

General Affairs Committee
One Hundred Seventh Legislature – First Session
2021

Annual Report of Legislation

Senator Tom Briese, Committee Chair

Senator John Lowe, Committee Vice-Chair

Committee Members: Senator Tom Brandt, Senator John Arch, Senator Tom Brewer, Senator Mike Groene, Senator John Cavanaugh, Senator Justin Wayne

Laurie Holman, Committee Research Analyst

Alexander DeGarmo, Committee Clerk

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2021 LEGISLATION

LB 70 (Wayne) is a bill to authorize the regulation of professional kickboxing and bare-knuckle boxing, allowing the state's athletic commissioner to sanction matches and exhibitions within these sports.

Explanation of amendments: AM 276 excludes professional kickboxing and professional bare-knuckle boxing from the statutory requirement that contestants wear 8 oz gloves during their matches or contests.

Committee Vote Results:

Aye: 8 Senators Arch, Brandt, Briese, Cavanaugh, J., Groene, Wayne, Brewer, Lowe

Nay: 0

Absent: 0

Present not voting: 0

General File Vote: 3/29/21

Select File Vote: 4/06/21

Final Reading Vote: 4/12/21

Signed by Governor: 4/16/21

LB 72 (Geist) is a bill that will allow the holder of a Class C liquor license to sell a mixed drink or cocktail to a person 21 years of age or older for consumption off the premises. A Class I liquor may sell a mixed drink or cocktail to a person 21 years of age or older for consumption off the premises with a food purchase.

Provisions/portions of **LB72** amended into **LB274** by **AM427**

LB 73 (Geist) is a bill to distribute ten percent of the funds collected under the Nebraska Racetrack Gaming Act from Initiative Law 2020, No. 431 to the county agricultural society in the county where a racetrack is located.

Summary of purpose and/or changes: LB 73 proposes to change the percentage of tax revenue that is to be distributed by the County Treasurer from the twenty-five percent that is received from the gaming tax revenues. New language created by this bill requires ten percent of the twenty-five percent to be distributed to the county agricultural society in any county in which a licensed racetrack enclosure is located, if there is an agricultural society formed in that county. The remaining fifteen percent of the twenty-five percent is to be distributed per the language passed by the voters in Initiative Law, 2020, No. 431, distributing these funds to the county in which the licensed racetrack enclosure is located; or if the licensed racetrack enclosure is located at least partially within the limits of a city or village, one half of the remaining fifteen percent will be distributed to the county, and one half to the city or village.

Committee Vote Results:

Aye: 6 Senators Wayne, Lowe, Briese, Brewer, Brandt, Arch

Nay: 2 Senators Cavanaugh, J., Groene

Absent: 0

Present not voting: 0

Currently on General File

LB 75 (Gragert) would require the county board to hold a hearing within one year to determine whether the township library will be disposed of, merge with another library, or continue operation, when county voters approve discontinuing a township form of government and the township has a library. The county board would be allowed to levy within the boundaries of the township to continue funding the library. No later than 60 days following the hearing, the county board is to adopt a resolution stating the disposition of the library.

Explanation of amendments: AM 341 has two provisions. First, it inserts new language requiring a county board to provide notice of hearing to the Nebraska Library Commission and the regional library system for the region in which the township library is located when the county publishes notice for a public hearing to determine the outcome of a township library after the county has voted to discontinue townships within that county. Second, AM 341 strikes section 2 of the bill, eliminating the new language inserted into section 51-201 which would have frozen the tax levy to pay for the continuation of the township library at the valuation within the township as it existed at the time of discontinuance of township organization.

Committee Vote Results:

Aye: 8 Senators Arch, Brandt, Brewer, Briese, Cavanaugh, J., Groene, Lowe, Wayne

Nay: 0

Absent: 0

Present not voting: 0

Currently on General File.

LB 80 (Briese) amends the Liquor Control Act section 53-124.01 to reduce the fee for an annual manufacture direct sales license from \$500.00 to \$250.00. This bill also reduces the fee for an annual retail direct sales license from \$500.00 to \$250.00.

Currently held in committee.

LB 152 (Slama) broadens the sale of fireworks by changing the definition of ‘consumer fireworks’ to any device that meets federal requirements and has been approved by a nationally recognized testing facility or by the State Fire Marshal. This bill removes exceptions to consumer fireworks, and allows the State Fire Marshal to test and deem fireworks unsafe in response to complaints.

