

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 653

Introduced by Davis, 43; Wallman, 30.

Read first time January 23, 2013

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 sections 53-160 and 53-164.01, Revised Statutes
3 Cumulative Supplement, 2012; to change provisions
4 relating to the gallonage tax on beer and provide for
5 distribution of the increased revenue; to provide for a
6 supplemental report by beer wholesalers as prescribed; to
7 harmonize provisions; and to repeal the original
8 sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-160, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 53-160 (1) For the purpose of raising revenue, a tax is
4 imposed upon the privilege of engaging in business as a manufacturer
5 or a wholesaler at a rate of ~~thirty-one~~thirty-six cents per gallon
6 on all beer; ninety-five cents per gallon for wine, except for wines
7 produced and released from bond in farm wineries; six cents per
8 gallon for wine produced and released from bond in farm wineries; and
9 three dollars and seventy-five cents per gallon on alcohol and
10 spirits manufactured and sold by such manufacturer or shipped for
11 sale in this state by such wholesaler in the course of such business.
12 The gallonage tax imposed by this subsection shall be imposed only on
13 alcoholic liquor upon which a federal excise tax is imposed.

14 (2) Manufacturers or wholesalers of alcoholic liquor
15 shall be exempt from the payment of the gallonage tax on such
16 alcoholic liquor upon satisfactory proof, including bills of lading
17 furnished to the commission by affidavit or otherwise as the
18 commission may require, that such alcoholic liquor was manufactured
19 in this state but shipped out of the state for sale and consumption
20 outside this state.

21 (3) Dry wines or fortified wines manufactured or shipped
22 into this state solely and exclusively for sacramental purposes and
23 uses shall not be subject to the gallonage tax.

24 (4) The gallonage tax shall not be imposed upon any
25 alcoholic liquor, whether manufactured in or shipped into this state,

1 when sold to a licensed nonbeverage user for use in the manufacture
2 of any of the following when such products are unfit for beverage
3 purposes: Patent and proprietary medicines and medicinal, antiseptic,
4 and toilet preparations; flavoring extracts, syrups, food products,
5 and confections or candy; scientific, industrial, and chemical
6 products, except denatured alcohol; or products for scientific,
7 chemical, experimental, or mechanical purposes.

8 (5) The gallonage tax shall not be imposed upon the
9 privilege of engaging in any business in interstate commerce or
10 otherwise, which business may not, under the Constitution and
11 statutes of the United States, be made the subject of taxation by
12 this state.

13 (6) The gallonage tax shall be in addition to all other
14 occupation or privilege taxes imposed by this state or by any
15 municipal corporation or political subdivision thereof.

16 (7) The commission shall collect the gallonage tax and
17 shall account for and remit to the State Treasurer at least once each
18 week all money collected pursuant to this section. If any alcoholic
19 liquor manufactured in or shipped into this state is sold to a
20 licensed manufacturer or wholesaler of this state to be used solely
21 as an ingredient in the manufacture of any beverage for human
22 consumption, the tax imposed upon such manufacturer or wholesaler
23 shall be reduced by the amount of the taxes which have been paid as
24 to such alcoholic liquor so used under the Nebraska Liquor Control
25 Act.

1 (8)(a) The net proceeds of all—the total revenue
2 attributable to five cents of the gallonage tax on beer shall be
3 distributed by the State Treasurer as follows:

4 (i) Fifty percent of such revenue to the Nebraska State
5 Patrol Cash Fund; and

6 (ii) Fifty percent of such revenue to counties to be used
7 for law enforcement purposes. The distribution to each county shall
8 equal the amount attributed to such county in the supplemental
9 reports filed by beer wholesalers pursuant to subdivision (1)(b) of
10 section 53-164.01.

11 (b) The remaining revenue arising under this section
12 shall be credited to the General Fund.

13 Sec. 2. Section 53-164.01, Revised Statutes Cumulative
14 Supplement, 2012, is amended to read:

15 53-164.01 Payment of the tax provided for in section
16 53-160 on alcoholic liquor shall be paid by the manufacturer or
17 wholesaler as follows:

18 (1)(a) All manufacturers or wholesalers, except farm
19 winery producers, whether inside or outside this state shall, on or
20 before the twenty-fifth day of each calendar month following the
21 month in which shipments were made, submit a report to the commission
22 upon forms furnished by the commission showing the total amount of
23 alcoholic liquor in gallons or fractional parts thereof shipped by
24 such manufacturer or wholesaler, whether inside or outside this
25 state, during the preceding calendar month;

1 (b) All beer wholesalers shall, on or before the twenty-
2 fifth day of each calendar month following the month in which
3 shipments were made, submit a report to the commission upon forms
4 furnished by the commission showing the total amount of beer in
5 gallons or fractional parts thereof shipped by all manufacturers,
6 whether inside or outside this state, during the preceding calendar
7 month to such wholesaler. On and after the effective date of this
8 act, all beer wholesalers shall attach a supplement to the report
9 required pursuant to this subdivision stating the amount of revenue
10 attributable to each county to five cents per gallon of the gallonage
11 tax on beer imposed pursuant to section 53-160;

