

**ONE HUNDRED EIGHTH LEGISLATURE - FIRST SESSION - 2023**  
**COMMITTEE STATEMENT (CORRECTED)**  
**LB376**

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**Hearing Date:** Monday January 30, 2023  
**Committee On:** General Affairs  
**Introducer:** Lowe  
**One Liner:** Change provisions relating to the importation of alcoholic liquor into the state under the Nebraska Liquor Control Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 8 Senators Brewer, Cavanaugh, J., Day, Hardin, Holdcroft, Hughes, Lowe, Raybould  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Testimony:**

**Proponents:**

John Lowe  
Hobert Rupe  
Tyler Rudd

**Representing:**

Introducer  
Nebraska Liquor Control Commission  
Wine Institute

**Opponents:**

Paul Oettinger

**Representing:**

Pals Brewing Company

**Neutral:**

Justin Brady

Adam Barney

**Representing:**

Nebraska Liquor Wholesalers Association/Nebraska Grocery Industry Association  
Associated Beverage Distributors of Nebraska

\* ADA Accommodation Written Testimony

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**Summary of purpose and/or changes:**

Bill Summary: LB 376 was brought on behalf of the Liquor Control Commission. This legislation will enable the commission to more accurately and correctly identify alcoholic products being imported into or produced in Nebraska for taxation and distribution purposes.

Section-by-Section Summary:

Section 1: amends section 53-101 to include sections 3 and 4 of this act in the Nebraska Liquor Control Act, found in sections 53-101 to 53-1,122 of the Nebraska Revised Statutes.

Section 2: amends section 53-103 to include section 3 of this act to the definitions found in sections 53-103.10 to 53-103.49.

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Section 3: adds new language defining “Primary source of supply in the United States” to mean the Manufacturer, producer, or owner of any alcoholic liquor at the time it becomes a marketable product in the United States; Bottler of any alcoholic liquor in the United States; Exclusive agent within the United States or any of the states of any manufacturer, producer, owner, or bottler of any alcoholic liquor outside of the United States; or A licensed Nebraska craft brewery, farm winery, microdistillery, or manufacturer.

This section also sets a requirement that to be the primary source of supply in the United States, the licensee causing such alcoholic liquor to be imported into Nebraska must be the first source, such as the manufacturer or the source closest to the manufacturer, in the channel of commerce from which the product can be secured by Nebraska wholesalers.

Section 4: This section contains all new language requiring each licensed manufacturer, licensed wholesaler, or the holder of a shipping license in Nebraska to submit a report to the commission prior to the sale or shipment of any alcoholic liquor into the state.

The report must include the following:

The licensee’s name and license number,

The designated Nebraska licensed wholesaler for each product,

The name of the primary source of supply in the United States,

The products to be imported, including the brand name, class or type of product, and fanciful name if applicable,

Evidence of compliance with federal label law requirements pursuant to 27 C.F.R., Chapter 8, and rules and regulations adopted pursuant to that act, or a sample of the actual label if federal approval is not required; and

Any other information requested by the commission related to sale or shipment in Nebraska, along with any applicable fees.

This section also requires a letter from the product manufacturer in the U.S. designating the licensee as the primary source of supply in the U.S. or the sole source of supply in Nebraska if the licensed manufacturer, licensed wholesaler, or the holder of a shipping license is NOT the product manufacturer.

Further, this section requires the information required above to be submitted to the commission upon a change in the primary source of supply of the alcoholic liquor at least thirty days prior to the shipment of the alcoholic liquor into Nebraska.

This section also gives the commission the authority to promulgate and adopt rules and regulations to carry out this section.

Section 5: This is the repealer section.

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#### **Explanation of amendments:**

AM 296 to LB 376 establishes the fees set by the commission are not to exceed thirty dollars and includes new language to establish licensed wholesalers in Nebraska may import alcoholic liquor from an affiliated wholesaler out of state if the report required in this section has previously been submitted for the product being imported, the report designates the Nebraska licensed wholesaler for the product, and the product was obtained by the affiliated wholesaler from the same primary source of supply identified in the report.

AM 296 also remits fees collected pursuant to this section to the State Treasurer for credit to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund found in 53-117.06.

LB 259 was amended into LB 376 by AM 336.

LB 259 adds new language to section 53-123.11 of the Liquor Control Act to allow a holder of a farm winery license to obtain a retail license to sell beer or other liquor that is not produced by the farm winery, for consumption on their premises.

#### **Section-by-Section Summary:**

Section 1: Amends section 53-123.11 by adding a new subsection (4) which allows the holder of a farm winery license to obtain a retail license to sell beer or other alcoholic liquor not produced by the farm winery for retail consumption on their premises.

Section 2: is the repealer section.

Testifiers:

Proponents:

1. Hobert Rupe, Executive Director of the Nebraska Liquor Control Commission
2. Mike Schilling, Shellingbridge Winery and Microbrewery
3. Mike Murman, Glacial Till Vineyard and Winery
4. Richard Hilske, Cellar 426
5. Mick McDowell, Miletta Vista Winery

Opponents:

1. Chris Wagner, Project Extra Mile
2. Maggie Ballard, Heartland Family Service

Neutral: None

Committee Vote:

Yea: Lowe, Brewer, Cavanaugh, J., Day, Hardin, Holdcroft, Hughes, Raybould

Nay: None

LB 377 was amended into LB 376 by AM 336.

Bill Summary: LB 377 is a bill to allow non-profit entities to apply for up to twelve special designated liquor licenses (SDLs) per calendar year. They currently are allowed only six per year by the Liquor Control Act.

