

## LEGISLATIVE BILL 213

Approved by the Governor May 17, 1983

Introduced by Miscellaneous Subjects Committee,  
Hefner, 19, Chairperson; Von Minda, 17;  
Barrett, 39; V. Johnson, 8; Lundy, 36;  
Hannibal, 4; Newell, 13

AN ACT relating to liquor; to amend sections 53-124, 53-124.02, 53-124.04, 53-124.05, 53-124.07, 53-134, 53-135, and 53-138.03, Reissue Revised Statutes of Nebraska, 1943, and sections 2-219, 53-103, 53-124.03, 53-125, 53-129, 53-131, 53-133, 53-135.01, 53-164.01, 53-179, and 53-1,116, Revised Statutes Supplement, 1982; to change provisions relating to the sale of liquors; to modify provisions relating to bottle clubs, nonprofit corporations, issuance and renewal of licenses, and permissible hours of operation; to provide for disposition of fees; to change time limits; to eliminate a maximum amount for a bond; to define terms; to repeal the original sections, and also sections 53-124.08, 53-194.01, and 53-194.02, Reissue Revised Statutes of Nebraska, 1943, and section 53-124.10, Revised Statutes Supplement, 1982; and to declare an emergency.

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

Section 1. That section 2-219, Revised Statutes Supplement, 1982, be amended to read as follows:

2-219. No person shall be permitted to sell intoxicating liquors, wine or beer of any kind, or exhibit or conduct indecent shows or dances, or be engaged in any gambling or other games of chance or horse racing, either inside the enclosure where any state, district, or county agricultural society fair is being held, or within forty rods thereof, during the time of holding such fairs. Nothing in this section : ~~Provided,~~ that nothing herein shall be construed to prohibit wagering on the results of horse races by the ~~pari-mutuel~~ parimutuel or certificate method when conducted by licensees within the race track enclosure

at licensed horse-race meetings or to prohibit the operation of bingo games as provided in Chapter 9, article 1, Nothing in this section; and provided further, that nothing herein shall be construed to prohibit the sale of intoxicating liquors, wine, or beer by a person properly licensed pursuant to Chapter 53 on premises under the control of the State Board of Agriculture or any county agricultural society. Any person who violates the provisions of this section shall be guilty of a Class V misdemeanor. The † Provided, the trial of speed of horses under direction of the society shall not be included in the term horse racing. Upon the filing of proof with the State Treasurer of a violation of this section inside the enclosure of such fair, the amount of money appropriated shall be withheld from any money appropriated for the ensuing year.

Sec. 2. That section 53-103, Revised Statutes Supplement, 1982, be amended to read as follows:

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

(1) This act shall be construed as referring exclusively to said 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, or association.

(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 ; Provided; that such club shall file files 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 files within ten days of the election of any additional member his or her name and address. The ; and provided further; that its affairs and management of such club shall be are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting, and that no member or any officer, agent, or employee of the club shall be paid, or shall directly or indirectly receive 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, as provided by section 504 (c), (4), (7) or (8), Internal Revenue Code of 1954, on November 22, 1963.

(22) Bottle The words 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, 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 years of age, regardless of marital

status, except that any person who was nineteen years of age or older on July 19, 1980, shall not be deemed to be a minor.

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

(25) Franchise The terms 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 The term franchisor shall have the same meaning as the term manufacturer as defined in subdivision (8) of this section.

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

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

(29) Cost shall mean the price of any item of liquor to the retailer plus fifteen per cent of such price, which is declared as a matter of legislative determination to represent the average minimum overhead necessarily incurred in connection with the sale by the retailer of such item of liquor.

(30) ~~(29)~~ Price shall mean the maximum price per case or per container if sold in broken case lots to the retail licensee contained in the applicable schedules or amendments filed with the commission pursuant to sections 53-168.02 and 53-168.03 by the wholesaler, distributor, or manufacturer for the twelve-month period immediately preceding the latest filing of such schedules or amendments.

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

(32) ~~(31)~~ Cancel shall mean to discontinue all rights and privileges of a license.

~~(33)~~ (32) Revoke shall mean to permanently void and recall all rights and privileges of a license.

~~(34)~~ (33) 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.

~~(35)~~ (34) 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.

(35) 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.

