

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT
LB230

Hearing Date: Monday January 28, 2013
Committee On: General Affairs
Introducer: Karpisek
One Liner: Change shipping license provisions under the Nebraska Liquor Control Act

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

Vote Results:

| | | |
|----------------------------|---|---|
| Aye: | 7 | Senators Bloomfield, Coash, Johnson, Karpisek, Krist, Lautenbaugh, Schilz |
| Nay: | 1 | Senator Murante |
| Absent: | | |
| Present Not Voting: | | |

Proponents:

Sen. Russ Karpisek
Hobert Rupe
Justin Brady
Joseph Kohout
Timothy Keigher

Representing:

Introducer
Nebraska Liquor Control Commission
Nebraska Liquor Wholesalers
Associated Beverage Distributors of Nebraska
Nebraska Petroleum Marketers and Convenience Store Association

Opponents:

William Tomaszewski
Randy Jespersen

Representing:

wine.com; Omaha Steaks
Omaha Steaks

Neutral:

Jim Otto

Representing:

Nebraska Wineries and Grape Growers Association

Summary of purpose and/or changes:

Sec. 53-123.15(4) of the Nebraska Liquor Control Act states that, "The commission may issue a shipping license to any person who sells and ships alcoholic liquor from another state directly to a consumer in this state."

In other words, current law states that anyone may obtain a direct sales shipping license to ship alcoholic liquor directly to a consumer in Nebraska. LB 230 would allow only manufacturers to obtain a direct sales shipping license, with the exception that a wine manufacturer that produces 250,000 gallons or less of wine annually may ship their product to Nebraska consumers through an exclusive importer with a Nebraska direct sales shipping license. This would still allow these smaller wineries to form an association to contract with an exclusive importer, which could help defray the costs of a direct sales shipping license by spreading the cost amongst the association's members.

Explanation of amendments:

The General Affairs Committee held a public hearing on AM249 to LB230 on Monday, February 25, 2013.

Testifiers on AM249:

Proponents:

Sen. Russ Karpisek - Introducer

Hobie Rupe - Nebraska Liquor Control Commission

Justin Brady - Nebraska Liquor Wholesalers

Joseph Kohout - Associated Beverage Distributors of Nebraska

Tim Keigher - Nebraska Petroleum Marketers and Convenience Store Association

William Tomaszewski - wine.com, Omaha Steaks

Opponents:

None

Neutral:

Jim Otto, Nebraska Wineries and Grape Growers Association

AM 355 to LB 230 Summary

Instead of any "person" being able to get a direct shippers license, only manufacturers (Section 1(4)) and retailers (Section 1(5)) may be issued such a license.

Section 1(7) Outlines the application requirements for a direct shippers license, including the brands of alcoholic liquor they intend to ship.

(a) Agree to file reports and pay taxes.

(b) Agree to allow Commission agents to examine records.

(c) Violation may result in a license suspension, cancellation, or revocation.

(d) Notify the Commission of any license violations in other states.

(e) Requires licensed manufacturers, including craft breweries, craft distilleries, and farm wineries to notify any Nebraska wholesaler if they intend to ship in the same products.

The rest of Section 1(7) would provide the Liquor Control Commission with the information it needs to evaluate the application and regulate the products coming into Nebraska.

Section 1(8) Specifies the licensee's requirements:

(a) Licensee can only ship the brands listed on application.

(b) Licensee can only ship alcoholic liquor that they own.

(c) Licensee can only ship alcoholic liquor that is registered with the Federal Alcohol and Tobacco Tax and Trade Bureau.

(d) Licensee cannot ship products that the manufacturers or local wholesalers have agreed not to carry.

(e) Licensee cannot ship more than 9 liters per month and only for private consumption; not for resale.

(f) Licensee must use an approved common carrier to ship their products.

(i) The common carrier must verify the recipient is at least 21 years old.

(ii) The recipient must sign for the alcoholic liquor.

(iii) Common carrier agrees to submit information to the Liquor Control Commission when requested. The packaging must clearly read CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY. Delivery to a minor is a violation and the common carrier is liable.

Section 1(9) Requires that both Nebraska excise and sales tax and any local political subdivision's sales tax be paid on alcoholic liquor shipped into the state. This change establishes a nexus allowing the Department of Revenue the ability to enforce tax laws.

The amendment strikes the exception in the original bill for farm wineries that produce fewer than 250,000 gallons per year.

Russ Karpisek, Chairperson