

Revised due to adoption of amendments on General File.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2017-18		FY 2018-19	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$33,362	\$100,000	\$0	\$100,000
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$33,362	\$100,000	\$0	\$100,000

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 632, as amended by AM1303, changes the Nebraska Liquor Control Act to amend a number of sections of Chapter 53 and adds new language to Chapter 59 to create the Music Licensing Agency Act.

Section 53-103 is amended to define a bottle club and to provide a licensing requirement for the operator of a bottle club.

Section 53-123.01, as amended by AM1303 (as amended by AM1350) requires that all alcoholic beverages purchased for resale in Nebraska, prior to being resold must physically come into the possession of a licensed wholesaler.

This section is also amended to provide that a craft brewery may hold retail licenses for up to five satellite locations and that these locations are disclosed to the Liquor Control Commission and are 100% owned by the brewery. The brewery may also transfer its product directly to a satellite location without the use of a Nebraska licensed wholesaler but any other transfer must first come into possession of a licensed wholesaler.

Section 53-123.01 is also amended to define “bar” and “satellite location.”

Section 53-123.14 is amended to provide that a craft brewery is prohibited from owning or selling directly to licensed retailers.

Section 53-123.15 is amended to require a third-party shipper to file an annual report regarding shipments into Nebraska with the Liquor Commission.

Section 53-134.01 is amended to increase the container size under a limited bottling endorsement from 32 ounces to 64 ounces.

Section 53-164.01 is amended regarding the payment of taxes imposed by Section 53-160 (tax on manufacturer and wholesaler) to provide that the tax on beer sold by a wholesaler to a retailer shall be paid by a wholesaler and that the tax on beer sold by a craft brewer directly to a consumer or retailer shall be paid by the craft brewer.

Section 53-168 is amended to make it illegal for a wholesaler to sell to a retail licensee who has a payment on account which is more than 34 days overdue. It also provides for reporting requirements to the Commission, requirements regarding the invoice, requires the Commission to maintain and update daily a list of retail licensees with overdue accounts, and makes it unlawful for a wholesaler to accept a postdated check, a note, or a memorandum for sale of liquor.

Section 53-175 is amended to allow the Commission to waive the requirement that a Special Designated License holder purchase from a wholesaler. The Commission may waive for certain nonprofit organizations, municipal corporations, fine art organizations, and religious organizations.

Section 53-1,100 regarding penalties is amended to say that a second violation of this section occurring within four years after the date of a first violation may result in the licensee being required to suspend sales for up to 48 hours. A third or subsequent violation in the same time period may result in the licensee being required to suspend sales for up to 15 days.

Chapter 59 is amended to create the Music Licensing Agency Act. Provisions of the Act require a “music licensing agency” to register annually with the Department of Revenue and file an annual electronic copy of each performing-rights agreement providing for the

payment of royalties made available from the music licensing agency to any proprietor in Nebraska. The Department of Revenue is also required to inform proprietors of their rights and responsibilities regarding the public performance of copyrighted music.

The Act provides responsibilities for music licensing agencies regarding contracts for royalties; duties regarding their conduct in seeking payment or communicating with a proprietor; and conducting investigations on the use of copyrighted music.

The Act provides for a late fee for failure to register on or before January 1 of each year of \$10,000 per 30-day period which passes after January 1. Any such fees collected are to be credited to the Department of Revenue Enforcement Fund.

Section 59-1405 is amended to provide a penalty of not less than \$500 and not more than \$2,000 for violations of the Act. Multiple violations on a single day may be considered separate violations.

FISCAL IMPACT:

The fiscal impact of LB 632 that amends Chapter 53 is minimal. Costs to implement the provisions of LB 632 that amend Chapter 53 would also be minimal.

The Liquor Control Commission indicates no fiscal impact or cost.

We agree with the Commission's estimate of fiscal impact and cost.

The Department of Revenue estimates the fiscal impact of the portions of LB 632 that amend Chapter 59 to create the Music Licensing Agency Act would include 0.5 FTE for a Revenue Specialist at \$33,362, with PSL of \$25,084 for FY17-18.

