

## LEGISLATIVE BILL 279

Approved by the Governor May 3, 1985

Introduced by Scofield, 49

AN ACT relating to liquors; to amend sections 53-103, 53-123, 53-124, 53-160, 53-164.01, 53-169, and 53-171, Reissue Revised Statutes of Nebraska, 1943; to define a term; to state intent; to provide licensing requirements for farm wineries; to provide duties; to provide fees; to provide a tax; and to repeal the original sections.

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

Section 1. It is the intent of the Legislature to encourage the production, use in manufacturing, and consumption of agricultural products grown within the state by providing for the existence of small, local winery operations. The Legislature recognizes that the creation of small farm wineries will stimulate the creation of jobs and investments in small communities, encourage the use of lands upon which grapes and other wine-related crops may be grown, and provide tax revenue which would not otherwise be realized.

Sec. 2. That section 53-103, Reissue Revised Statutes of Nebraska, 1943, 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 when any one of the defined terms appears in sections 53-101 to 53-1,118 and sections 1 and 4 to 7 of this act.

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

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

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

(4) Wine shall mean any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as above defined.

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

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

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

(8) Manufacturer shall mean every brewer, fermenter, distiller, rectifier, winemaker, blender, processor, bottler, or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying, or bottling alcoholic liquors as above defined, including a wholly owned affiliate or duly authorized agent for a manufacturer.

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

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

(11) Distributor, distributorship, wholesaler, or jobber shall mean the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquors for sale or resale to retailers licensed under this act, whether the business of the distributor, distributorship, wholesaler, or jobber is conducted under the terms of a franchise or

any other form of an agreement with a manufacturer or manufacturers, or has caused alcoholic liquors to be imported into the state or purchased in the state from a manufacturer or manufacturers and was licensed to conduct such a business by the commission on May 1, 1970, or has been so licensed since that date.

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

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

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

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

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

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

(18) Restaurant shall mean any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests.

(19) Club shall mean a corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used, and maintained by its members through the payment of annual dues, and owning, hiring, or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing, and serving food and meals for its members and their guests. Such club shall file with the local governing body at the time of its application for a license under this act two copies of a list of names and residences of its members, and similarly shall file within ten days of the election of any additional member his or her name and address. The affairs and management of such club shall be conducted by a board of directors, executive committee, or

similar body chosen by the members at their annual meeting, and no member or any officer, agent, or employee of the club shall be paid, or shall directly or indirectly receive, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members other than the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club.

(20) Hotel shall mean every building or other structure kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, in which twenty-five or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same buildings in connection therewith and such building or buildings, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.

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

(22) Bottle club shall mean an operation, whether formally organized as a club having a regular membership list, dues, officers, and meetings or not, keeping and maintaining premises where persons who have made their own purchases of alcoholic liquors congregate for the express purpose of consuming such alcoholic liquors upon the payment of a fee or other consideration, including among other services the sale of foods, ice, mixes, or other fluids for alcoholic drinks and the maintenance of space for the storage of alcoholic liquors belonging to such persons and facilities for the dispensing of such liquors through a locker system, card system, or pool system, which shall not be deemed or considered a sale of alcoholic liquor. Such operation may be conducted by a club as defined in subdivision (19) of this section or an individual, partnership, or corporation. An accurate and current membership list shall be maintained upon the premises which contains the names and residences of its members. Nothing in this section shall be deemed to make unlawful the sale of alcoholic liquors for consumption on the premises to any person who is not a current member of such bottle club.

(23) Minor shall mean any person, male or female, under twenty-one years of age, regardless of

marital status, except that any person who was twenty years of age or older on January 1, 1985, shall not be deemed to be a minor.

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

(25) Franchise or agreement, when used with reference to the relationship between a manufacturer and distributor, shall include one or more of the following: (a) A commercial relationship of a definite duration or continuing indefinite duration which is not required to be in writing; (b) the relationship whereby the franchisee is granted the right to offer and sell brands thereof by the franchisor; (c) the relationship whereby the franchisee, as an independent business, constitutes a component of the franchisor's distribution system; (d) the operation of the franchisee's business is substantially associated with the franchisor's brand, advertising, or other commercial symbol designating the franchisor; and (e) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of beer.

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

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

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

(29) 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.

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

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

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

(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.

(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.

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

Sec. 3. That section 53-123, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-123. Licenses issued by the Nebraska Liquor Control Commission shall be of the following classes: (1) Manufacturer's license; (2) alcoholic liquor distributor's license (except beer); (3) beer distributor's license; (4) retailer's license; (5) railroad license; (6) airline license; (7) boat license; (8) nonbeverage user's license; ~~and~~ (9) bottle club license; and (10) farm winery license.

Sec. 4. A license to operate a farm winery may be issued by the commission upon an applicant's compliance with section 7 of this act and such other requirements as the commission adopts and promulgates by rule and regulation to administer sections 1 and 4 to 7 of this act.

