

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 512**

Introduced by Brewer, 43.

Read first time January 17, 2023

Committee: General Affairs

1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend  
2 section 53-123.01, Reissue Revised Statutes of Nebraska, and  
3 sections 53-123.14, 53-123.16, and 53-129, Revised Statutes  
4 Cumulative Supplement, 2022; to change the number of locations  
5 allowed for a craft brewery or microdistillery licensee; to  
6 harmonize provisions; and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-123.01, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 53-123.01 (1) A manufacturer's license shall allow the manufacture,  
4 storage, and sale of alcoholic liquor to wholesale licensees in this  
5 state and to such persons outside the state as may be permitted by law,  
6 except that nothing in the Nebraska Liquor Control Act shall prohibit a  
7 manufacturer of beer from distributing tax-paid samples of beer at the  
8 premises of a licensed manufacturer for consumption on the premises. A  
9 manufacturer's license issued pursuant to this section shall be the only  
10 license required by the Nebraska Liquor Control Act for the manufacture  
11 and retail sale of beer manufactured on the licensed premises for  
12 consumption on the licensed premises.

13 (2)(a) A licensee who or which first obtains a craft brewery license  
14 pursuant to section 53-123.14, holds such license for not less than three  
15 years, and operates a brewpub or microbrewery on the licensed premises of  
16 such craft brewery license shall obtain a manufacturer's license when the  
17 manufacture of beer on the licensed premises exceeds twenty thousand  
18 barrels per year. The manufacturer's license shall authorize the  
19 continued retail sale of beer for consumption on or off the premises but  
20 only to the extent the premises were previously licensed as a craft  
21 brewery. The sale of any beer other than beer manufactured by the  
22 licensee, wine, or alcoholic liquor for consumption on the licensed  
23 premises shall require the appropriate retail license. The holder of such  
24 manufacturer's license may continue to operate up to ten ~~five~~ retail  
25 locations which are in operation at the time such manufacturer's license  
26 is issued and shall divest itself from retail locations in excess of ten  
27 ~~five~~ locations. The licensee shall not begin operation at any new retail  
28 location even if the licensee's production is reduced below twenty  
29 thousand barrels per year.

30 (b) The holder of such manufacturer's license may obtain an annual  
31 catering license pursuant to section 53-124.12, a special designated

1 license pursuant to section 53-124.11, or an entertainment district  
2 license pursuant to section 53-123.17.

3 Sec. 2. Section 53-123.14, Revised Statutes Cumulative Supplement,  
4 2022, is amended to read:

5 53-123.14 (1) Any person who operates a craft brewery shall obtain a  
6 license pursuant to the Nebraska Liquor Control Act. A license to operate  
7 a craft brewery shall permit the production of a maximum of twenty  
8 thousand barrels of beer per year in the aggregate from all physical  
9 locations comprising the licensed premises. A craft brewery may also sell  
10 to beer wholesalers for sale and distribution to licensed retailers. A  
11 craft brewery license issued pursuant to this section shall be the only  
12 license required by the Nebraska Liquor Control Act for the manufacture  
13 and retail sale of beer for consumption on or off the licensed premises,  
14 except that the sale of any beer other than beer manufactured by the  
15 craft brewery licensee, wine, or alcoholic liquor by the drink for  
16 consumption on the licensed premises shall require the appropriate retail  
17 license. Any license held by the operator of a craft brewery shall be  
18 subject to the act. A holder of a craft brewery license may obtain an  
19 annual catering license pursuant to section 53-124.12, a special  
20 designated license pursuant to section 53-124.11, an entertainment  
21 district license pursuant to section 53-123.17, or a promotional farmers  
22 market special designated license pursuant to section 53-124.16. For  
23 purposes of this section, licensed premises may include up to ten ~~five~~  
24 separate physical locations.

25 (2)(a) A holder of a craft brewery license may directly sell for  
26 resale up to two hundred fifty barrels per calendar year of beer produced  
27 at its licensed premises directly to retail licensees located in the  
28 State of Nebraska which hold the appropriate retail license if the holder  
29 of the craft brewery license:

30 (i) Only self-distributes its beer in a territory in which the craft  
31 brewery licensee has not entered into a distribution agreement with a

1 licensed Nebraska wholesaler for the territory where such retail licensee  
2 is located;

3 (ii) Self-distributes its beer utilizing only persons exclusively  
4 and solely employed by the craft brewery licensee in vehicles exclusively  
5 and solely owned or leased by the craft brewery licensee; and

6 (iii) Complies with all relevant statutes, rules, and regulations  
7 that apply to Nebraska beer wholesalers regarding distribution of such  
8 beer.

9 (b) A holder of a craft brewery license self-distributing beer in  
10 accordance with subdivision (2)(a) of this section may only self-  
11 distribute beer brewed at its licensed brewery premises and shall not  
12 distribute beer produced by any other licensee.

13 (3) A holder of a craft brewery license may store and warehouse tax-  
14 paid products produced on such licensee's licensed premises in a  
15 designated, secure, offsite storage facility if the holder of the craft  
16 brewery license receives authorization from the commission and notifies  
17 the commission of the location of the storage facility and maintains, at  
18 the craft brewery and at the storage facility, a separate perpetual  
19 inventory of the product stored at the storage facility. Consumption of  
20 alcoholic liquor at the storage facility is strictly prohibited.

21 (4) The commission may adopt and promulgate rules and regulations  
22 pertaining to distribution rights of craft brewery licensees.

