

## LEGISLATIVE BILL 911

Approved by the Governor April 18, 1986

Introduced by Pappas, 42; Morehead, 30; Nelson, 35;  
Hall, 7; Lundy, 36; Marsh, 29; Higgins, 9;  
DeCamp, 40; Conway, 17; Labedz, 5; Wesely,  
26; Hartnett, 45; Nichol, 48; Hefner, 19;  
L. Johnson, 15; Sieck, 24

AN ACT relating to liquors; to amend sections 53-131 to 53-134 and 53-1,116, Reissue Revised Statutes of Nebraska, 1943, and section 53-103, Revised Statutes Supplement, 1985; to state intent; to change provisions relating to the issuance of certain licenses and permits; to provide for local standards; to provide powers and duties for the Nebraska Liquor Control Commission; to create a fund; to appropriate funds; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. (1) The Legislature hereby acknowledges that there is general concern among the citizens of the State of Nebraska regarding: (a) The proliferation of individuals driving while intoxicated and the laws regulating such offense; (b) the widespread use of alcoholic liquors among persons who are near the legal drinking age as well as younger teenagers in the state; (c) the issuance of additional retail liquor licenses by the commission in areas already adequately served by existing retail licensees; and (d) the inadequacy of law enforcement to curb the abuse of alcoholic liquor. Reconciling the continued issuance of additional retail liquor licenses in areas already adequately served with the other concerns mentioned in this section requires the State of Nebraska to declare a policy to regulate and control the sale of alcoholic liquors at retail by establishing criteria that local governing bodies and the commission may consider in granting or denying the issuance of retail liquor licenses in order to moderate the issuance of such licenses.

(2) The Legislature hereby recognizes that each community in the state may have different needs and standards in the area of licensing alcoholic beverage

retail and bottle club outlets. Such needs and standards should be reviewed and weighed in the process of determining whether a liquor license is granted or denied.

Sec. 2. That section 53-103, Revised Statutes Supplement, 1985, be amended to read as follows:

53-103. Unless the context otherwise requires, the definitions given in this section shall apply in all cases when any one of the defined terms appears in sections 53-101 to 53-1,118 and sections 1, 7, 9, and 10 of this act.

(1) This act shall be construed as referring exclusively to such sections.

(2) Alcohol shall mean the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and shall include synthetic ethyl alcohol. It shall not include denatured alcohol or wood alcohol.

(3) Spirits shall mean any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and shall include brandy, rum, whiskey, gin, or other spirituous liquors, and such liquors when rectified, blended, or otherwise mixed with alcohol or other substances.

(4) Wine shall mean 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, as above defined.

(5) Beer shall mean a beverage obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water, and shall include, among other things, beer, ale, stout, lager beer, near beer, porter, and the like.

(6) Alcoholic liquor shall include the four varieties of liquor above defined, alcohol, spirits, wine, and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer, and capable of being consumed as a beverage by a human being. The provisions of this act shall not apply to (a) alcohol used in the manufacture of denatured alcohol produced in accordance with acts of Congress and regulations promulgated thereunder, (b) flavoring extracts, syrups, or medicinal, mechanical, scientific, culinary, or toilet preparations, or food products unfit for beverage purposes, but shall not be construed to exclude or not apply to alcoholic liquor used in the manufacture, preparation, or compounding of such products, or (c) wine intended for use and used by any

church or religious organization for sacramental purposes.

(7) Original package shall mean any bottle, flask, jug, can, cask, barrel, keg, hogshead, or other receptacle or container whatsoever, used, corked or capped, sealed, and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor.

(8) Manufacturer shall mean 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 liquors as above defined, including a wholly owned affiliate or duly authorized agent for a manufacturer.

(9) Nonbeverage user shall mean every manufacturer of any of the products set forth and described in section 53-160, when the same contains alcoholic liquor, and all laboratories, hospitals, and sanatoria using alcoholic liquor for nonbeverage purposes.

