

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 113

FINAL READING

Introduced by Quick, 35.

Read first time January 10, 2025

Committee: General Affairs

- 1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
- 2 section 53-123.17, Reissue Revised Statutes of Nebraska, and
- 3 sections 53-123.01, 53-123.14, 53-123.16, and 53-129, Revised
- 4 Statutes Cumulative Supplement, 2024; to change provisions relating
- 5 to the rights of a holder of a manufacturer's, craft brewery,
- 6 microdistillery, or entertainment district license; to redefine a
- 7 term; to harmonize provisions; to provide severability; and to
- 8 repeal the original sections.
- 9 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 53-123.01, Revised Statutes Cumulative
2 Supplement, 2024, is amended to read:

3 53-123.01 (1) A manufacturer's license shall allow the manufacture,
4 storage, and sale of alcoholic liquor to wholesale licensees in this
5 state and to such persons outside the state as may be permitted by law,
6 except that nothing in the Nebraska Liquor Control Act shall prohibit a
7 manufacturer of beer from distributing tax-paid samples of beer at the
8 premises of a licensed manufacturer for consumption on the premises. A
9 manufacturer's license issued pursuant to this section shall be the only
10 license required by the Nebraska Liquor Control Act for the manufacture
11 and retail sale of beer manufactured on the licensed premises for
12 consumption on the licensed premises.

13 (2)(a) A licensee who or which first obtains a craft brewery license
14 pursuant to section 53-123.14, holds such license for not less than three
15 years, and operates a brewpub or microbrewery on the licensed premises of
16 such craft brewery license shall obtain a manufacturer's license when the
17 manufacture of beer on the licensed premises exceeds twenty thousand
18 barrels per year. The manufacturer's license shall authorize the
19 continued retail sale of beer for consumption on or off the premises but
20 only to the extent the premises were previously licensed as a craft
21 brewery. The sale of any beer other than beer manufactured by the
22 licensee, wine, or alcoholic liquor for consumption on the licensed
23 premises shall require the appropriate retail license. The holder of such
24 manufacturer's license may continue to operate up to eight ~~five~~ retail
25 locations which are in operation at the time such manufacturer's license
26 is issued and shall divest itself from retail locations in excess of
27 eight ~~five~~ locations. The licensee shall not begin operation at any new
28 retail location even if the licensee's production is reduced below twenty
29 thousand barrels per year.

30 (b) The holder of such manufacturer's license may obtain an annual
31 catering license pursuant to section 53-124.12, a special designated

1 license pursuant to section 53-124.11, or an entertainment district
2 license pursuant to section 53-123.17.

3 (3) A holder of a manufacturer's license to manufacture spirits may
4 operate a rickhouse that meets the requirements for a distilled spirit
5 plant pursuant to 26 U.S.C. 5178, as such section existed on January 1,
6 2024, if such manufacturer receives authorization from the commission and
7 notifies the commission of the location of such rickhouse in a manner
8 prescribed by the commission.

9 **Sec. 2.** Section 53-123.14, Revised Statutes Cumulative Supplement,
10 2024, is amended to read:

11 53-123.14 (1) Any person who operates a craft brewery shall obtain a
12 license pursuant to the Nebraska Liquor Control Act. A license to operate
13 a craft brewery shall permit the production of a maximum of twenty
14 thousand barrels of beer per year in the aggregate from all physical
15 locations comprising the licensed premises. A craft brewery may also sell
16 to beer wholesalers for sale and distribution to licensed retailers. A
17 craft brewery license issued pursuant to this section shall be the only
18 license required by the Nebraska Liquor Control Act for the manufacture
19 and retail sale of beer for consumption on or off the licensed premises,
20 except that the sale of any beer other than beer manufactured by the
21 craft brewery licensee, wine, or alcoholic liquor by the drink for
22 consumption on the licensed premises shall require the appropriate retail
23 license. Any license held by the operator of a craft brewery shall be
24 subject to the act. A holder of a craft brewery license may obtain an
25 annual catering license pursuant to section 53-124.12, a special
26 designated license pursuant to section 53-124.11, an entertainment
27 district license pursuant to section 53-123.17, or a promotional farmers
28 market special designated license pursuant to section 53-124.16. For
29 purposes of this section, licensed premises may include up to eight ~~five~~
30 separate physical locations.