Sec. 3. That section 53-124, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-124. At the time application is made to the commission for a license of any class, the applicant shall pay the fee hereinafter provided. The fees for annual licenses finally issued by the commission shall be as follows:

(1) For a license to manufacture alcohol and spirits ..... \$1,000.00;

(2) For a license to manufacture beer and wine:

- A. Beer, regardless of alcoholic content:
  - (a) 1 to 100 barrel daily capacity, or any part thereof ..... \$100.00
  - (b) 100 to 150 barrel daily capacity ..... 200.00
  - (c) 150 to 200 barrel daily capacity ..... 350.00
  - (d) 200 to 300 barrel daily capacity ..... 500.00
  - (e) 300 to 400 barrel daily capacity ..... 650.00
  - (f) 400 to 500 barrel daily capacity ..... 700.00
  - (g) 500 barrel daily capacity, or more ..... 800.00;
- B. Wines..... \$250.00<sub>±</sub>

Provided, the ~~The~~ words daily capacity, as used herein, shall mean the average daily barrel production for the previous twelve months of manufacturing operation. If and provided further, if no such basis for comparison

exists, the manufacturing licensee shall pay in advance for the first year's operation a fee of five hundred dollars;

(3) Alcoholic liquor distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the same licensee and wholesaling or jobbing alcoholic liquors, except beer ..... \$500.00;

(4) Beer distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the same licensee and wholesaling or jobbing beer only ..... \$250.00;

(5) For a retailer's license:

A. Beer only, within the corporate limits of cities and villages, for consumption on the premises, regardless of alcoholic content, the sum of ten dollars in villages of five hundred population or less; twenty-five dollars in villages or cities, as the case may be, having a population of more than five hundred inhabitants and not more than twenty-five hundred inhabitants; fifty dollars in cities having a population of more than twenty-five hundred inhabitants and less than ten thousand inhabitants; and one hundred dollars in cities having a population of ten thousand inhabitants or more;

B. Beer only, for consumption off the premises, regardless of alcoholic content, sales in the original packages only, the sum of twenty-five dollars;

C. Alcoholic liquors within the corporate limits of cities and villages, for consumption on the premises and off the premises, sales in original packages only, and for catering and dispensing alcoholic liquor on premises away from the licensed premises, the sum of two hundred and fifty dollars. If ; Provided; this license is held by a nonprofit corporation it shall be restricted to consumption on the premises only;

D. Alcoholic liquors, including beer, regardless of alcoholic content, within the corporate limits of cities and villages, for consumption off the premises, sales in the original packages only, and for catering and dispensing alcoholic liquor on premises away from the licensed premises, the sum of one hundred and fifty dollars;

E. Alcoholic liquors without the corporate limits of cities and villages, in counties mentioned in section 53-127, for consumption off the premises, sales in the original packages only, not less than one hundred and fifty dollars for each license;

F. Beer only, regardless of alcoholic content, without the corporate limits of cities and villages, for consumption on the premises, not less than twenty-five dollars for each license, the precise amount in each case to be such sum as shall equal the amount of license

fee herein fixed plus the occupation tax fixed by ordinance, if any, in the nearest incorporated city or village in the same county;

G. Alcoholic liquors without the corporate limits of cities or villages in existing privately-owned recreation areas, on which are located hotels or motels to be licensed in which twenty-five or more rooms are used for the sleeping accommodations of guests and having one or more public dining rooms where meals are served and which are of sufficient size to serve at least one hundred patrons, which recreational areas shall have, after licensing, a principal business purpose or purposes other than the sale of alcoholic liquors and have at least one hundred sixty acres of real estate of the area under contiguous single ownership or lease, for consumption on the premises and off the premises, sales in original packages only, the sum of two hundred fifty dollars. The commission shall first find that the proposed licensed premises are a part of an existing recreational area of substantial size and operation and that such area does, in fact, have a recreational purpose; subsequent to this finding the commission shall then determine that the issuance of the proposed license would be in the public interest;

H. Alcoholic liquors, including beer, issued to a nonprofit corporation, for consumption on the premises, which license shall not be issued to any corporation authorized by law to receive a license under the provisions of subdivision (5) C. of this section, except ; Provided, that this provision shall not apply when the nonprofit corporation shall be open for sale of alcoholic liquors, including beer, for consumption on the premises not more than two days in any week:

(a) Within the corporate limits of cities and villages, for consumption on the premises, regardless of alcoholic content, the sum of twenty dollars in villages of five hundred population or less; fifty dollars in villages or cities, as the case may be, having a population of more than five hundred inhabitants and not more than twenty-five hundred inhabitants; one hundred dollars in cities having a population of more than twenty-five hundred inhabitants and less than ten thousand inhabitants; and two hundred dollars in cities having a population of ten thousand inhabitants or more; and

