

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 72

Introduced by Geist, 25.

Read first time January 07, 2021

Committee: General Affairs

- 1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
- 2 sections 53-123.04 and 53-124, Revised Statutes Cumulative
- 3 Supplement, 2020; to provide for the sale of alcoholic liquor not in
- 4 the original package as prescribed; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-123.04, Revised Statutes Cumulative
2 Supplement, 2020, is amended to read:

3 53-123.04 (1) A retail license shall allow the licensee to sell and
4 offer for sale at retail either in the original package or otherwise, as
5 prescribed in the retail license, on the premises specified in the retail
6 license or the entertainment district license or on the premises where
7 catering is occurring, alcoholic liquor or beer for use or consumption
8 but not for resale in any form except as provided in section 53-175.

9 (2) Nothing in the Nebraska Liquor Control Act shall prohibit a
10 holder of a Class D license from allowing the sampling of tax-paid wine
11 for consumption on the premises by such licensee or his or her employees
12 in cooperation with a licensed wholesaler in the manner prescribed by the
13 commission.

14 (3)(a) A restaurant holding a license to sell alcoholic liquor at
15 retail for consumption on the licensed premises may permit a customer to
16 remove one unsealed bottle of wine for consumption off the premises if
17 the customer has purchased a full-course meal and consumed a portion of
18 the bottle of wine with such full-course meal on the licensed premises.
19 The licensee or his or her agent shall (i) securely reseal such bottle
20 and place the bottle in a bag designed so that it is visibly apparent
21 that the resealed bottle of wine has not been opened or tampered with and
22 (ii) provide a dated receipt to the customer and attach to such bag a
23 copy of the dated receipt for the resealed bottle of wine and the full-
24 course meal.

25 (b) If the resealed bottle of wine is transported in a motor
26 vehicle, it must be placed in the trunk of the motor vehicle or the area
27 behind the last upright seat of such motor vehicle if the area is not
28 normally occupied by the driver or a passenger and the motor vehicle is
29 not equipped with a trunk.

30 (c) For purposes of this subsection, full-course meal means a
31 diversified selection of food which is ordinarily consumed with the use

1 of tableware and cannot conveniently be consumed while standing or
2 walking.

3 (4) The holder of a Class C liquor license as described in
4 subdivision (6)(a)(iii) of section 53-124 may sell alcoholic liquor not
5 in the original package, such as a mixed drink or cocktail to a person
6 twenty-one years of age or older, for consumption off the premises if (a)
7 the alcoholic liquor is (i) not partially consumed and (ii) in a labeled
8 and sealed container with a tamper-evident lid, cap, or seal, as approved
9 by the commission and (b) for alcoholic liquor transported in a motor
10 vehicle, the alcoholic liquor is placed in the trunk of the motor vehicle
11 or the area behind the last upright seat of such motor vehicle if the
12 area is not normally occupied by the driver or a passenger and the motor
13 vehicle is not equipped with a trunk.

14 (5) The holder of a Class I liquor license as defined in section
15 53-124 (6)(a)(v) may sell alcoholic liquor not in the original package,
16 such as a mixed drink or cocktail, for consumption off the premises if
17 (a) the alcoholic liquor is (i) not partially consumed, (ii) in a labeled
18 and sealed container with a tamper-evident lid, cap, or seal, as approved
19 by the Liquor Control Commission, and (iii) purchased along with food.

20 (b) If the alcoholic liquor is transported in a motor vehicle, the
21 alcoholic liquor is placed in the trunk of the motor vehicle or the area
22 behind the last upright seat of such motor vehicle if the area is not
23 normally occupied by the driver or a passenger and the motor vehicle is
24 not equipped with a trunk.

25 Sec. 2. Section 53-124, Revised Statutes Cumulative Supplement,
26 2020, is amended to read:

27 53-124 (1) At the time application is made to the commission for a
28 license of any type, the applicant shall pay the fee provided in section
29 53-124.01 and, if the applicant is an individual, provide the applicant's
30 social security number. The commission shall issue the types of licenses
31 described in this section.

1 (2) There shall be an airline license, a boat license, a special
2 party bus license, a pedal-pub vehicle license, and a railroad license.
3 The commission shall charge one dollar for each duplicate of an airline
4 license, a special party bus license, a pedal-pub vehicle license, or a
5 railroad license.