31 (2)(a) A holder of a craft brewery license may directly sell for

1 resale up to two hundred fifty barrels per calendar year of beer produced
2 at its licensed premises directly to retail licensees located in the
3 State of Nebraska which hold the appropriate retail license if the holder
4 of the craft brewery license:

5 (i) Only self-distributes its beer in a territory in which the craft
6 brewery licensee has not entered into a distribution agreement with a
7 licensed Nebraska wholesaler for the territory where such retail licensee
8 is located;

9 (ii) Self-distributes its beer utilizing only persons exclusively
10 and solely employed by the craft brewery licensee in vehicles exclusively
11 and solely owned or leased by the craft brewery licensee; and

12 (iii) Complies with all relevant statutes, rules, and regulations
13 that apply to Nebraska beer wholesalers regarding distribution of such
14 beer.

15 (b) A holder of a craft brewery license self-distributing beer in
16 accordance with subdivision (2)(a) of this section may only self-
17 distribute beer brewed at its licensed brewery premises and shall not
18 distribute beer produced by any other licensee.

19 (3) A holder of a craft brewery license may store and warehouse tax-
20 paid products produced on such licensee's licensed premises in a
21 designated, secure, offsite storage facility if the holder of the craft
22 brewery license receives authorization from the commission and notifies
23 the commission of the location of the storage facility and maintains, at
24 the craft brewery and at the storage facility, a separate perpetual
25 inventory of the product stored at the storage facility. Consumption of
26 alcoholic liquor at the storage facility is strictly prohibited.

27 (4) The commission may adopt and promulgate rules and regulations
28 pertaining to distribution rights of craft brewery licensees.

29 **Sec. 3.** Section 53-123.16, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 53-123.16 (1) Any person who operates a microdistillery shall obtain

1 a license pursuant to the Nebraska Liquor Control Act. A license to
2 operate a microdistillery shall permit the licensee to produce a maximum
3 of one hundred thousand gallons of liquor per year in the aggregate from
4 all physical locations comprising the licensed premises. For purposes of
5 this section, licensed premises may include up to eight ~~five~~ separate
6 physical locations. A microdistillery may also sell to licensed
7 wholesalers for sale and distribution to licensed retailers. A
8 microdistillery license issued pursuant to this section shall be the only
9 license required by the Nebraska Liquor Control Act for the manufacture
10 and retail sale of microdistilled product for consumption on or off the
11 licensed premises, except that the sale of any beer, wine, or alcoholic
12 liquor, other than microdistilled product manufactured by the
13 microdistillery licensee, by the drink for consumption on the
14 microdistillery premises shall require the appropriate retail license.
15 Any license held by the operator of a microdistillery shall be subject to
16 the act. A holder of a microdistillery license may obtain an annual
17 catering license pursuant to section 53-124.12, a special designated
18 license pursuant to section 53-124.11, an entertainment district license
19 pursuant to section 53-123.17, or a promotional farmers market special
20 designated license pursuant to section 53-124.16. The commission may,
21 upon the conditions it determines, grant to any microdistillery licensed
22 under this section a special license authorizing the microdistillery to
23 purchase and to import, from such persons as are entitled to sell the
24 same, wines or spirits to be used solely as ingredients and for the sole
25 purpose of blending with and flavoring microdistillery products as a part
26 of the microdistillation process.

27 (2) A holder of a microdistillery license may directly sell for
28 resale up to three ~~five~~ thousand five hundred gallons per calendar year
29 of microdistilled products produced at its licensed premises directly to
30 retail licensees located in the State of Nebraska which hold the
31 appropriate retail license if the holder of the microdistillery license:

1 (a) Self-distributes its microdistilled products utilizing only
2 persons employed by the microdistillery licensee; and

3 (b) Complies with all relevant statutes, rules, and regulations that
4 apply to Nebraska wholesalers regarding distribution of microdistilled
5 products.