(b) Without the corporate limits of cities and villages, for consumption on the premises, not less than two hundred fifty dollars for each license, the precise amount in each case to be such sum as shall equal the amount of license fee herein fixed plus the occupation tax fixed by ordinance, if any, in the nearest incorporated city or village in the same county. If ; Provided, that if the incorporated city or village does

not have an occupation tax for nonprofit corporation licenses, then the licensee shall pay an amount equal to a class C license occupation tax for such city or village. The ; and provided further, the applicable fee shall be paid by the applicant or licensee, as the case may be, directly to the city or village treasurer in the case of class A, C, and H (a) licenses; directly to the city or village treasurer in the case of class B and I licenses within the corporate limits of cities and villages; ; directly to the county treasurer in the case of class B and H (b) licenses outside of the corporate limits of cities and villages; directly to the commission in the case of class D and E licenses; and directly to the county treasurer in the case of class F and G licenses;

F: Alcoholic liquors, including beer, issued for consumption on the premises, to a municipal corporation, a fine arts museum incorporated as a nonprofit corporation, or religious or fraternal nonprofit corporation which has been exempted from payment of federal income taxes and does not hold a retail liquor license under this section. Such license shall be issued subject to the following conditions:

(a) The license authorized in this subdivision shall not be applied for and used by the same municipal corporation or nonprofit corporation on more than three occasions in one calendar year;

(b) The license shall be valid only for the occasion or the date of such occasion indicated on the license and shall only be used on three calendar days in one calendar year;

(c) The fee for such license shall be twenty dollars for each such occasion and shall be submitted with the application for the license;

(d) The municipal corporation or nonprofit corporation seeking such license shall, at least thirty days prior to the occasion for which the license is required, file an application which shall include the date, time, and place of the occasion together with the required fee and such other information that may be required by the commission to determine if the applicant is qualified to receive such license; and

(e) The application shall be processed by the commission without the necessity of forwarding it to the local governing body or having a hearing thereon; nor shall the applicant be required to file a bond or lesser application; if it meets the requirements of this subdivision; shall be approved and permission shall be granted and a license issued for use of the described premises; but all other statutory provisions and rules and regulations of the commission shall be applicable, except the provision of section 53-477 shall not apply to the applicant. If the application does not qualify

for a license, it shall be denied by the commission;

~~5-~~ I. Beer and wine only, within the corporate limits of cities and villages, for consumption on the premises of restaurants only, regardless of alcoholic content, the sum of fifty dollars in villages of five hundred population or less; seventy-five dollars in villages or cities, as the case may be, having a population of more than five hundred inhabitants and not more than twenty-five hundred inhabitants; one hundred twenty-five dollars in cities having a population of more than twenty-five hundred inhabitants and less than ten thousand inhabitants; and two hundred twenty-five dollars in cities having a population of ten thousand inhabitants or more.

(6) For a railroad license ..... \$100.00 and \$1.00 for each duplicate;

(7) For a boating license ..... \$50.00

(8) For a nonbeverage user's license:

Class 1 ..... \$5.00

Class 2 ..... 25.00

Class 3 ..... 50.00

Class 4 ..... 100.00

Class 5 ..... 250.00;

(9) Bottle club license ..... \$250.00 in any county having a population of less than five thousand five hundred inhabitants, and ~~\$500.00~~ five hundred dollars in any county having a population of five thousand five hundred inhabitants or more. No ; Provided, that no such license shall be issued within the corporate limits of any city or village when a license as provided in subdivision (5) C. of this section has been issued in such city or village. The applicable fee shall be paid, by the applicant or licensee, directly to the city or village treasurer in the case of a bottle club license within the corporate limits of a city or village, and directly to the county treasurer in the case of a bottle club license outside the limits of any city or village; and

(10) For an airline license ..... \$100.00 and \$1.00 for each duplicate.

The license year, unless otherwise provided in this act, shall commence on May 1 of each year and shall end on the following April 30, except for class C licenses which shall commence on November 1 of each year and shall end on the following October 31. During the license year, no license shall be issued for a sum less than the amount of the annual license fee as fixed in this section, regardless of the time when the application for such license shall have been made, except that when a class C license is renewed only for the period of May 1 to October 31 to adjust the expiration date, only one half of the annual license fee shall be paid to the state and only one half of the

local occupation tax shall be paid.

Sec. 4. That section 53-124.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-124.02. After March 4, 1963, no person as defined in subdivision (12) of section 53-403, shall, except as provided in sections 53-124.02 to 53-124.07, acquire a beneficial interest in more than a total of two alcoholic beverage retail licenses, but nothing in sections 53-124.02 to 53-124.07 or subdivision (16) of section 53-125 shall require any such person who has or had, on March 4, 1963, such interest in more than two such licenses to surrender, dispose of, or release his or her interest in any such license or licenses.

