alcoholic liquor, including beer, for consumption at premises  
8 designated in a special designated license issued pursuant to section  
9 53-124.11.

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

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

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

31 (5) Only the holder of a special designated license or employees of



1 such licensee may dispense alcoholic liquor at the event which is being  
2 catered. Violation of any provision of this section or section 53-124.12  
3 or any rules or regulations adopted and promulgated pursuant to such  
4 sections occurring during an event being catered by such licensee may be  
5 cause to revoke, cancel, or suspend the class of retail license issued  
6 under section 53-124 held by such licensee.

7       Sec. 6.   Original sections 53-103.13, 53-123.13, and 53-124.13,  
8 Reissue Revised Statutes of Nebraska, and sections 53-123.11 and  
9 53-124.11, Revised Statutes Cumulative Supplement, 2018, are repealed.