Sec. 5. (1) A farm winery license shall entitle the holder to:

(a) Sell wines produced at the farm winery onsite at wholesale and retail and at off-premises retail sites; and

(b) Allow sampling of the wine at the farm winery and at one branch outlet in the state in reasonable amounts.

(2) No farm winery shall manufacture wine in excess of fifty thousand gallons per year.

Sec. 6. (1) In the event the operator of a farm winery is unable to produce or purchase seventy-five per cent of the grapes, fruit, or other suitable agricultural products used in the farm winery from within the state due to natural disaster which causes substantial loss to the Nebraska-grown crop, such operator may petition the commission to waive the seventy-five per cent requirement, prescribed in subdivision (36) of section 53-103, for one year.

(2) It shall be within the discretion of the commission to waive the seventy-five per cent requirement taking into consideration the availability of products used in farm wineries in this area and the ability of such

operator to produce wine from products that are abundant within the state.

Sec. 7. Any person desiring to obtain a license to operate a farm winery shall:

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

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

(3) Pay the state registration fee to the commission in the sum of twenty-five dollars; and

(4) Post the bond with the commission as set forth in section 53-138.02.

License fees, registration fees, and security for costs shall be paid to the commission by certified or cashier's check of a bank within this state, United States post office money order, or cash in the full amount thereof. The commission shall then 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 such notice one copy of the 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. Within thirty days from the date of receipt of such application from the commission, the local governing bodies of nearby cities or villages or the county may make and submit to the commission recommendations relative to the granting of or refusal to grant such license to the applicant.

Sec. 8. 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 or to operate a farm winery:

- 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;

C. Operation of a farm winery . . . . \$250.00.

The words daily capacity, as used herein, shall mean the average daily barrel production for the previous twelve months of manufacturing operation. 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 and wines produced from farm wineries..... \$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, the sum of two hundred fifty dollars, except for farm winery sales outlets. If 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, the sum of



one hundred fifty dollars, except for farm winery sales outlets;

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 fifty dollars for each license, except for farm winery sales outlets;

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 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 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 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, I, and J 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;

I. Alcoholic liquors, within the corporate limits of cities and villages, for consumption on the premises, the sum of two hundred dollars, except for farm winery sales outlets;

J. 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 five hundred

dollars in any county having a population of five thousand five hundred inhabitants or more. 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. 9. That section 53-160, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-160. For the purpose of raising revenue, a tax is imposed upon the privilege of engaging in business as a manufacturer or as a distributor at wholesale at a rate of fourteen cents per gallon on all beer, regardless of alcoholic content; sixty-five cents per gallon for wine containing fourteen per cent or less of alcohol by volume and one dollar and twenty-five cents per gallon for wines and other dilute alcoholic beverages containing more than fourteen per cent of alcohol by volume, except for wines produced in farm wineries; five cents per gallon for wine produced in farm wineries; and two dollars and seventy-five cents per gallon on alcohol and spirits manufactured and sold by such manufacturer or imported for sale in this state by such distributor at wholesale in the course of such business. Manufacturers , PROVIDED, manufacturers or distributors at wholesale of alcoholic liquors shall be exempt from the payment of such gallonage tax imposed on such liquors, upon satisfactory proof, including bills of lading furnished to the commission by affidavit or otherwise as the commission may require, that such liquors were manufactured in this state but were shipped out of the state for sale and consumption outside the State of Nebraska. AND PROVIDED FURTHER, that dry Dry wines or fortified wines manufactured or imported solely and exclusively for sacramental purposes and uses

shall not be subject to the tax provided in this section. This tax is not imposed upon any alcoholic liquor, whether manufactured in or imported into this state, when sold to a nonbeverage user, as defined in section 53-103, licensed by the state for use in the manufacture of any of the following when they are unfit for beverage purposes: Patent and proprietary medicines and medicinal, antiseptic, and toilet preparations; flavoring extracts, and syrups, and food products; scientific, industrial, and chemical products, excepting denatured alcohol; or for scientific, chemical, experimental, or mechanical purposes; nor is the tax imposed upon the privilege of engaging in any business in interstate commerce or otherwise, which business may not, under the Constitution and statutes of the United States, be made the subject of taxation by this state. The tax herein imposed shall be in addition to all other occupation or privilege taxes imposed by the State of Nebraska or by any municipal corporation or political subdivision thereof. Notwithstanding ~~PROVIDED~~, ~~notwithstanding~~ any ordinance or charter power to the contrary, no city or village shall impose an occupation tax on the business of any person, firm, or corporation licensed under this act and doing business within the boundaries of such city or village in any sum which exceeds double the amount of the license fee required to be paid under this act to obtain such license. The commission is hereby directed and authorized to collect the taxes herein imposed, and to account for and turn over to the State Treasurer at least once each week all money collected as herein provided. If any alcoholic liquor manufactured in or imported into this state is sold to a licensed manufacturer or distributor of this state to be used solely as an ingredient in the manufacture of any beverage for human consumption, the tax imposed upon such manufacturer or distributor shall be reduced by the amount of the taxes which have been paid as to such alcoholic liquor so used under this act. The net proceeds of all revenue arising hereunder shall inure to the state General Fund.