Sec. 5. That section 53-124.03, Revised Statutes Supplement, 1982, be amended to read as follows:

53-124.03. The provisions of sections 53-124.02 to 53-124.07 and subdivision (16) of section 53-125 shall not apply to the acquisition of an additional license or licenses or an interest therein when such license is: (1) issued to any city of the primary or metropolitan class to be used in city-owned facilities open to the public; (2) issued to a person for use in connection with the operation of a hotel containing at least twenty-five sleeping rooms; (3) issued to a person for use in connection with the operation of a bowling establishment containing at least twelve bowling lanes; (4) restricted to on premise sale of beer only in a restaurant; or (5) issued to a person for use in connection with the operation of a restaurant having food sales of at least sixty per cent of its total gross sales, except that any license issued under this subdivision shall restrict consumption of alcoholic liquors to on the premises only.

Sec. 6. That section 53-124.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-124.04. Membership in any organization or club which is or may become the holder of a license shall not, for purposes of sections 53-124.02 to 53-124.07 and subdivision (16) of section 53-125, constitute acquisition of an interest in a retail license.

Sec. 7. That section 53-124.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-124.05. Nothing in sections 53-124.02 to 53-124.07 or subdivision (16) of section 53-125 shall affect the right of any holder of retail licenses prior to March 4, 1963, to continue to hold, use, and renew such licenses.

Sec. 8. That section 53-124.07, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-124.07. Any person violating any provision of sections 53-124.02 to 53-124.07, or subdivision (16) of section 53-125, or of any rule or regulation issued pursuant to sections 53-124.02 to 53-124.07 or subdivision (16) of section 53-125 shall be guilty of a Class IV misdemeanor. Any license issued in violation of sections 53-124.02 to 53-124.07 or subdivision (16) of section 53-125 shall be revoked in accordance with Chapter 53.

Sec. 9. (1) The commission may issue a special designated permit for consumption of alcoholic liquors at a designated location to a licensee, a municipal corporation, a fine arts museum incorporated as a nonprofit corporation, a religious nonprofit corporation which has been exempted from the payment of federal income taxes, political organizations which have been exempted from the payment of federal income taxes, or other nonprofit corporations whose purpose is fraternal, charitable, or public service and have been exempted from the payment of federal income taxes, under conditions specified in this section.

(2) No licensee, organization, or corporation enumerated in this section may be provided a special designated permit under this section for more than six calendar days in any one calendar year. Only one permit shall be required for any application for two or more consecutive days.

(3) There shall be a fee of twenty-five dollars for each day identified in the special designated permit. Such fee shall be submitted with the application for the special designated permit, and collected by the commission and deposited with the State Treasurer who shall credit the same to the State General Fund. The applicant shall be exempt from the provisions of the Nebraska Liquor Control Act requiring a registration fee and the provisions that require an expiration of forty-five days from the time the application is received by the commission prior to the issuance of a permit, if granted by the commission. The licensees, municipal corporations, organizations, and nonprofit corporations enumerated in this section seeking a special designated permit shall file an application on such forms as the commission may prescribe. Such forms shall contain, along with other information as required by the commission, (a) the name of the applicant, (b) the particular place for which a special designated permit is requested, identified by street and number if practicable, and if not, by some other appropriate description which definitely locates the place, (c) the name of the owner or lessee of the premises for which the special designated permit is

requested, (d) sufficient evidence that the holder of the special designated permit, if issued, will carry on the activities and business authorized by the special designated permit for him, her, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (e) a statement of the type of activity to be carried on during the time period for which a permit is requested, and (f) sufficient evidence that the activity will be supervised by persons or management who are agents of and directly responsible to the permittee.

(4) No special designated permit provided for by this section shall be issued by the commission without the approval of the local governing body. For the purposes of this section, the local governing body shall be the city or village within which the particular place for which the special designated permit is requested is located, or if such place is not within the corporate limits of a city or village, then the local governing body shall be the county within which the place for which the special designated permit is requested is located.

(5) If the applicant meets the requirements of this section, a special designated permit shall be granted and issued by the commission for use by the permittee. All statutory provisions and rules and regulations of the commission that apply to a retail licensee shall apply to such permittee, with the exception of such statutory provisions and rules and regulations of the commission so designated by the commission and stated upon the issued permit, except that the commission may not designate exemption of sections 53-180 to 53-180.07. The decision of the commission shall be final. If the applicant does not qualify for a special designated permit, the permit shall be denied by the commission.

(6) A special designated permit issued 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 permittee upon receipt of any fee or tax imposed by such city, village, or county.