(10) Manufacture shall mean to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor, and shall include blending, but shall not include the mixing or other preparation of drinks for serving by those persons authorized and permitted in this act to serve drinks for consumption on the premises where sold.

(11) Distributor, distributorship, wholesaler, or jobber shall mean the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquors for sale or resale to retailers licensed under this act, whether the business of the distributor, distributorship, wholesaler, or jobber is conducted under the terms of a franchise or any other form of an agreement with a manufacturer or manufacturers, or has caused alcoholic liquors 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.

(12) Person shall mean any natural person, trustee, corporation, or partnership.

(13) Retailer shall mean a person who sells, or offers for sale, alcoholic liquors for use and consumption and not for resale in any form.

(14) Sell at retail and sale at retail shall refer to and mean sales for use or consumption and not for resale in any form.

(15) Commission shall mean the Nebraska Liquor Control Commission.

(16) Sale shall mean any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration, and shall include all sales made by any person, whether principal, proprietor, agent, servant, or employee.

(17) To sell shall mean to solicit or receive an order for, to keep or expose for sale, or to keep with intent to sell.

(18) Restaurant shall mean any public place 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, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests.

(19) Club shall mean a corporation 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 liquors, kept, used, and maintained by its members through the payment of annual dues, and owning, hiring, or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing, and serving food and meals for its members and their guests. Such club shall file with the local governing body at the time of its application for a license under this act two copies of a list of names and residences of its members, and similarly shall file within ten days of the election of any additional member his or her name and address. 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 or any 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 the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club.

(20) Hotel shall mean every building or other structure 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, in which twenty-five or more rooms are used for the sleeping accommodations of such guests and having 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, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.

(21) Nonprofit corporation shall mean a corporation, whether located within any incorporated city or village or not, organized under the laws of this state, not for profit, and which has been exempted from the payment of federal income taxes.

(22) Bottle club shall mean 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 liquors congregate for the express purpose of consuming such alcoholic liquors upon the payment of a fee or other consideration, including among other services the sale of foods, ice, mixes, or other fluids for alcoholic drinks and the maintenance of space for the storage of alcoholic liquors belonging to such persons and facilities for the dispensing of such liquors 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 as defined in subdivision (19) of this section or an individual, partnership, or corporation. An accurate and current membership list shall be maintained upon the premises which contains the names and residences of its members. Nothing in this section shall be deemed to make unlawful the sale of alcoholic liquors for consumption on the premises to any person who is not a current member of such bottle club.

(23) Minor shall mean any person, male or female, under twenty-one years of age, regardless of marital status, except that any person who was twenty

years of age or older on January 1, 1985, shall not be deemed to be a minor.

(24) Brand shall mean alcoholic liquors which are identified as the product of a specific manufacturer.

(25) Franchise or agreement, when used with reference to the relationship between a manufacturer and distributor, shall include 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) the relationship whereby the franchisee is granted the right to offer and sell brands thereof by the franchisor; (c) the relationship whereby the franchise, as an independent business, constitutes a component of the franchisor's distribution system; (d) the operation of the franchisee's business is substantially associated with the franchisor's brand, advertising, or other commercial symbol designating the franchisor; and (e) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of beer.

(26) Franchisor shall have the same meaning as the term manufacturer as defined in subdivision (8) of this section.

(27) Franchisee shall have the same meaning as the terms distributor, distributorship, wholesaler, or jobber as defined in subdivision (11) of this section.

(28) Territory or sales territory shall mean the franchisee's or distributor's area of sales responsibility for the brand or brands of the manufacturer.

(29) Suspend shall mean to cause a temporary interruption of all rights and privileges of a license.

(30) Cancel shall mean to discontinue all rights and privileges of a license.

(31) Revoke shall mean to permanently void and recall all rights and privileges of a license.

