

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1090**

Introduced by Blood, 3.

Read first time January 21, 2020

Committee: General Affairs

- 1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend  
2 sections 53-101 and 53-134, Revised Statutes Cumulative Supplement,  
3 2018; to authorize local governing bodies to suspend licenses for  
4 nonpayment of taxes, fees, or special assessments; to provide duties  
5 for local governing bodies and the Nebraska Liquor Control  
6 Commission; to harmonize provisions; and to repeal the original  
7 sections.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-101, Revised Statutes Cumulative Supplement,  
2 2018, is amended to read:

3 53-101 Sections 53-101 to 53-1,122 and section 3 of this act shall  
4 be known and may be cited as the Nebraska Liquor Control Act.

5 Sec. 2. Section 53-134, Revised Statutes Cumulative Supplement,  
6 2018, is amended to read:

7 53-134 The local governing body of any city or village with respect  
8 to licenses within its corporate limits and the local governing body of  
9 any county with respect to licenses not within the corporate limits of  
10 any city or village but within the county shall have the following  
11 powers, functions, and duties with respect to retail, bottle club, craft  
12 brewery, microdistillery, and entertainment district licenses:

13 (1) To cancel or revoke for cause retail, craft brewery,  
14 microdistillery, or entertainment district licenses to sell or dispense  
15 alcoholic liquor or bottle club licenses, issued to persons for premises  
16 within its jurisdiction, subject to the right of appeal to the  
17 commission;

18 (2) To enter or to authorize any law enforcement officer to enter at  
19 any time upon any premises licensed under the Nebraska Liquor Control Act  
20 to determine whether any provision of the act, any rule or regulation  
21 adopted and promulgated pursuant to the act, or any ordinance,  
22 resolution, rule, or regulation adopted by the local governing body has  
23 been or is being violated and at such time examine the premises of such  
24 licensee in connection with such determination. Any law enforcement  
25 officer who determines that any provision of the act, any rule or  
26 regulation adopted and promulgated pursuant to the act, or any ordinance,  
27 resolution, rule, or regulation adopted by the local governing body has  
28 been or is being violated shall report such violation in writing to the  
29 executive director of the commission (a) within thirty days after  
30 determining that such violation has occurred, (b) within thirty days  
31 after the conclusion of an ongoing police investigation, or (c) within

1 thirty days after the verdict in a prosecution related to such an ongoing  
2 police investigation if the prosecuting attorney determines that  
3 reporting such violation prior to the verdict would jeopardize such  
4 prosecution, whichever is later;

5 (3) To receive a signed complaint from any citizen within its  
6 jurisdiction that any provision of the act, any rule or regulation  
7 adopted and promulgated pursuant to the act, or any ordinance,  
8 resolution, rule, or regulation relating to alcoholic liquor has been or  
9 is being violated and to act upon such complaints in the manner provided  
10 in the act;

11 (4) To receive retail license fees, bottle club license fees, craft  
12 brewery license fees, and microdistillery license fees as provided in  
13 sections 53-124 and 53-124.01 and entertainment district license fees as  
14 provided in section 53-123.17 and pay the same, after the license has  
15 been delivered to the applicant, to the city, village, or county  
16 treasurer;

17 (5) To examine or cause to be examined any applicant or any retail  
18 licensee, bottle club licensee, craft brewery licensee, microdistillery  
19 licensee, or entertainment district licensee upon whom notice of  
20 cancellation or revocation has been served as provided in the act, to  
21 examine or cause to be examined the books and records of any applicant or  
22 licensee except as otherwise provided for bottle club licensees in  
23 section 53-123.08, and to hear testimony and to take proof for its  
24 information in the performance of its duties. For purposes of obtaining  
25 any of the information desired, the local governing body may authorize  
26 its agent or attorney to act on its behalf;

27 (6) To cancel or revoke on its own motion any license if, upon the  
28 same notice and hearing as provided in section 53-134.04, it determines  
29 that the licensee has violated any of the provisions of the act or any  
30 valid and subsisting ordinance, resolution, rule, or regulation duly  
31 enacted, adopted, and promulgated relating to alcoholic liquor. Such

1 order of cancellation or revocation may be appealed to the commission  
2 within thirty days after the date of the order by filing a notice of  
3 appeal with the commission. The commission shall handle the appeal in the  
4 manner provided for hearing on an application in section 53-133;~~and~~

5 (7) Upon receipt from the commission of the notice and copy of  
6 application as provided in section 53-131, to fix a time and place for a  
7 hearing at which the local governing body shall receive evidence, either  
8 orally or by affidavit from the applicant and any other person, bearing  
9 upon the propriety of the issuance of a license. Notice of the time and  
10 place of such hearing shall be published in a legal newspaper in or of  
11 general circulation in such city, village, or county one time not less  
12 than seven and not more than fourteen days before the time of the  
13 hearing. Such notice shall include, but not be limited to, a statement  
14 that all persons desiring to give evidence before the local governing  
15 body in support of or in protest against the issuance of such license may  
16 do so at the time of the hearing. Such hearing shall be held not more  
17 than forty-five days after the date of receipt of the notice from the  
18 commission, and after such hearing the local governing body shall cause  
19 to be recorded in the minute record of their proceedings a resolution  
20 recommending either issuance or refusal of such license. The clerk of  
21 such city, village, or county shall mail to the commission by first-class  
22 mail, postage prepaid, a copy of the resolution which shall state the  
23 cost of the published notice, except that failure to comply with this  
24 provision shall not void any license issued by the commission. If the  
25 commission refuses to issue such a license, the cost of publication of  
26 notice shall be paid by the commission from the security for costs; ~~and -~~

27 (8) To suspend such licenses issued to persons for premises within  
28 its jurisdiction for failure to pay any tax, fee, or special assessment  
29 as provided in section 3 of this act.

30 Sec. 3. (1) A local governing body of any city or village with  
31 respect to licenses within its corporate limits and the local governing

1 body of any county with respect to licenses not within the corporate  
2 limits of any city or village may suspend any retail, craft brewery,  
3 microdistillery, or entertainment district license to sell or dispense  
4 alcoholic liquor or bottle club license, issued to persons for premises  
5 within its jurisdiction, for failure to pay any tax, fee, or special  
6 assessment that is:

7       (a) Owed under any lawful ordinance, regulation, or other law of the  
8 local governing body; and

9       (b) At least ninety days in arrears.

10       (2) Prior to suspending a license under this section, the local  
11 governing body shall serve notice of the proposed suspension upon the  
12 licensee. The local governing body shall also forward a copy of the  
13 notice to the commission. The commission shall post the notice of the  
14 proposed suspension on the commission's web site. The licensee shall have  
15 thirty days in which to pay the tax, fee, or special assessment or to  
16 request a hearing to show cause why such money is not owed or why the  
17 license should not be suspended.

18       (3) If a license is suspended under this section, the licensee may  
19 appeal the suspension to the commission within thirty days after the date  
20 of the order by the local governing body by filing a notice of appeal  
21 with the commission.

22       (4) If a license is suspended under this section, the local  
23 governing body shall notify the commission of the order of suspension.  
24 The commission shall post notice of the suspension on the commission's  
25 web site and take reasonable steps to notify any wholesaler of the  
26 effective date of the suspension.

27       Sec. 4. Original sections 53-101 and 53-134, Revised Statutes  
28 Cumulative Supplement, 2018, are repealed.