6 (3)(a) There shall be a manufacturer's license for alcohol and
7 spirits, for beer, and for wine. The annual fee for a manufacturer's
8 license for beer shall be based on the barrel daily capacity as follows:

- 9 (i) 1 to 100 barrel daily capacity, or any part thereof, tier one;
10 (ii) 100 to 150 barrel daily capacity, tier two;
11 (iii) 150 to 200 barrel daily capacity, tier three;
12 (iv) 200 to 300 barrel daily capacity, tier four;
13 (v) 300 to 400 barrel daily capacity, tier five;
14 (vi) 400 to 500 barrel daily capacity, tier six;
15 (vii) 500 barrel daily capacity, or more, tier seven.

16 (b) For purposes of this subsection, daily capacity means the
17 average daily barrel production for the previous twelve months of
18 manufacturing operation. If no such basis for comparison exists, the
19 manufacturing licensee shall pay in advance for the first year's
20 operation a fee of five hundred dollars.

21 (4) There shall be five classes of nonbeverage users' licenses:
22 Class 1, Class 2, Class 3, Class 4, and Class 5.

23 (5) In lieu of a manufacturer's, a retailer's, or a wholesaler's
24 license, there shall be a license to operate issued for a craft brewery,
25 a farm winery, or a microdistillery.

26 (6)(a) There shall be six classes of retail licenses:

27 (i) Class A: Beer only, for consumption on the premises;

28 (ii) Class B: Beer only, for consumption off the premises, sales in
29 the original packages only;

30 (iii) Class C: Alcoholic liquor, for consumption on the premises and
31 off the premises, sales in original packages only except as provided in

1 subsection (4) of section 53-123.04. If a Class C license is held by a
2 nonprofit corporation, it shall be restricted to consumption on the
3 premises only. A Class C license may have a sampling designation
4 restricting consumption on the premises to sampling, but such designation
5 shall not affect sales for consumption off the premises under such
6 license;

7 (iv) Class D: Alcoholic liquor, including beer, for consumption off
8 the premises, sales in the original packages only, except as provided in
9 subdivision (6)(a)(vi) of this section and subsection (2) of section
10 53-123.04;

11 (v) Class I: Alcoholic liquor, for consumption on the premises
12 except as provided in subsection (5) of section 53-123.04; and

13 (vi) Class J: Alcoholic liquor, including beer, for consumption off
14 the premises, sales in the original packages only, for a retail licensee
15 whose annual gross revenue from the sale of alcohol does not exceed
16 twenty percent of the licensee's total annual gross revenue from all
17 retail sales.

18 (b) All applicable license fees shall be paid by the applicant or
19 licensee directly to the city or village treasurer in the case of
20 premises located inside the corporate limits of a city or village and
21 directly to the county treasurer in the case of premises located outside
22 the corporate limits of a city or village.

23 (7) There shall be four types of shipping licenses as described in
24 section 53-123.15: Manufacturers, vintage wines, manufacture direct
25 sales, and retail direct sales.

26 (8) There shall be two types of wholesale licenses: Alcoholic liquor
27 and beer only. The annual fee shall be paid for the first and each
28 additional wholesale place of business operated in this state by the same
29 licensee and wholesaling the same product.

30 (9) There shall be a bottle club license. All applicable license
31 fees shall be paid by the applicant or licensee directly to the city or

1 village treasurer in the case of premises located inside the corporate
2 limits of a city or village and directly to the county treasurer in the
3 case of premises located outside the corporate limits of a city or
4 village.

5 (10) The license year, unless otherwise provided in the Nebraska
6 Liquor Control Act, shall commence on May 1 of each year and shall end on
7 the following April 30, except that the license year for a Class C
8 license shall commence on November 1 of each year and shall end on the
9 following October 31. During the license year, no license shall be issued
10 for a sum less than the amount of the annual license fee as fixed in
11 section 53-124.01, regardless of the time when the application for such
12 license has been made, except that (a) when there is a purchase of an
13 existing licensed business and a new license of the same class is issued
14 or (b) upon the issuance of a new license for a location which has not
15 been previously licensed, the license fee and occupation taxes shall be
16 prorated on a quarterly basis as of the date of issuance.

17 Sec. 3. Original sections 53-123.04 and 53-124, Revised Statutes
18 Cumulative Supplement, 2020, are repealed.