Summary of purpose and/or changes: LB 152 changes provisions regarding certain classifications of fireworks. It changes the definitions of "display fireworks" and "consumer fireworks" to refer exclusively to federal definitions found in the Code of Federal Regulations, where they are designated as 1.3G and 1.4G fireworks respectively. This change also broadens the sale of fireworks in the state by changing the definition of "consumer fireworks" to include any device that meets the federal requirements for 1.4G fireworks, and has been approved by a nationally recognized testing facility or by the State Fire Marshal. This bill also removes exceptions currently in statute to the sale of allowable consumer fireworks, and allows the State Fire Marshal to test and deem fireworks unsafe in response to complaints.

Committee Vote Results:

Aye: 8 Senators Arch, Brandt, Brewer, Briese, Cavanaugh, J., Groene, Lowe, Wayne

Nay: 0

Absent: 0

Present not voting: 0

General File Vote: 3/30/21

Select File Vote: 4/14/21

Final Reading Vote: 4/29/21

Signed by the Governor: 5/05/21

LB274 (Lowe) (Committee Priority Bill) LB 274 creates a promotional farmers market special designated license. This bill applies to farm wineries, craft breweries, and micro-distilleries. A farmers market is defined as "any common facility or area where producers or growers gather on a regular, recurring basis to sell fruits, vegetables, meats, and other farm products directly to consumers." The promotional farmer's market special designated license will cost \$15 for an annual license. The Nebraska Liquor Control Commission will grant or deny the license. Local governing bodies will determine where a licensee will be allowed to operate.

Explanation of amendments:

LB 72 was amended by LB 14 and amended into LB 274 by Committee Amendment AM 427.

LB 72 is a bill brought by Senator Geist to allow the sale of mixed drinks or cocktails for consumption off the premises, as is currently allowed by Executive Order 20-09. This bill would make this policy permanent for those holding a Class C or a Class I liquor license. These pre-made cocktails and other alcoholic beverages must be sold in a sealed, tamper-evident container, and not partially consumed, for consumption off the premises of the liquor license holder, meaning to-go or take-out.

AM 14 provides for Farm Winery licenses to be included in the bill to afford these license holders the same options to sell to-go drinks in sealed containers as the other two licenses listed in the original bill.

LB 578 was amended by AM 314 and amended into LB 274 by Committee Amendment AM427.

LB 578 creates a new statutory category of alcoholic beverage, the ready-to-drink cocktail. The definition of ready-to-drink cocktail means a beverage containing spirits in an original package which contains twelve and one-half percent or less alcohol by volume. Currently, Nebraska taxes these as distilled spirits, at a rate of \$3.75 per gallon. LB 578 proposes to tax ready-to-drink cocktails at thirty-one cents (\$0.31) per gallon, separating them from the distilled spirits category and tax rate.

AM 314 replaces LB 578 and sets the excise tax rate on ready-to-drink cocktails at ninety-five cents (\$0.95) per gallon. It adds the term "confection" to the definition of ready-to-drink cocktails, and it also provides authority for the Liquor Control Commission to adopt and promulgate rules and regulations pertaining to the production and sale of ready-to-drink cocktails as is necessary. Section 17 of the amendment is the repealer section.

AM 427 also attaches an emergency clause in Section 18.

Committee Vote on LB 72:

YES: (7) Senators Arch, Brandt, Brewer, Briese, Groene, Lowe, Wayne

Nay: 0

Absent: 0

Present Not Voting: (1) Senator Cavanaugh, J.

Committee Vote on LB 578

Yes: (8) Senators Arch, Brandt, Brewer, Briese, Cavanaugh, J., Groene, Lowe, Wayne

Nay: 0

Absent: 0

Present not voting: 0

Provisions/portions of [LB578](#) amended into [LB274](#) by [AM427](#)

Provisions/portions of [LB415](#) amended into [LB274](#) by [AM870](#)

Provisions/portions of [LB295](#) amended into [LB274](#) by [AM667](#)

Provisions/portions of [LB72](#) amended into [LB274](#) by [AM427](#)

General File Vote: 3/09/21

Select File Vote: 4/06/21

Final Reading Vote: 5/20/21

Signed by the Governor: 5/25/21

LB 295 (Wishart) eliminates section 53-178.01 of statute, and therefore allows the sale of alcohol in its original container to those in motor vehicles.

LB 295 proposes to strike 53-178.01. This section currently prohibits the sale of alcohol in the original container to those in motor vehicles. This section of statute was a part of Executive Order 20-06. Repealing this statute in its entirety would make it permanent for retail license holders to sell beer and other alcohol in its original package to someone in their vehicle. Proponents of the bill also discussed the possibility of convenience stores with drive-thru windows.

