

LEGISLATIVE BILL 641

Approved by the Governor May 18, 2011

Introduced by Cornett, 45.

FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-134 and 53-197, Reissue Revised Statutes of Nebraska; to provide for reporting of offenses to the commission by law enforcement officers as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 53-134, Reissue Revised Statutes of Nebraska, is amended to read:

53-134 The local governing body of any city or village with respect to licenses within its corporate limits and the local governing body of any county with respect to 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, craft brewery, and microdistillery licenses:

(1) To cancel or revoke for cause retail, craft brewery, or microdistillery 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. Any law enforcement officer who determines that 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 shall report such violation in writing to the executive director of the commission (a) within thirty days after determining that such violation has occurred, (b) within thirty days after the conclusion of an ongoing police investigation, or (c) within thirty days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later;

(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, craft brewery license fees, and microdistillery license fees as provided in sections 53-124 and 53-124.01 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, craft brewery licensee, or microdistillery 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. 2. Section 53-197, Reissue Revised Statutes of Nebraska, is amended to read:

53-197 (1) Every sheriff, deputy sheriff, police officer, marshal, or deputy marshal who knows or who is credibly informed that any offense has been committed against the provisions of any law of this state relating to the sale of alcoholic liquors liquor shall make complaint against the person so offending within their respective jurisdictions to the proper court, and for every neglect or refusal so to do, every such officer shall be guilty of a Class V misdemeanor.

(2) Every sheriff, deputy sheriff, police officer, marshal, or deputy marshal who knows or who is credibly informed that any offense has been committed against any law of this state relating to the sale of alcoholic liquor shall report such offense in writing to the executive director of the commission (a) within thirty days after such offense is committed, (b) within thirty days after such sheriff, deputy sheriff, police officer, marshal, or deputy marshal is informed of such offense, (c) within thirty days after the conclusion of an ongoing police investigation, or (d) within thirty days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later.

Sec. 3. Original sections 53-134 and 53-197, Reissue Revised Statutes of Nebraska, are repealed.