Sec. 10. That section 53-125, Revised Statutes Supplement, 1982, be amended to read as follows:

53-125. No license of any kind shall be issued to (1) a person who is not a resident of the county in which the premises covered by the license are located, except in case of railroad, airline, or boat licenses, (2) a person who is not of good character and reputation in the community in which he or she resides, (3) a person who is not a citizen of the United States, (4) a person who has been convicted of or has pleaded guilty to a felony under the laws of the State of

Nebraska, any other state, or of the United States, (5) a person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this subdivision on the effective date of this act shall not prevent any person holding a license on such date from retaining or renewing such license if the conviction or plea occurred prior to the effective date of this act, (6) being the keeper of or is keeping a house of ill fame; (6) a person who has been convicted of or has pleaded guilty to being the proprietor of a gambling house; or of pandering or other crime or misdemeanor opposed to decency and morality; (7) a person whose license issued under this act has been revoked for cause, (7) (8) a person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application, (8) (9) a copartnership, unless one of the copartners is a resident of the county in which the premises covered by the license is located, and unless all the members of such copartnership shall otherwise be qualified to obtain a license, (9) (10) a corporation, if any officer, manager, or director thereof, or any stockholder, owning in the aggregate more than twenty-five per cent of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than citizenship and residence within the governmental subdivision. This ; Provided; this subdivision shall not apply to railroad licenses, ; and provided further; that where the trustee is the licensee; the beneficiary or beneficiaries of the trust shall comply with the requirements of this section; but nothing in this section shall prohibit any such beneficiary from being a minor or a person who is mentally incompetent; (10) (11) a person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee, (11) (12) a person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued, but if, because of a change in the renewal period provided for in section 53-124, the lease is for less than the full period for which the license is to be issued, the license shall be issued and a new lease covering the remainder of the license period must be filed with the commission prior to expiration of the original lease or the license shall be  canceled or revoked by the commission on ten days' written notice to the licensee, (12) (13) except as provided in this subdivision, an applicant whose spouse is ineligible under this section to receive and hold a

liquor license. Such person shall become eligible for a liquor license only if the commission finds from the evidence that the public interest will not be infringed upon if such license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license the applicant is also ineligible to receive a liquor license. Such prima facie evidence shall be overcome if the following is shown to the satisfaction of the commission (a) that the licensed business will be the sole property of the applicant, and (b) it appears from the evidence that such licensed premises will be properly operated, (13) or (14) a person whose premises, for which a license is sought, do does not meet standards for fire safety as established by the State Fire Marshal, (14) a law enforcement officer, except that this subdivision shall not prohibit a law enforcement officer from holding membership in any nonprofit organization holding a liquor license or from participating in any manner in the management or administration of a nonprofit organization, (15) a person less than twenty-one years of age, or (16) a person having a beneficial interest in a total of two alcoholic beverage retail licenses, except as provided in sections 53-124.02 to 53-124.09.

Where a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or a person who is mentally incompetent.

Sec. 11. That section 53-129, Revised Statutes Supplement, 1982, be amended to read as follows:

53-129. Except where a retail licensee is catering as provided in this act, retail Retail and bottle club licenses issued hereunder apply only to that part of the premises described in the application approved by the commission, and in the license issued thereon, and only one location shall be so described in each license. After such license has been granted for particular premises, the commission, with the approval of the local governing body, and upon proper showing, may endorse upon the license permission to add to, delete from, or abandon the premises therein described, and, if applicable, remove therefrom to other premises approved by him, her, or it, but in order to obtain such approval the retail or bottle club licensee shall file with the local governing body a request in writing, and a statement under oath which shall show that the premises as added to or deleted from, or to which removal is to be made comply in all respects with the requirements of this act. No such addition, deletion, or removal shall be made by any such licensee until his or her said license has been endorsed to that effect in

writing both by the local governing body and by the commission.

Sec. 12. That section 53-131, Revised Statutes Supplement, 1982, 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 ~~post-office~~ money order, or cash in the full amount thereof. 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 such license is sought, or, if the license is not sought within a city or incorporated village, the county clerk of the county wherein such license is sought, of the receipt of the application and shall enclose with said notice one copy of said application. No such license shall then be issued by the commission until the expiration of at least forty-five days from the date of mailing such application by the commission. During the period of thirty days from the date of receiving mailing such application from by 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.

Sec. 13. That section 53-133, Revised Statutes Supplement, 1982, 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 mailing such application by to the city, village, or county clerk, a recommendation of denial from the city, village, or county, as the case may be;

(b) Within ~~ten~~ three days after the receipt of a recommendation from the city, village, or county, as the case may be, or, if no recommendation is received, within thirty days from the date of receipt of mailing such application by to the city, village, or county clerk, objections in writing by not less than three persons residing within said city, village, or county, as the case may be, protesting the issuance of said license 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

(c) Within forty-five days from the date of receipt of mailing such application by to 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 license.