6 (3) A holder of a microdistillery license may store and warehouse
7 tax-paid products produced on such licensee's licensed premises in a
8 designated, secure, offsite storage facility if the holder of the
9 microdistillery license receives authorization from the commission and
10 notifies the commission of the location of the storage facility and
11 maintains, at the microdistillery and at the storage facility, a separate
12 perpetual inventory of the product stored at the storage facility.
13 Consumption of alcoholic liquor at the storage facility is strictly
14 prohibited.

15 (4) A holder of a microdistillery license may operate a rickhouse
16 that meets the requirements for a distilled spirit plant pursuant to 26
17 U.S.C. 5178, as such section existed on January 1, 2024, if such licensee
18 receives authorization from the commission and notifies the commission of
19 the location of such rickhouse in a manner prescribed by the commission.

20 (5) The commission may adopt and promulgate rules and regulations
21 relating to the distribution rights of microdistillery licensees.

22 **Sec. 4.** Section 53-123.17, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 53-123.17 (1) A local governing body may designate an entertainment
25 district in which a commons area may be used by retail, craft brewery,
26 and microdistillery licensees and holders of a manufacturer's license
27 which obtain an entertainment district license. The local governing body
28 may, at any time, revoke such designation if it finds that the commons
29 area threatens the health, safety, or welfare of the public or has become
30 a common nuisance. The local governing body shall file the designation or
31 the revocation of the designation with the commission.

1 (2) An entertainment district license allows the sale of alcoholic
2 liquor for consumption on the premises within the confines of a commons
3 area. The consumption of alcoholic liquor in the commons area shall only
4 occur during the hours authorized for sale of alcoholic liquor for
5 consumption on the premises under section 53-179 and while food service
6 is available in the commons area or is available for sale by at least one
7 holder of an entertainment district license. Only the holder of an
8 entertainment district license or employees of such licensee may sell or
9 dispense alcoholic liquor in the commons area.

10 (3) An entertainment district licensee shall serve alcoholic liquor
11 to be consumed in the commons area in containers that prominently display
12 ~~displays~~ the licensee's trade name or logo or some other mark that is
13 unique to the licensee under the licensee's retail license, craft brewery
14 license, microdistillery license, or manufacturer's license. An
15 entertainment district licensee may allow alcohol sold by another
16 entertainment district licensee to enter the licensed premises of either
17 licensee. No entertainment district licensee shall allow alcoholic liquor
18 to leave the commons area or the premises licensed under its retail
19 license, craft brewery license, microdistillery license, or
20 manufacturer's license.

21 (4) If the licensed premises of the holder of a license to sell
22 alcoholic liquor at retail issued under subsection (6) of section 53-124,
23 a craft brewery license, a microdistillery license, or a manufacturer's
24 license is adjacent to a commons area in an entertainment district
25 designated by a local governing body pursuant to this section, the holder
26 of the license may obtain an annual entertainment district license as
27 prescribed in this section. The entertainment district license shall be
28 issued for the same period and may be renewed in the same manner as the
29 retail license, craft brewery license, microdistillery license, or
30 manufacturer's license.

31 (5) In order to obtain an entertainment district license, a person

1 eligible under subsection (4) of this section shall:

2 (a) File an application with the commission upon such forms as the
3 commission prescribes; and

4 (b) Pay an additional license fee of three hundred dollars for the
5 privilege of serving alcohol in the entertainment district payable to the
6 clerk of the local governing body in the same manner as license fees
7 under subdivision (4) of section 53-134.

8 (6) When an application for an entertainment district license is
9 filed, the commission shall notify the clerk of the local governing body.
10 The commission shall include with such notice one copy of the application
11 by mail or electronic delivery. The local governing body and the
12 commission shall process the application in the same manner as provided
13 in section 53-132.