Explanation of amendments: AM 328 would not repeal this section of statute. Instead, it proposes that the holder of a retail license to sell alcoholic liquor, including beer, for consumption off the premises be required to obtain a motor vehicle endorsement on their retail license, using either a drive-thru window or curbside pickup. The application for the endorsement would cost \$50.00 and would be renewable annually at the time of the annual renewal of the original liquor license issued.

Committee Vote Results:

Aye: 6 Senators Arch, Brandt, Briese, Brewer, Cavanaugh, J., Wayne

Nay: 0

Absent: 0

Present Not Voting: 2 Senators Lowe, Groene

Provisions/portions of **LB295** amended into **LB274** by **AM667**

LB 311 (Vargas) increases the production cap for microdistilleries from 10,000 gallons per year to 100,000 gallons per year.

Held in Committee

LB 312 (Sanders) changes the requirements of membership in a cemetery association to include owners of a plot within said cemetery. In addition, this bill requires that notes of a cemetery association proceeding be delivered to the clerk of the county in which the cemetery resides instead of the clerk of the county in which the meeting was held.

Explanation of amendments: AM 277 increases the list of possible people who could serve on a cemetery association board to include a resident of the county in which the cemetery association is to be formed, an owner of a lot within the cemetery for which the cemetery association is formed, and any family member, including but not limited to a parent, spouse, sibling, child, or grandchild of an individual buried in that cemetery.

Committee Vote Results:

Aye: 8 Senators Arch, Brandt, Brewer, Briese, Cavanaugh, J., Groene, Lowe, Wayne

Nay: 0

Absent: 0

Present not voting: 0

General File Vote: 4/06/21

Select File Vote: 4/12/21

Final Reading Vote: 4/20/21

Signed by the Governor: 4/23/21

LB 371 (Aguilar) (Senator Priority Bill) Historically, the Legislature has amended section 2-219, which restricts activities at fairs, to permit forms of gaming as they have been authorized, including bingo, lotteries, raffles, pari-mutuel betting, and pickle cards. As of today, it does not permit games of chance to be conducted at, or within “40 rods” (roughly 660 feet), of an enclosure where a fair is occurring. With the passage of the Nebraska Racetrack Gaming Act of 2020, this presents a conflict for licensed racetracks which host a fair and are seeking to construct a casino. As of 2021, three fairs are held at licensed racetracks. If these racetracks choose to construct a casino, current statute would dictate that they must stop their gaming operations for the duration of the fair OR the fair must identify a new venue. Given the financial, and tax revenue, implications of a casino stopping their operation and the logistical implications of relocating an established fair, neither option is ideal. LB371 would authorize games of chance to be conducted pursuant to the Nebraska Racetrack Gaming Act of 2020 at, or near, locations where a fair is being held. LB371 would not authorize any party besides the licensed gaming operator, pursuant to the NE Racetrack Gaming Act, to conduct games of chance and gaming operators would still be subject to statute governing games of chance and regulations promulgated by the State Gaming Commission. LB371 would not intertwine a fair and a casino but would allow both the fair and casino to operate parallel to each other.

Committee Vote Results:

Aye: 7 Senators Arch, Brandt, Brewer, Briese, Cavanaugh, J., Groene, Wayne

Nay: 1 Senator Lowe

Absent: 0

Present not voting: 0

General File Vote: 3/16/21

Select File Vote: 4/06/21

Final Reading Vote: 4/15/21

Signed by the Governor: 4/21/21

LB 415 (Groene) increases the maximum amount a licensed micro-distillery can produce in a year from ten thousand gallons to one hundred thousand gallons.

Committee Vote Results:

Aye: 8 Senators Arch, Brandt, Brewer, Briese, Cavanaugh, J., Groene, Lowe, Wayne

Nay: 0

Absent: 0

Present not voting: 0

Provisions/portions of [LB415](#) amended into [LB274](#) by [AM870](#)

LB 511 (Lindstrom) would include in the definition of the Cigarette Tax Stamp to include a hologram, a barcode, or a quick response code in addition to the current heat-applied stamp method. With the adoption of these new technologies, the State of Nebraska could more efficiently collect the excise tax on cigarette products; collect more tax revenues without increasing the state sales tax on cigarette products; and to combat black-market cigarette sales.