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

Sec. 14. 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 licenses to sell alcoholic liquors at 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 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, under oath, 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 53-1,114, 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 ; Provided, 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 53-1,114; 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 may receive evidence under oath, 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 said notice from the commission and, after such hearing, the local governing body shall cause to be spread at large in the minute record of their proceedings a resolution recommending either issuance or refusal of said 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 ; Provided, 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. 15. That section 53-135, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-135. A retail or bottle club license issued by the commission and outstanding may be automatically renewed by the commission without formal application if the commission has on file a bond as required by section 53-138.02, upon payment of the state registration fee, and license fee if payable to the commission. The ; Provided, that the payment thereof shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The ; and provided further, that the commission may at any time require a licensee to submit an application and ; and provided further, that the commission shall at any time require a licensee to submit an application if requested in writing to do so by the local governing body.

If a licensee files an application form in triplicate original upon seeking renewal of his or her license, the application shall be processed as set forth in section 53-131 and the security for costs as required by that section shall be submitted to the commission.

Any licensed retail or bottle club establishment located in an area which is annexed to any governmental subdivision shall file a formal application for a license, and while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to section 53-124 until the original license expires or is canceled or revoked. If such license expires within sixty days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year.

Sec. 16. That section 53-135.01, Revised Statutes Supplement, 1982, be amended to read as follows:

53-135.01. The city, or village, clerk or the county clerk, as the case may be, shall cause to be published in a legal newspaper in or of general circulation in such city, village, or county, as the case may be, one time between January 10 and January 30 of each year, individual notice of the right of automatic renewal of each retail liquor and beer license, except class C licenses which shall be published between the dates of July 10 and July 30 of each year, for which provision is made in subdivision (5) of section 53-124, within such city, village, or county, as the case may be, in the following form:

NOTICE OF RENEWAL  
OF RETAIL LIQUOR LICENSE

Notice is hereby given that pursuant to

section 53-135.01 liquor license may be automatically renewed for one year from May 1, 19...., or November 1, 19...., for the following retail liquor licensee, to wit:

(Name of Licensee) (Address of licensed premises)

Notice is hereby given that written protests to the issuance of automatic renewal of license may be filed by any resident of the city (village or county, as the case may be) on or before February 10, 19...., or August 10, 19...., in the office of the city (village or county, as the case may be) clerk; that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of said license should be allowed.

(Name)

City (village or county, as the case may be)

Clerk

The city, village, or county clerk, as the case may be, shall file or cause to be filed with the Nebraska Liquor Control Commission proof of publication of said notices on or before February 10 or August 10 of each year.

Upon the conclusion of any hearing required by this section, the local governing body may request a licensee to submit an application as provided in section 53-135.

In the event written protests are filed by three or more residents of the city, village or county, as the case may be, against said license, the city, village or county clerk, as the case may be, shall deliver the same to the local governing body who shall request the Nebraska Liquor Control Commission to require the licensee to submit an application prior to March 5 of the year that the license currently held by the licensee expires for each retail liquor, wine, or beer license, except class E licenses which shall submit an application prior to September 5 of the year that the class E license expires.

Sec. 17. That section 53-138.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-138.03. No nonprofit corporation shall engage in the sale of alcoholic liquor or the operation of a bottle club, nor shall any bottle club operate, without first having obtained a license required by Chapter 53. Sales made under a nonprofit license or service of liquor under a bottle club license shall be made only to bona fide members of the licensee and their guests. No; Provided, that no guest of a member who is the licensee or an employee on duty in the licensed premises shall be permitted to purchase or have dispensed to him or her alcoholic liquor in any form.

Such sales or service made under a nonprofit license shall, after April 30, 1966, be limited to areas of the licensed premises physically separated from any areas open to the general public. Any violation of the provisions of this section shall be subject to the penalties provided in Chapter 53 and shall, in addition, constitute a nuisance which may be abated in an action brought in the county in which such violation occurs by the county attorney or, if the county attorney shall fail or refuse to act, by the Attorney General.

Sec. 18. That section 53-164.01, Revised Statutes Supplement, 1982, be amended to read as follows:

53-164.01. Payment of the tax provided for in section 53-160 on alcoholic liquors shall be paid by the manufacturer or distributor as herein provided. All aforesaid manufacturers or distributors, whether within or without this state, shall, on or before the twenty-fifth day of each calendar month commencing on the twenty-fifth day of the calendar month following the month in which the aforesaid shipments are made, make a report under oath to the Nebraska Liquor Control Commission upon forms to be furnished by the Nebraska Liquor Control Commission commission for the purpose of showing the exact total amount in gallons of alcoholic liquors or fractional parts thereof shipped by such aforesaid manufacturer or distributor whether within or without the State of Nebraska, during the preceding calendar month. Such report shall also contain a statement of the exact total amount in gallons, or fractional parts thereof, of alcoholic liquors, except beer, shipped to holders of retailer's retailers' licenses within this state. All reports submitted by each manufacturer or distributor, as required by the provisions of this section, shall contain such other information as the commission Nebraska Liquor Control Commission may require. The manufacturer or distributor shall, at the time of the filing of the report, pay to the commission Nebraska Liquor Control Commission the amount of the tax due on beer shipped to distributors within this state and on alcoholic liquors, except beer, shipped to holders of retailer's retailers' licenses within this state at the rate fixed in accordance with the provisions of section 53-160; said tax to be due on the date the aforesaid report is due, less a discount of one per cent of such tax on alcoholic liquors as defined by subdivision (6) of section 53-103, and which discount shall be deducted from the payment of such tax before remittance thereof to the Nebraska Liquor Control Commission commission, which discount shall be shown in such report to the commission Nebraska Liquor Control Commission as required in this section, and which discount shall be a commission for the making of such

report, for the timely payment of such tax, but if such tax is not paid within the time provided herein, then such discount shall not be allowed and the same shall not be deducted from the payment of such tax.

A penalty of ten per cent of the amount of the tax shall be collected by the commission Nebraska liquor Control Commission if the aforesaid report is not filed by the twenty-fifth day of the calendar month or if the tax is not paid to the commission Nebraska liquor Control Commission by the twenty-fifth day of the calendar month and in addition thereto, interest on the tax shall be collected at the rate of one per cent per month, or fraction of a month, from the date the tax became due until paid.

No tax shall be levied or collected on alcoholic liquors manufactured within the State of Nebraska and shipped or transported outside the State of Nebraska for sale and consumption outside the State of Nebraska.

In order to insure the payment of all state taxes imposed by law on alcoholic liquors together with all interest and penalties thereon, all persons required to make reports and payment of such tax shall first enter into a surety bond with corporate surety, both such bond form and surety to be approved by the Nebraska liquor Control Commission commission. In lieu of such corporate surety bond, there may be filed a personal bond in such form as the commission may prescribe and secured by the pledge of property having a net value over and above any encumbrance or encumbrances thereon at least double the amount of the bond required. Subject to the limitations hereinafter specified, the amount of such bond required of any taxpayer shall be fixed by the commission Nebraska liquor Control Commission and may be increased or reduced by it at any time. In ↑ Provided, that in fixing the amount, the commission Nebraska liquor Control Commission shall require a bond in a total amount equal to the amount of the taxpayer's estimated maximum monthly excise tax, ascertained in such manner as the commission Nebraska liquor Control Commission may deem proper. Nothing ; and provided further, nothing contained in this section shall be construed to prevent or prohibit the commission from accepting and approving bonds which run for a term longer than the license period. In any event, the amount of such bond required of any one taxpayer shall not be less than one thousand dollars, nor more than three hundred thousand dollars. These bonds shall be filed with the Nebraska liquor Control Commission commission.

No person shall order or receive alcoholic liquors in this state which have been shipped directly to him or her from outside this state by any person

other than a holder of a permit for a license year issued by the Nebraska Liquor Control Commission. The Nebraska Liquor Control Commission may issue such permits to manufacturers which shall allow the permittee to ship alcoholic liquors to and only to holders of a distributor's license issued under the provisions of this section. A fee of two hundred dollars shall be charged by the commission Nebraska Liquor Control Commission for each permit issued. The application for such permit and the permit shall be in such form as the commission Nebraska Liquor Control Commission shall prescribe. The application shall contain all such provisions as the commission Nebraska Liquor Control Commission shall deem proper and necessary to effectuate the purpose of any section of the Liquor Control Act and the rules and regulations of that commission that apply to manufacturers, and shall include, but without limitation by reason of this special mention, a provision that the permittee in consideration of the issuance of a permit, agrees:

(1) To comply with and be bound by the provisions of this section pertaining to the making and filing of a bond and the making and filing of returns, the payment of taxes, penalties, interest, and the keeping of records;

(2) That he or she will permit and be subject to all of the powers granted by the provisions of this section to the commission Nebraska liquor Control Commission or its duly authorized employees or agents for inspection and examination of his or her premises and his records; and to pay his or her actual expenses excluding salary, reasonably attributable to such inspections and examinations made by duly authorized employees of the Nebraska Liquor Control Commission commission, if within the United States; and

(3) If any such permittee violates any of the provisions of his or her application or of the provisions of any section of the Liquor Control Act, or the rules and regulations of the commission Nebraska Liquor Control Commission that apply to manufacturers, the commission Nebraska Liquor Control Commission may revoke or suspend such permit for such period of time as it may determine.