(32) Generic label shall mean a label, which is not protected by a registered trademark, either in whole or in part, nor to which any person has acquired a right therein either pursuant to state or federal statutory or common law.

(33) Private label shall mean a label which the purchasing distributor, wholesaler, retailer, or bottle club licensee has protected, in whole or in part, by a trademark registration or which the purchasing distributor, wholesaler, retailer, or bottle club licensee has otherwise protected pursuant to state or federal statutory or common law.

(34) Beneficial interest shall mean an interest which will result in a direct profit, a direct risk of loss of profit, an ownership or share of ownership with or without legal title or claim of ownership, or a resulting right to use and enjoy the privileges according to one's own liking or so as to derive a direct profit or direct risk of loss.

(35) Farm winery shall mean any farm which produces and sells wines produced from grapes, other fruit, or other suitable agricultural products and of which at least seventy-five per cent of such grapes, other fruit, or other suitable agricultural products are grown in this state.

Sec. 3. That section 53-131, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-131. Any person, desiring to obtain a new license to sell alcoholic liquors at retail, shall file with the commission:

(1) An application in triplicate original upon such forms as the commission shall from time to time prescribe;

(2) The license fee if, under the provisions of subdivision (5) of section 53-124, such fee is payable to the commission, which fee shall be returned to the applicant if the application is denied;

(3) The state registration fee in the sum of twenty-five dollars;

(4) The bond as set forth in section 53-138.02; and

(5) Security for costs in the amount of one hundred dollars.

License fees, registration fees, and security for costs shall be paid to the commission by certified or cashier's check of a bank within this state, United States post office money order, or cash in the full amount ~~thereof of such fees and costs~~. The commission shall forthwith notify, by registered or certified mail marked return receipt requested with postage prepaid, the municipal clerk of the city or incorporated village ~~wherein in which~~ such license is sought; or, if the license is not sought within a city or incorporated village, the county clerk of the county ~~wherein in which~~ such license is sought; of the receipt of the application and shall enclose with the notice one copy of the application. No such license shall then be issued by the commission until the expiration of the time allowed for the receipt of an objection requiring a hearing under subdivision (1)(a) ~~or (1)(b)~~ of section

53-133. During the period of ~~thirty~~ forty-five days from 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. If the local governing body recommends approving or denying the issuance of a license, the recommendation shall be binding on the commission.

Sec. 4. That section 53-132, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-132. (1) If no hearing is required pursuant to subdivision (1)(a) ~~or (1)(b)~~ of section 53-133 and either ~~(a)~~ no hearing is required pursuant to subdivision (1)(e) of such section or (b) the commission has no objections pursuant to ~~such~~ subdivision (1)(b) of section 53-133, in which case the commission may waive the ~~forty-five~~ sixty day objection period, the commission may, if not otherwise prohibited by law, cause a retail license or bottle club license to be signed by its chairperson, attested by its secretary 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 or bottle club license ~~shall~~ may be issued to any qualified applicant if it is found by the commission 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, requirements, rules, and regulations provided for in the Nebraska Liquor Control Act, (c) the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to insure that the licensed business can conform to all provisions, requirements, rules, and regulations provided for in the Nebraska Liquor Control Act, and (d) the issuance of the license is or will be required by the present or future public convenience and necessity~~ meets the criteria enumerated in subsection (3) of this section and any licensing standards enacted by the local governing body pursuant to section 7 of this act. A retail license or bottle club license may be denied if any one or more of such criteria are not met. If the local governing body of any county, city, or village, after complying with the requirements of section 53-134, makes a recommendation, such recommendation shall be



binding on the commission. Any hearing held before the commission after the effective date of this act shall be subject to the statutory provisions in existence on the date of such hearing. If prior to the effective date of this act the local governing body has held a hearing and made its recommendation but no hearing has been held before the commission on any application for a retail liquor license, within ten days of the effective date of this act, the application or applications shall be returned by the commission to the local governing body for a further hearing and recommendation. The application shall be reviewed and acted upon by the local governing body as provided in subdivision (7) of section 53-134.