Held in Committee

LB 536 (Aguilar) Currently, Section 2-1207 requires that licensed racetrack facilities in Nebraska deduct “one-third of the amount over fifteen percent” of bets wagered on a single horse (to run first, second, or third) wagered on live or simulcasted horse races. Across the state, this amount is typically 1% of the total sum wagered, and in the case of exotic wagers in which different combinations of horses are wagered on, always 1% of the total. These funds are isolated into what is colloquially known as the “Breed Fund.” The Breed Fund is then utilized by the racetrack at which it was derived to “promote agriculture and horse breeding in Nebraska and for the support and preservation of horseracing” by funding purse supplements and breeder and stallion awards for registered Nebraska-bred horses. For a period of time, the racetracks operated under an agreement wherein racetracks who collected more in the breed fund, but couldn’t utilize it due to a limited number of races run, would distribute amounts to racetracks which were running more races but not generating enough in the breed fund to fully support their breeders/racers. The consensus was that this agreement followed statute, and the agreement remained in effect until 2017. In 2017, a party to the agreement withdrew their support and halted the distribution of funds to racetracks other than the initial source of the funds. This triggered a determination process by the Commission to identify the proper custodian of the fund, and ultimately a lawsuit contesting the ability of the State Racing Commission to determine the proper custodian of the funds. LB536 shifts the custodianship of the fund to the State Racing Commission, recognizing both that the State Racing Commission is the best entity to determine the needs of Nebraska’s horseracing community in a timely manner and that allowing racetracks to maintain this fund under their own auspices presents challenges relating to transparency and compliance with statute. LB536 also removes the stipulation that the funds be utilized where they were generated, allowing the commission to assess the needs of Nebraska’s horseracing community from an informed perspective and best fulfill the intended purpose of the fund. LB536 compels the remittance of currently held Breed Funds for the purpose of distribution going into future race seasons, allowing the Commission to be strategic in how it promotes agriculture, breeding and growth in a time where Nebraska horse racing stands to surge in popularity.

Held in Committee

LB 545 (Wayne) will provide an exception in statutes concerning gambling for those operating authorized games of skill including sports betting and poker.

Held in Committee

LB 560 (Briese) is enabling legislation for the law created by Initiative Law 2020, No. 430 and 431. This bill changes the name of the Nebraska Gaming Commission and the State Racing Commission, provides powers and duties to the Commission, provides for penalties for violating the act, and changes provisions of the act to include necessary definitions and language to properly regulate and implement the expansion of gaming in Nebraska.

Provisions/portions of **LB560** amended into **LB561** by **AM426**

LB 561 (Briese) (Committee Priority Bill) LB 561 is a bill to rename the State Racing Commission, change the membership of the State Racing Commission, to merge the State Racing Commission with the State Gaming Commission created in Initiative Law 2020, No. 430, to provide regulatory authority over games of chance authorized under the Nebraska Racetrack Gaming Act, to change provisions relating to wagering on horseracing and penalties, to raise the age of wagering on horse racing to 21, and to harmonize provisions of this chapter with the Nebraska Racetrack Gaming Act.

Explanation of amendments: LB 560 was amended by AM 278 and AM 119 and then was amended into LB 561 as Committee Amendment 426.

LB 560 is a bill to bring the necessary statutory structure to enact the voter initiative language that was approved in the November 2020 General Election. This bill combines the Nebraska Gaming Commission created by the voter initiative with the State Racing Commission so that The Nebraska Racing and Gaming Commission can administer both gaming and horseracing regulatory authority. It creates a number of powers and duties for the Commission and it provides for specific penalties for violating the act, specifically for criminal activity such as counterfeiting and cheating at casinos. LB 560 includes necessary definitions and language to properly regulate and implement the Gaming Act as passed by the Nebraska voters.

AM 278 is a committee amendment that strikes original section 13 of the bill. It also creates the Racetrack Gaming Fund for the administration of the Racetrack Gaming Act. This amendment also makes a very small technical change to the definition of "Authorized sporting event" in the bill, without changing the definition.

Committee Vote to amend AM 278 into LB 560

Yes 8: Senators Arch, Brandt, Brewer, Briese, J. Cavanaugh, Groene, Lowe, and Wayne

No 0: None

Absent: 0

Present not voting: 0

AM 119 was also adopted by the committee. This bill makes changes to the Nebraska County and City Lottery Act to allow keno to be played on an electronic ticket as well as paper tickets. Payment for these electronic games is limited to cash, coins, a debit card, or a direct link to an account with a financial institution in the name of the player, and credit cards are not accepted at all. Any purchase of a ticket for a keno game, electronic or in paper, can only be made in person at the location of the lottery operator or licensed location. Reasonable safeguards must be approved by the department to ensure that electronic tickets are only accessible to individuals nineteen years of age or older, and only within the confines of the location detection procedures which establish permitted boundaries for play. Additionally, an easy and obvious method for a player to make a complaint must be posted at the location where the licensed operator is selling keno tickets.