Section-by-Section Summary:

Section 1: Amends section 53-124.11 subsection (2)(a) by adding new language that provides a non profit corporation which is fraternal, charitable, or public service oriented, which is exempted from paying federal income taxes, to apply for a special designated liquor license for up to twelve days in any one calendar year.

Section 2: is the repealer section.

Testifiers:

Proponents:

1. James Englebart, Emperyan Brewing Company
2. Vanessa Silke, Attorney and Lobbyist for the Nebraska Craft Brewers Guild
3. Hobert Rupe, Executive Director of the Nebraska Liquor Control Commission

Opponents:

1. Chris Wagner, Project Extra Mile

Neutral:

None

Committee Vote:

Yea: Lowe, Brewer, Cavanaugh, J., Day, Hardin, Holdcroft, Hughes, Raybould

Nay: None

LB 596 was amended into LB 376 by AM 336

Bill Summary: LB 596 clarifies the Nebraska Liquor Control Act so as to expressly allow liquor manufacturers and wholesalers to enter into sponsorship and advertisement agreements with certain organizations, including nonprofit organizations.

Section-by-Section Summary:

Section 1: Amends section 53-101 to include section two of this act in the Nebraska Liquor Control Act.

Section 2: Is all new language which allows a manufacturer, wholesaler, or any agent thereof to enter into a sponsorship or advertising agreement with the holder of a special designated license (SDL) pursuant to section 53-124.11 if the holder of the SDL is a municipal corporation, a fine arts museum incorporated as a non-profit, a religious non-profit corporation exempted from payment of federal income taxes, a political organization exempted from payment of federal income taxes, or any other non-profit corporation whose purpose is fraternal, charitable, or public service and has been exempted from payment of federal income taxes. They also may enter into a sponsorship or advertising agreement with a political subdivision of the State of Nebraska, or an operator of property owned by a political subdivision of the State of Nebraska to sponsor and advertise for events held by such organization, licensee, or political subdivision.

The commission is granted the authority to adopt and promulgate rules and regulations to carry out this section.

Section 3: Amends section 53-168 to add a new subsection (6) to expressly state it is not a violation of subsection (1) or (2) of this section for a wholesaler or manufacturer or the agent of a wholesaler or manufacturer to enter into a sponsorship or advertising agreement with a licensee, organization, or political subdivision of the State of Nebraska pursuant to section two of this act.

Section 4: Amends section 53-169 to add a new subsection (3) to expressly state similar language as in section 3 above, to expressly state it also is not a violation of subsection (1) or (2) of this section of statute for a wholesaler or manufacturer or any agent thereof to enter into a sponsorship or advertising agreement with a licensee, organization, or political subdivision of the State of Nebraska pursuant to section two of this act.

Section 5: is the repealer section.

Testifiers:

Proponents:

1. Brent Smoyer, Nebraska Travel Association

Opponents:

1. Chris Wagner, Project Extra Mile

Neutral:

None

Committee Vote:

Yea: Lowe, Brewer, Cavanaugh, J., Day, Hardin, Holdcroft, Hughes, Raybould

Nay: None

LB 667 was amended by LB 667, and was amended into LB 376 as amended by AM 336.

Bill Summary: LB 667 is a bill to authorize alcohol wholesalers to use channel pricing for the purposes of reconciling wholesalers' pricing structures under the Nebraska Liquor Control Act to retail licensees who sell alcoholic liquor for consumption both on and off premises; to retail licensees who sell alcohol for consumption off premises only; and to retail licensees with multiple licenses from different channels to sell alcoholic liquor products under the channel that represents the primary use of the premises.

Section-by-Section Summary:

Section 1: Amends section 53-101 to include sections three and four of this act in the Nebraska Liquor Control Act.

Section 2: Amends section 53-103 to include section three of this act within the definitions found in sections 53-102.01 to 53-103.49

Section 3: Creates a new definition for "Chanel pricing", to mean a pricing strategy that differentiates the price charged for a product based on the particular distribution channel used to sell the product.

Section 4: New language in subsection (1) of this section defines alcoholic product as a particular brand of alcoholic liquor in

a designated size container or a mix of brands and containers when sold on a combined basis, as established by the wholesaler, that is offered in quantity discount terms established by the wholesaler.

Subsection (2) is new language to allow a wholesaler to employ channel pricing to sell alcoholic products to retail license holders who sell alcoholic liquor for consumption on and off the premises at a different price than the wholesaler sells the alcoholic liquor to retail license holders who sell alcoholic liquor only for consumption OFF the licensed premises IF the channel pricing discounts are:

Based on the volume of the alcoholic product delivered within a twenty -four hour period; and

Made equally available to each retail licensee in that licensee's same channel.

Subsection (3) requires an establishment that has multiple licenses at the same location that are not from the same channel, the alcoholic product must be sold under the channel that represents the primary use of the premises.

Section 5: is the repealer section.

AM 279 replaces sections three and four of LB 667. It makes no substantive changes, but rewords these sections to more clearly explain channel pricing and how it may be used.

Testifiers:

Proponents:

1. Justin Brady, Nebraska Liquor Wholesalers
2. Wine Institute
3. Rich Otto, Nebraska Grocery Industry Association
4. Hobert Rupe, Executive Director of the Nebraska Liquor Control Commission

Opponents:

None

Neutral:

None

Committee Vote:

Yea: Lowe, Brewer, Cavanaugh, J., Day, Hardin, Holdcroft, Hughes, Raybould

Nay: None

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John Lowe, Chairperson