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

(a) The recommendation of the local governing body and shall recognize any licensing standards enacted by the local governing body which are not in conflict with the Nebraska Liquor Control Act;

(b) The existence of a citizens' protest made in accordance with section 53-133 and any other evidence in support of or opposition to the application, presented at the hearing before the local governing body;

(c) The existing population of the city, village, or county, as the case may be, and its projected growth, the existence of licenses in such city, village, or county, and the class of such licenses;

(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 or bottle club licenses with similar privileges within the neighborhood or community of the location of the proposed licensed premises if 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;

(f) The existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises if the applicant can conform to all provisions, requirements, rules, and regulations provided for in the Nebraska Liquor Control Act;

(g) The adequacy of existing law enforcement and the recommendation of law enforcement agencies in the area; and

(h) Zoning restrictions, If the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to insure that the licensee can conform to all provisions, requirements, rules, and regulations provided for in the Nebraska Liquor Control Act.

(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 or bottle club licenses issued or renewed by the commission shall be mailed or delivered to the city, village, or county clerk, as the case may be, 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 same is payable to the treasurer of such city, village, or county, (b) any fee for publication of notice of hearing before the board or council of such city, village, or county upon the application for license, (c) his or her 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.

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

Sec. 5. That section 53-133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-133. (1) The commission shall set for hearing before it any application for a retail license relative to which it has received:

(a) Within thirty days from the date of receipt of such application by the city, village, or county clerk, a recommendation of denial from the city, village, or county, as the case may be;

(b) Within ten days after the receipt of a recommendation from the city, village, or county, as the case may be, or, if no recommendation is received, from the local governing body within thirty forty-five days from the date of receipt of such application by the city, village, or county clerk, or, within forty-five days from 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 said the city, village, or county, as the case may be, protesting

the issuance of said the license. No and no objections will be considered by the commission unless submitted in duplicate, and accompanied by security for costs in the sum of one hundred dollars in the form of cash, money order, certified check, or bank draft. The withdrawal of the protest shall 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

(e) (b) Within forty-five sixty days from the date of receipt of such application by the city, village, or county clerk, as the case may be, objections by the commission or any duly appointed employee of the commission; protesting the issuance of said the license.

(2) Hearings upon such applications shall be had in the manner provided in section 53-1,116.

(3) If the local governing body makes a recommendation regarding a license, the commission shall dispense with any hearing or further processing of the application, except to notify the applicant of such denial or approval.

Sec. 6. That section 53-134, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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, shall have the following powers, functions, and duties with respect to retail and bottle club licenses: (1) To cancel or revoke for cause retail or bottle club licenses to sell or dispense alcoholic liquors 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 hereunder to determine whether any of the provisions of this act or any rules or regulations adopted by it or by the commission have been or are being violated, and at such time to examine the premises of such licensee in connection therewith; (3) to receive a signed complaint from any citizen within its jurisdiction that any of the provisions of this act, or any rules or regulations adopted and promulgated pursuant thereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided; (4) to receive retail or bottle club license fees as provided in subdivision (5) or (9) of section 53-124, and pay the same forthwith, after applicant has

been delivered his or her retail or bottle club license, to the city or village, or county treasurer, as the case may be; (5) to examine, or cause to be examined, any applicant or any retail or bottle club licensee upon whom notice of cancellation or revocation has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and to take proof for its information in the performance of its duties. For the purpose 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 53-17114 53-1.116, it determines that the licensee has violated any of the provisions of this act or any valid and subsisting ordinance or regulation duly enacted relating to alcoholic liquors. Such order of cancellation or revocation shall be subject to appeal to the commission as other orders or actions of the local governing body, as hereinafter provided in section 53-17114 53-1.116; and (7) upon receipt from the commission of the notice and copy of application as provided in section 53-131, the local governing body shall fix a time and place at which a hearing will be had and at which such 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 such 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, as the case may be, one time not less than seven nor 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 protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than twenty-one days after the date of receipt of the notice from the commission. At the hearing, the considerations of the local governing body shall include, but not be limited to, (a) the adequacy of existing law enforcement and the recommendation of law enforcement agencies in the area, (b) existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, (c) zoning restrictions, (d) the sanitation or sanitary conditions on or about the proposed licensed premises, (e) the existence of a citizens' protest and any other