Where a manufacturer or distributor shall sell and deliver beer upon which the tax has been paid to any instrumentality of the armed forces of the United States engaged in resale activities as provided in section 53-160.01, the manufacturer or distributor shall be entitled to a credit in the amount of the tax paid upon such beer sold and delivered to such person or persons in the event no tax is due on said beer as provided in section 53-160.01, and the amount of said credit, if any, shall be deducted from the tax due on the following

monthly report, as provided by the provisions of this section to be filed, or shall be allowed as a credit on subsequent reports until liquidated.

Sec. 19. That section 53-179, Revised Statutes Supplement, 1982, be amended to read as follows:

53-179. (1) No alcoholic liquors, including beer, shall be sold at retail or dispensed on any day between the hours of 1:00 a.m. Sunday and 6:00 a.m. The local governing body of any city or village, with respect to area within the corporate limits of such city or village, or the county board, with respect to area outside the corporate limits of any city or village, may, by ordinance or resolution, require closing prior to 1:00 a.m. on any day, Sunday. No alcoholic liquors for consumption on the premises; except beer and wine; shall be sold at retail or dispensed between the hours of 6:00 a.m. Sunday and 6:00 p.m. Sunday; and no alcoholic liquors for consumption off the premises; except beer and wine; shall be sold at retail or dispensed between the hours of 6:00 a.m. Sunday and 12:00 midnight Sunday; Provided; that such limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation as defined in section 53-103 and is the holder of a license issued under the provisions of either subdivision (5) c. or subdivision (5) h. of section 53-124. The permissible hours for the sale of alcoholic liquors; including beer; at retail or the dispensing thereof on Sunday; if allowed; by other than a nonprofit corporation licensee; within the corporate limits of cities and villages; shall be governed by ordinance of the local governing body; and outside the corporate limits of cities and villages; as shall be determined by resolution of the county board as provided more fully in subsection (2) of this section.

(2) Except as provided for and allowed by ordinance of a local governing body applicable to area within the corporate limits of a city or village, or by resolution of a county board applicable to area within such county and outside the corporate limits of any city or village, no No alcoholic liquors, including beer, shall be sold at retail or dispensed on secular days between 1:00 a.m. and 6:00 a.m.; Provided; that the local governing body of any city or village, in respect to the licensees within the corporate limits of cities or villages; or the county board; in respect to licensees outside the corporate limits of cities or villages; may require closing prior to 1:00 a.m. by ordinance or resolution on any day, including Sundays; between the hours of 6:00 a.m. Sunday and 1:00 a.m. Monday. No ordinance or resolution allowed by this subsection shall permit alcoholic liquors, other than beer and wine, to be sold at retail or dispensed for

consumption off the premises between the hours of 6:00 a.m. Sunday and 1:00 a.m. Monday, or for consumption on the premises between the hours of 6:00 a.m. Sunday and 6:00 p.m. Sunday. This subsection shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a license issued pursuant to either subdivision (5)C. or (5)H. of section 53-124.

(3) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of after 1:15 a.m. and 6:00 a.m. on any day, where ; Provided, that where any city or village provides by ordinance, or any county provides by resolution, by law for an earlier closing hour, the provisions of this subsection shall become effective fifteen minutes after such closing hour instead of 1:15 a.m.

(4) Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section.

Sec. 20. That section 53-1,116, Revised Statutes Supplement, 1982, 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, or order 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) Any decision of the commission granting or refusing to grant or suspending, canceling, or revoking 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, or modified by the district court of the county where the applicant for a license or the licensee resides or by the district court of Lancaster County in the case of a nonresident permittee or nonresident applicant for a permit, on appeal by any party to the hearing or rehearing before the commission. The procedure to obtain such a reversal, vacation, 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, 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.

(6) It shall be unnecessary to issue or serve a summons upon the filing of 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 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 (5) 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, or modified. Such transcripts shall be filed in the district court of the proper county, as designated in subsection (5) 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, provided for or referred to in subsections (5), (6), and (7) of this section, shall be heard and tried de novo in the district court in the manner provided for the trial of suits in equity. Additional testimony may be introduced at the hearing on appeal.

(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. 21. That original sections 53-124, 53-124.02, 53-124.04, 53-124.05, 53-124.07, 53-134, 53-135, and 53-138.03, Reissue Revised Statutes of Nebraska, 1943, and sections 2-219, 53-103, 53-124.03, 53-125, 53-129, 53-131, 53-133, 53-135.01, 53-164.01, 53-179, and 53-1,116, Revised Statutes Supplement, 1982, and also sections 53-124.08, 53-194.01, and 53-194.02, Reissue Revised Statutes of Nebraska, 1943, and section 53-124.10, Revised Statutes Supplement, 1982, are repealed.

Sec. 22. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.