We agree with the Department of Revenue's estimate of cost.

We estimate an increase to the General Fund of \$100,000 per fiscal year. We are aware of at least three music licensing agencies which have conducted and continue to conduct business in Nebraska. It appears that only one of these entities currently pays the Nebraska tax imposed by Section 59-1403. It is anticipated that Department of Revenue collection efforts will result in the additional revenue impact.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 632	AM:1303 and AM 1350	AGENCY/POLT. SUB: Nebraska Department of Revenue (16)
REVIEWED BY: Joe Wilcox	DATE: 5/12/2017	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Department of Revenue estimate of potential first year fiscal impact to the Agency as a result of AM 1303 AND am 1350 to LB 632.		

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 5/16/2017			
Approved by: Tony Fulton		Phone: 471-5896			
Date Prepared: 5/11/2017					
FY 2017-2018		FY 2018-2019		FY 2019-2020	
<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	\$ 33,362	\$ 0	\$ 0		\$ 0
Cash Funds					
Federal Funds					
Other Funds					
Total Funds	\$ 33,362	\$ 0	\$ 0		\$ 0

LB 632, as amended by AM 1303 and AM 1350 amends several sections of the Liquor Control Act and adopts a new act called the Music Licensing Agency Act.

Changes to the Liquor Control Act include reinstating a bottle club license; requiring third-party shippers to file an annual report, regarding shipments into Nebraska, with the Liquor Control Commission; making it unlawful for a wholesaler to sell to retailers that are more than 34 days overdue in payment; allowing for a special designated license for certain nonprofit and governmental entities to purchase from someone other than a wholesaler for certain events; providing the tax on beer paid by craft brewers is limited to the amount sold directly to consumers and other retailers; limiting the suspension for a second liquor violation to 48 hours and for a third violation to 15 days.

The Music Licensing Agency Act adopts procedures and rights for restaurant and bar owners with respect to payment of royalties to copyright licensing agencies like BMI and ASCAP. The licensing agency must register with the Department of Revenue and provide a list of its members and affiliates and the music that it licenses. The licensing agency must also provide the Department with an electronic copy of each performing-rights agreement. There is a \$10,000 late fee imposed for each 30-day period the registration is not filed or renewed by January 1 of each year.

A music licensing agency may not enter into or offer to enter into a licensing agreement unless it provides a schedule of rates, and notice that the performing rights agreement information is available at the Department’s office at least 72 hours prior to executing the agreement. There is also an existing tax of 3% of the gross receipts for licensing performing rights which is now to be collected by the Department.

A music licensing contract must be in writing and include the names and signatures of the parties and a schedule of rates and terms. The Act also contains a list of prohibited actions including coercive conduct and any practice that is substantially disruptive to the person’s business. Multiple violations on a single day may be considered separate violations.

The Department is to inform proprietors of their rights and responsibilities regarding public performance of copyrighted music as part of its business licensing service. Any person violating provisions of the Music Industry Licensing Act shall be fined an amount not less than \$500 or more than \$2,000. This amount is an increase from the previous \$100 to \$1,000 range.

It is estimated that this bill will have no impact on General Fund revenues.

The Department will require a 0.5 FTE Tax Specialist for the first fiscal year in order to implement the provisions of this bill.

The bill contains a severability clause and an emergency clause and becomes law upon enactment.

Major Objects of Expenditure

<u>Class Code</u>	<u>Classification Title</u>	<u>17-18</u>	<u>18-19</u>	<u>19-20</u>	<u>17-18</u>	<u>18-19</u>	<u>19-20</u>
		<u>FTE</u>	<u>FTE</u>	<u>FTE</u>	<u>Expenditures</u>	<u>Expenditures</u>	<u>Expenditures</u>
A29622	Revenue Tax Specialist	0.5			\$ 25,084		
	Benefits.....				\$ 8,278		
	Operating Costs.....						
	Capital Outlay.....						
Total					\$ 33,362		