evidence in support of or opposition to the application, (f) the existing population of the city, village, or county, as the case may be, its projected growth, the existence of licenses in such city, village, or county, and the class of such licenses, (g) the nature of the neighborhood or community where the proposed licensed premises are located, (h) 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, and (i) any licensing standards enacted by such local governing body pursuant to section 7 of this act. After ~~and~~, after such hearing, the local governing body shall cause to be spread at large in the minute record of ~~their~~ its proceedings a resolution recommending either issuance or refusal of such license. The clerk of such city, village, or county shall thereupon 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 herewith shall not render void any license issued by the commission. In the event the commission refuses to issue such a license, the cost of publication of notice as herein required shall be paid by the commission from the security for costs.

Sec. 7. The local governing body of a city, village, or county shall adopt licensing standards by ordinance and may enact licensing standards which are more restrictive than the Nebraska Liquor Control Act based on that particular community's needs or standards. Such standards shall be filed with the commission and shall not be in conflict with the Nebraska Liquor Control Act.

Sec. 8. That section 53-1,116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-1,116. (1) A copy of the rule, regulation, order, or decision of the commission, in 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 the service of a copy of any rule, regulation, order, decision, or notice. 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

thereof upon such party.

(2) At the time of making an appearance before the commission, as referred to in subsection (1) of this section, each party, except the local governing body, shall deposit in cash or furnish a sufficient security for costs in such sum as the commission shall deem adequate to cover all costs liable to accrue, including (a) reporting the testimony to be adduced, (b) making up a complete transcript thereof, and (c) extending reporter's original notes in typewriting.

(3) Within twenty days after the service of any rule, regulation, order, or decision of the commission upon any party to the proceeding, as provided for by subsection (1) of this section, such party may apply for a rehearing in respect to any matters determined by the commission. The commission shall receive and consider such application for a rehearing within twenty days from the filing thereof with the secretary of the commission. In case 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 is provided for in subsection (5) of this section.

(4) Upon the 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 (3) of this section, shall be granted by the commission on application of any one party.

(5)(a) If the local governing body does not make a recommendation to the commission, any Any decision of the commission granting or refusing to grant or suspending, canceling, revoking, or renewing or refusing to suspend, cancel, revoke, or renew a license, special designated permit, or permit for the sale of alcoholic liquors, including beer, may be reversed, vacated, remanded, or modified by the district court of Lancaster County on appeal by any party to the hearing or rehearing before the commission. The procedure to obtain such a reversal, vacation, remand, or modification shall be by the filing with the commission of a notice of intention to appeal, followed by the filing of a petition in the district court setting forth the contention upon which such party relies for reversal, vacation, remand, or modification. Such notice of intention to appeal shall be filed with the commission within twenty days following the mailing of a

copy of the final decision of the commission to each party of record, as required by subsection (1) of this section. The petition shall be filed in the district court within thirty days after such mailing of a copy of the decision. In the event that a motion for rehearing has been filed with the commission as provided in this section, the time for filing a notice of intention to appeal and the petition shall begin with the date of the mailing of the notice of the overruling of the motion for rehearing to each party to the record.