Sec. 10. That section 53-164.01, Reissue Revised Statutes of Nebraska, 1943, 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 such ~~afesaid~~ manufacturers or distributors, except for farm winery producers, 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 ~~afesaid~~ shipments are made, make a report under oath to the Nebraska Liquor Control Commission upon forms to be furnished by the 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. Farm winery producers 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 wine is packaged or bottled for sale, make a report under oath to the Nebraska Liquor Control Commission upon forms furnished by the commission for the purpose of showing the exact total amount in gallons of wine or fractional parts thereof packaged or bottled by such producer 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 retailers' licenses within this state. All reports submitted by each manufacturer, ~~or distributor, or farm winery producer,~~ as required by the provisions of this section, shall contain such other information as the commission may require. The manufacturer, ~~or distributor, or farm winery producer~~ shall, at the time of the filing of the report, pay to the 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 retailers' licenses within this state at the rate fixed in accordance with the provisions of section 53-160. Such ~~7~~ said tax shall 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. Such ~~7~~ and ~~which~~ discount shall be deducted from the payment of such tax before remittance thereof to the commission, ~~which discount~~ shall be shown in such report to the commission as required in this section, and ~~which discount~~ shall be a commission for the making of such report, ~~and~~ 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 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 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 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 and may be increased or reduced by it at any time. In fixing the amount, the 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 may deem proper. 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. These bonds shall be filed with the 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 commission. The 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 for each permit issued. The application for such permit and the permit shall be in such form as the commission shall prescribe. The application shall contain all such provisions as the commission shall deem proper and necessary to effectuate the purpose of any section of the Nebraska 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 this section to the commission or its duly authorized employees or agents for inspection and examination of his or her premises and 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 commission, if within the United States; and

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

Where When 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~~ such beer as provided in section 53-160.01, and the amount of ~~said~~ the credit, if any, shall be deducted from the tax due on the following monthly report, as provided by this section to be filed, or shall be allowed as a credit on subsequent reports until liquidated.

Sec. 11. That section 53-169, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-169. (1) No manufacturer, distributor, or wholesaler shall directly or indirectly: (a) Sell, supply, furnish, give, pay for, loan, or lease any furnishing, fixture, or equipment on the premises of a place of business of another licensee authorized under this act to sell alcoholic liquor at retail, either for consumption on or off the premises; (b) pay for any such license, or advance, furnish, lend, or give money for payment of such license; (c) purchase or become the owner of any note, mortgage, or other evidence of indebtedness of such licensee or any form of security therefor; (d) be interested in the ownership, conduct, or operation of the business of any licensee authorized to sell alcoholic liquor at retail; or (e) be interested directly or indirectly, or as owner, part owner, lessee, or lessor thereof, in any premises upon which alcoholic liquor is sold at retail.

(2) No manufacturer, distributor, or wholesaler shall, directly or indirectly or through a subsidiary or affiliate, or by any officer, director, or firm of such manufacturer, distributor, or wholesaler, furnish, give, lend, or rent any interior decorations other than advertising signs, or furnish, give, lend, or rent any signs or displays, for inside use, costing in the aggregate more than three hundred dollars in any one calendar year for use in or about or in connection with any one establishment on which products of the manufacturer, distributor, or wholesaler are sold. ~~If~~ ~~PROVIDED,~~ ~~that~~ ~~if~~ such advertising signs are illuminated in any manner, they will be disconnected from their source of electrical energy during all times the retail premises are closed for business. Lawful advertising signs or displays shall

include the following: (a) Pole displays, pole merchandisers, and stackers made of cardboard with or without metal feet, including cardboard bins designed to merchandise and advertise products and having no secondary value; (b) counter and floor racks, which are furnished by the manufacturer and are specifically identified with the manufacturer's brand; and (c) items and calendars advertising schedules of entertainment events or holidays and having no other secondary value. This subsection shall not apply to table tents, case cards, or paper signs, or to other advertising items which cost less than five dollars each and have no secondary value; and no records shall be required to be kept of such items. No person, engaged in the business of manufacturing, distributing, or wholesaling alcoholic liquors shall directly or indirectly pay for or advance, furnish any items for the individual use of the retail licensee's customers, or lend money for the payment of any licenses for another.

(3) This section shall not apply to the holder of a farm winery license.

Sec. 12. That section 53-171, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-171. No person, having been licensed as a manufacturer or distributor of alcoholic liquors, shall be permitted to receive any retailer's license. No person having been licensed as a retailer of alcoholic liquors shall be permitted to receive any manufacturer's or distributor's license. This section shall not apply to the holder of a farm winery license.

Sec. 13. That original sections 53-103, 53-123, 53-124, 53-160, 53-164.01, 53-169, and 53-171, Reissue Revised Statutes of Nebraska, 1943, are repealed.