Committee vote to amend AM 119 into LB 560:

Yes 7: Senators Arch, Brandt, Brewer, Briese, J. Cavanaugh, Groene, and Wayne

No 1: Senator Lowe

Absent: 0

Present not voting: 0

Provisions/portions of [LB560](#) amended into [LB561](#) by [AM426](#)

General File Vote: 3/17/21

Select File Vote: 4/20/21

Final Reading Vote: 5/10/21

Signed by the Governor: 5/25/21

LB 578 (Vargas) creates a new category of alcoholic beverage, ready-to-drink cocktail and establishes a tax rate of 31 cents per gallon. Ready-to-drink cocktails are defined as a beverage containing up to 12.5% alcohol by volume.

Provisions/portions of [LB578](#) amended into [LB274](#) by [AM427](#)

LB 580 (Moser) is a bill to clarify the effect of Initiative 430, which allows operation of games of chance inside licensed racetrack enclosures, in accordance with the Nebraska Racetrack Gaming Act. The word “only” in Initiative 430 section 2 may change the legality of other forms of gambling currently allowed under Nebraska state law. Removing the word “only” will allow for the continuation of state lottery, bingo, keno and pickle cards within the Nebraska Racetrack Gaming Act.

Held in Committee

Attorney General Opinion 21-001 to Moser

LB 608 (Hilgers) is a revisor bill intended to clean up obsolete language relating to the State Racing Commission.

Held in Committee

LR 26 CA (Lindstrom) seeks to amend Article III, Section 24 of the Nebraska State Constitution to allow the Legislature the authorization to regulate and provide for the taxation of sports wagering within the State of Nebraska.

Held in Committee.

2021 CONFIRMATION APPOINTMENTS

Confirmation Hearing held 5/19/21

Committee Report to the Legislature 5/21/21

State Electrical Board

- Kurt Griess
- Boyd Pedersen

Committee Vote:

Aye: 7 Arch, Brandt, Brewer, Briese, Cavanaugh, J., Groene, Lowe

Nay: 0

Absent: 0

Present and not voting: 1. Wayne

Nebraska Arts Council

- Zachary Cheek
- Brenda Davis
- Anne Michelle Dudley
- Sharon Hofschire

Committee Vote:

Aye: 7 Arch, Brandt, Brewer, Briese, Cavanaugh J., Groene, Lowe

Nay: 0

Absent: 0

Present and not voting: 1. Wayne

2021 INTERIM STUDIES

LR 115 (Lowe) Interim study to examine and review liquor laws in Nebraska

PURPOSE: The purpose of this interim study is to examine and review liquor laws in Nebraska, including the Nebraska Liquor Control Act, to determine if any updates or revisions are necessary. The study shall include, but not be limited to, an examination of: (1) Laws relating to the manufacture, sale, and distribution of alcoholic liquor; (2) The types of licenses issued by the Nebraska Liquor Control Commission, including special designated liquor licenses; and (3) Any taxes and fees collected by the Nebraska Liquor Control Commission.

LR 187 (Cavanaugh, J.) Interim study to examine liquor laws in Nebraska

PURPOSE: The purpose of this interim study is to examine and review liquor laws in Nebraska, including the Nebraska Liquor Control Act, to determine if any updates or revisions are necessary. The study shall include, but not be limited to, an examination of: (1) Laws relating to liquor license retail applications and requirements; (2) Laws regarding new liquor license retail applications and additions to current licenses regarding contiguous spaces of licensed premises and outdoor areas; and (3) The ability for the Nebraska Liquor Control Commission to allow exceptions for transferring alcohol between retail locations with the same ownership.

LR 176 (Briese) Interim study to examine the statutes governing horseracing and the State Racing Commission

PURPOSE: The purpose of this interim study is to examine the statutes governing horseracing and the State Racing Commission in Nebraska to determine if any updates or revisions are necessary, including, but not limited to, the removal of any obsolete, antiquated, or duplicate provisions.

LR 177 (Briese) Interim study to examine the State Athletic Commissioner and review occupational licenses and regulations for professional boxers and professional boxing promoters

PURPOSE: The purpose of this interim study is to examine the State Athletic Commissioner and review occupational licenses and regulations for professional boxers and professional boxing promoters. The study shall be conducted to fulfill the requirements of section 84-948 and the Occupational Board Reform Act.

LR 175 (Briese) Interim study to examine and review the game of Keno

PURPOSE: The purpose of this interim study is to examine and review the game of keno, governed by the Nebraska County and City Lottery Act, and any potential administrative or statutory revisions which may be necessary.

LR 174 (Briese) Interim study to examine issues within the jurisdiction of the General Affairs Committee

PURPOSE: The purpose of this interim study is to examine any issues within the jurisdiction of the General Affairs Committee of the Legislature.