(b) If the local governing body does make a recommendation to the commission on the issuance or denial of a license, special designated permit, or permit for the sale of alcoholic liquors, including beer, the recommendation shall be binding on the commission. The decision of the commission based on the recommendation of the local governing body may be reversed, vacated, remanded, or modified by the district court of a county in which the local governing body is located on appeal by any party to the hearing before the local governing body. The procedure to obtain such a reversal, vacation, remand, or modification shall be by the filing with the local governing body and the commission of a notice of intention to appeal, followed by the filing of a petition in the district court of a county in which the local governing body is located, setting forth the contention upon which such party relies for reversal, vacation, remand, or modification. Such notice of intention to appeal shall be filed with the local governing body and the commission within twenty days following the mailing of a copy of the final decision of the commission to each party of record. The petition shall be filed in the district court in a county in which the local governing body is located within thirty days after such mailing of a copy of the decision.

(6) It shall be unnecessary to issue or serve a summons upon the filing of a ~~the~~ petition referred to in subsection (5) of this section. It shall be deemed to be sufficient notice of the filing of such petition if a copy thereof is filed with the local governing body and the commission and served on the adverse party or parties to the record or on his, her, its, or their attorney or attorneys of record. Service of such copy of the petition may be waived by such party or parties or his, her, its, or their attorney or attorneys of record. The time for answering or otherwise pleading to such petition shall be as in other cases in the district court.

(7) Upon the filing of a notice of intention to appeal with the commission, as provided for in ~~subsection subdivision~~ (5)(a) of this section, the secretary of the commission shall prepare and deliver to the appellant on request a transcript of the proceedings and a transcript of the testimony and evidence before the commission, which transcript of the proceedings shall contain (a) a copy of the application granting or refusing a license or permit or a copy of the license or permit revoked or denied, as the case may be, and (b) a copy of the decision sought to be reversed, vacated, remanded, or modified. Such transcripts shall be filed in the district court of the proper county, as designated in ~~subsection subdivision~~ (5)(a) of this section, with the petition if received by the appellant within the time permitted for the filing of the petition, if not, as soon thereafter as the same may be received from the secretary of the commission. The jurisdiction of the district court of the appeal shall attach when the petition on appeal has been filed and shall not depend upon the filing of the transcripts.

(8) ~~The appeal; All appeals provided for or referred to in subsections (5); (6); and (7) of this section; and subdivision (5)(a) of this section shall be heard and tried by the court without a jury on the record of the commission. All appeals provided for or referred to in subdivision (5)(b) of this section shall be heard and tried by the court without a jury on the record of the local governing body.~~

(9) The appellant shall deposit with the secretary of the commission the costs of the transcript of the proceedings and the transcript of the testimony and evidence before the commission when requesting the same as provided for in subsection (7) of this section.

Sec. 9. The commission may issue or provide to any person regulated under the Nebraska Liquor Control Act a set of rules or regulations adopted and promulgated by the commission, a copy of the Nebraska Liquor Control Act, and any other information which the commission deems important in the area of liquor control in the State of Nebraska. The information may be printed in a booklet, a pamphlet, or any other form the commission may determine to be appropriate. The commission may update such material as often as it deems necessary and may charge a fee for the material. The fee shall be reasonable and shall not exceed any reasonable or necessary costs of producing the material for distribution.

Sec. 10. Any money collected by the



commission pursuant to section 9 of this act shall be deposited in the Nebraska Liquor Control Commission Rule and Regulation Cash Fund, which is hereby created. The purpose of the fund shall be to cover any costs incurred by the commission in producing or distributing the material referred to in section 9 of this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 11. There is hereby appropriated \$6,000 from the Nebraska Liquor Control Commission Rule and Regulation Cash Fund for the period July 1, 1986, to June 30, 1987, to the Nebraska Liquor Control Commission, for Program 73, to aid in carrying out the provisions of this act.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 12. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 13. That original sections 53-131 to 53-134 and 53-1,116, Reissue Revised Statutes of Nebraska, 1943, and section 53-103, Revised Statutes Supplement, 1985, are repealed.

Sec. 14. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.