12 (c)(i) Except as provided in subdivision (ii) of this
13 subdivision, farm winery producers which paid less than one thousand
14 dollars of excise taxes pursuant to section 53-160 for the previous
15 calendar year and which will pay less than one thousand dollars of
16 excise taxes pursuant to section 53-160 for the current calendar year
17 shall, on or before the twenty-fifth day of the calendar month
18 following the end of the year in which wine was packaged and released
19 from bond, submit a report to the commission upon forms furnished by
20 the commission showing the total amount of wine in gallons or
21 fractional parts thereof packaged and released from bond by such
22 producer during the preceding calendar year; and

23 (ii) Farm winery producers which paid one thousand
24 dollars or more of excise taxes pursuant to section 53-160 for the
25 previous calendar year or which become liable for one thousand

1 dollars or more of excise taxes pursuant to section 53-160 during the
2 current calendar year shall, on or before the twenty-fifth day of
3 each calendar month following the month in which wine was packaged
4 and released from bond, submit a report to the commission upon forms
5 furnished by the commission showing the total amount of wine in
6 gallons or fractional parts thereof packaged and released from bond
7 by such producer during the preceding calendar month. A farm winery
8 producer which becomes liable for one thousand dollars or more of
9 excise taxes pursuant to section 53-160 during the current calendar
10 year shall also pay such excise taxes immediately;

11 (d) A craft brewery shall, on or before the twenty-fifth
12 day of each calendar month following the month in which the beer was
13 released from bond for sale, submit a report to the commission on
14 forms furnished by the commission showing the total amount of beer in
15 gallons or fractional parts thereof produced for sale by the craft
16 brewery during the preceding calendar month;

17 (e) A microdistillery shall, on or before the twenty-
18 fifth day of each calendar month following the month in which the
19 distilled liquor was released from bond for sale, submit a report to
20 the commission on forms furnished by the commission showing the total
21 amount of distilled liquor in gallons or fractional parts thereof
22 produced for sale by the microdistillery during the preceding
23 calendar month; and

24 (f) Reports submitted pursuant to subdivision (a), (b),
25 or (c) of this subdivision shall also contain a statement of the

1 total amount of alcoholic liquor, except beer, in gallons or
2 fractional parts thereof shipped to licensed retailers inside this
3 state and such other information as the commission may require;

4 (2) The wholesaler or farm winery producer shall at the
5 time of the filing of the report pay to the commission the tax due on
6 alcoholic liquor, except beer, shipped to licensed retailers inside
7 this state at the rate fixed in accordance with section 53-160. The
8 tax due on beer shall be paid by the wholesaler on beer shipped from
9 all manufacturers;

10 (3) The tax imposed pursuant to section 53-160 shall be
11 due on the date the report is due less a discount of one percent of
12 the tax on alcoholic liquor for submitting the report and paying the
13 tax in a timely manner. The discount shall be deducted from the
14 payment of the tax before remittance to the commission and shall be
15 shown in the report to the commission as required in this section. If
16 the tax is not paid within the time provided in this section, the
17 discount shall not be allowed and shall not be deducted from the tax;

18 (4) If the report is not submitted by the twenty-fifth
19 day of the calendar month or if the tax is not paid to the commission
20 by the twenty-fifth day of the calendar month, the following
21 penalties shall be assessed on the amount of the tax: One to five
22 days late, three percent; six to ten days late, six percent; and over
23 ten days late, ten percent. In addition, interest on the tax shall be
24 collected at the rate of one percent per month, or fraction of a
25 month, from the date the tax became due until paid;

1 (5) No tax shall be levied or collected on alcoholic
2 liquor manufactured inside this state and shipped or transported
3 outside this state for sale and consumption outside this state;

4 (6) In order to insure the payment of all state taxes on
5 alcoholic liquor, together with interest and penalties, persons
6 required to submit reports and payment of the tax shall, at the time
7 of application for a license under sections 53-124 and 53-124.01,
8 enter into a surety bond with corporate surety, both the bond form
9 and surety to be approved by the commission. Subject to the
10 limitations specified in this subdivision, the amount of the bond
11 required of any taxpayer shall be fixed by the commission and may be
12 increased or decreased by the commission at any time. In fixing the
13 amount of the bond, the commission shall require a bond equal to the
14 amount of the taxpayer's estimated maximum monthly excise tax
15 ascertained in a manner as determined by the commission. Nothing in
16 this section shall prevent or prohibit the commission from accepting
17 and approving bonds which run for a term longer than the license
18 period. The amount of a bond required of any one taxpayer shall not
19 be less than one thousand dollars. The bonds required by this section
20 shall be filed with the commission; and

21 (7) When a manufacturer or wholesaler sells and delivers
22 alcoholic liquor upon which the tax has been paid to any
23 instrumentality of the armed forces of the United States engaged in
24 resale activities as provided in section 53-160.01, the manufacturer
25 or wholesaler shall be entitled to a credit in the amount of the tax

1 paid in the event no tax is due on such alcoholic liquor as provided
2 in such section. The amount of the credit, if any, shall be deducted
3 from the tax due on the following monthly report and subsequent
4 reports until liquidated.

5 Sec. 3. Original sections 53-160 and 53-164.01, Revised
6 Statutes Cumulative Supplement, 2012, are repealed.