23 Sec. 3. Section 53-123.16, Revised Statutes Cumulative Supplement,  
24 2022, is amended to read:

25 53-123.16 Any person who operates a microdistillery shall obtain a  
26 license pursuant to the Nebraska Liquor Control Act. A license to operate  
27 a microdistillery shall permit the licensee to produce a maximum of one  
28 hundred thousand gallons of liquor per year in the aggregate from all  
29 physical locations comprising the licensed premises. For purposes of this  
30 section, licensed premises may include up to ten ~~five~~ separate physical  
31 locations. A microdistillery may also sell to licensed wholesalers for

1 sale and distribution to licensed retailers. A microdistillery license  
2 issued pursuant to this section shall be the only license required by the  
3 Nebraska Liquor Control Act for the manufacture and retail sale of  
4 microdistilled product for consumption on or off the licensed premises,  
5 except that the sale of any beer, wine, or alcoholic liquor, other than  
6 microdistilled product manufactured by the microdistillery licensee, by  
7 the drink for consumption on the microdistillery premises shall require  
8 the appropriate retail license. Any license held by the operator of a  
9 microdistillery shall be subject to the act. A holder of a  
10 microdistillery license may obtain an annual catering license pursuant to  
11 section 53-124.12, a special designated license pursuant to section  
12 53-124.11, an entertainment district license pursuant to section  
13 53-123.17, or a promotional farmers market special designated license  
14 pursuant to section 53-124.16. The commission may, upon the conditions it  
15 determines, grant to any microdistillery licensed under this section a  
16 special license authorizing the microdistillery to purchase and to  
17 import, from such persons as are entitled to sell the same, wines or  
18 spirits to be used solely as ingredients and for the sole purpose of  
19 blending with and flavoring microdistillery products as a part of the  
20 microdistillation process.

21       Sec. 4. Section 53-129, Revised Statutes Cumulative Supplement,  
22 2022, is amended to read:

23       53-129 (1) Except as otherwise provided in subsection (3) of this  
24 section, retail, bottle club, craft brewery, and microdistillery licenses  
25 issued under the Nebraska Liquor Control Act apply only to that part of  
26 the premises described in the application approved by the commission and  
27 in the license issued on the application. For retail and bottle club  
28 licenses, only one location shall be described in each license. For craft  
29 brewery and microdistillery licenses, up to ten ~~five~~ separate physical  
30 locations may be described in each license.

31       (2) After such license has been granted for the particular premises,

1 the commission, with the approval of the local governing body and upon  
2 proper showing, may endorse upon the license permission to add to, delete  
3 from, or abandon the premises described in such license and, if  
4 applicable, to move from the premises to other premises approved by the  
5 local governing body. In order to obtain such approval, the retail,  
6 bottle club, craft brewery, or microdistillery licensee shall file with  
7 the local governing body a request in writing and a statement under oath  
8 which shows that the premises, as added to or deleted from or to which  
9 such move is to be made, comply in all respects with the requirements of  
10 the act. No such addition, deletion, or move shall be made by any such  
11 licensee until the license has been endorsed to that effect in writing by  
12 the local governing body and by the commission and the licensee furnishes  
13 proof of payment of the renewal fee prescribed in subsection (4) of  
14 section 53-131.

15 (3)(a) A retail, bottle club, craft brewery, or microdistillery  
16 licensee may apply to the local governing body for a temporary expansion  
17 of its licensed premises to an immediately adjacent area owned or leased  
18 by the licensee or to an immediately adjacent street, parking lot, or  
19 alley, not to exceed fifty days for calendar year 2020 and, for each  
20 calendar year thereafter, not to exceed fifteen days per calendar year.  
21 The temporary area shall otherwise comply with all requirements of the  
22 Nebraska Liquor Control Act.

23 (b) The licensee shall file an application with the local governing  
24 body which shall contain (i) the name of the applicant, (ii) the premises  
25 for which a temporary expansion is requested, identified by street and  
26 number if practicable and, if not, by some other appropriate description  
27 which definitely locates the premises, (iii) the name of the owner or  
28 lessee of the premises for which the temporary expansion is requested,  
29 (iv) sufficient evidence that the licensee will carry on the activities  
30 and business authorized by the license for himself, herself, or itself  
31 and not as the agent of any other person, group, organization, or

1 corporation, for profit or not for profit, (v) a statement of the type of  
2 activity to be carried on during the time period for which a temporary  
3 expansion is requested, and (vi) sufficient evidence that the temporary  
4 expansion will be supervised by persons or managers who are agents of and  
5 directly responsible to the licensee.

6 (c) No temporary expansion provided for by this subsection shall be  
7 granted without the approval of the local governing body. The local  
8 governing body may establish criteria for approving or denying a  
9 temporary expansion. The local governing body may designate an agent to  
10 determine whether a temporary expansion is to be approved or denied. Such  
11 agent shall follow criteria established by the local governing body in  
12 making the determination. The determination of the agent shall be  
13 considered the determination of the local governing body unless otherwise  
14 provided by the local governing body.

15 (d) For purposes of this section, the local governing body shall be  
16 that of the city or village within which the premises for which the  
17 temporary expansion is requested are located or, if such premises are not  
18 within the corporate limits of a city or village, then the local  
19 governing body shall be that of the county within which the premises for  
20 which the temporary expansion is requested are located.

21 (e) The decision of the local governing body shall be final. If the  
22 applicant does not qualify for a temporary expansion, the temporary  
23 expansion shall be denied by the local governing body.

24 (f) The city, village, or county clerk shall deliver confirmation of  
25 the temporary expansion to the licensee upon receipt of any fee or tax  
26 imposed by such city, village, or county.

27 Sec. 5. Original section 53-123.01, Reissue Revised Statutes of  
28 Nebraska, and sections 53-123.14, 53-123.16, and 53-129, Revised Statutes  
29 Cumulative Supplement, 2022, are repealed.