14 (7) The local governing body may impose an occupation tax on the
15 business of an entertainment district licensee doing business within the
16 liquor license jurisdiction of the local governing body as provided in
17 subdivision (11)(b) of this section in accordance with section 53-132.

18 (8) The local governing body with respect to entertainment district
19 licensees within its liquor license jurisdiction as provided in
20 subdivision (11)(b) of this section may cancel an entertainment district
21 license for cause for the remainder of the period for which such
22 entertainment district license is issued. Any person whose entertainment
23 district license is canceled may appeal to the commission in accordance
24 with section 53-134.

25 (9) A local governing body may regulate by ordinance, not
26 inconsistent with the Nebraska Liquor Control Act, any area it designates
27 as an entertainment district.

28 (10) Violation of any provision of this section or any rules or
29 regulations adopted and promulgated pursuant to this section by an
30 entertainment district licensee may be cause to revoke, cancel, or
31 suspend the retail license issued under subsection (6) of section 53-124,

1 craft brewery license, microdistillery license, or manufacturer's license
2 held by such licensee.

3 (11) For purposes of this section:

4 (a)(i) ~~{a}~~ Commons area means an area:

5 (A) ~~{i}~~ Within an entertainment district designated by a local
6 governing body;

7 (B) ~~{ii}~~ Shared by authorized licensees with entertainment district
8 licenses;

9 (C) ~~{iii}~~ Abutting the licensed premises of such licensees;

10 (D) ~~With reasonable safety measures in place to protect pedestrians,~~
11 ~~including signage, lighting, and reduced motor vehicle speeds when motor~~
12 ~~vehicles will be in close proximity to pedestrians~~ ~~(iv) Having limited~~
13 ~~pedestrian accessibility by use of a physical barrier, either on a~~
14 ~~permanent or temporary basis; and~~

15 (E) ~~With a prohibition on the carrying of open alcoholic liquor~~
16 ~~containers and the consumption of alcoholic liquor on any open street or~~
17 ~~highway except when necessary to cross the same at a designated crosswalk~~
18 ~~(v) Closed to vehicular traffic when used as a commons area.~~

19 (ii) Commons area may include any area of a public or private right-
20 of-way if the area otherwise meets the requirements of this section; and

21 (b) Local governing body means the governing body of the city or
22 village in which the entertainment district licensee is located.

23 **Sec. 5.** Section 53-129, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 53-129 (1) Except as otherwise provided in subsection (3) of this
26 section, retail, bottle club, craft brewery, and microdistillery licenses
27 issued under the Nebraska Liquor Control Act apply only to that part of
28 the premises described in the application approved by the commission and
29 in the license issued on the application. For retail and bottle club
30 licenses, only one location shall be described in each license. For craft
31 brewery and microdistillery licenses, up to eight ~~five~~ separate physical

1 locations may be described in each license.

2 (2) After such license has been granted for the particular premises,
3 the commission, with the approval of the local governing body and upon
4 proper showing, may endorse upon the license permission to add to, delete
5 from, or abandon the premises described in such license and, if
6 applicable, to move from the premises to other premises approved by the
7 local governing body. In order to obtain such approval, the retail,
8 bottle club, craft brewery, or microdistillery licensee shall file with
9 the local governing body a request in writing and a statement under oath
10 which shows that the premises, as added to or deleted from or to which
11 such move is to be made, comply in all respects with the requirements of
12 the act. No such addition, deletion, or move shall be made by any such
13 licensee until the license has been endorsed to that effect in writing by
14 the local governing body and by the commission and the licensee furnishes
15 proof of payment of the renewal fee prescribed in subsection (4) of
16 section 53-131.

17 (3)(a) A retail, bottle club, craft brewery, or microdistillery
18 licensee may apply to the local governing body for a temporary expansion
19 of its licensed premises to an immediately adjacent area owned or leased
20 by the licensee or to an immediately adjacent street, parking lot, or
21 alley, not to exceed fifty days for calendar year 2020 and, for each
22 calendar year thereafter, not to exceed fifteen days per calendar year.
23 The temporary area shall otherwise comply with all requirements of the
24 Nebraska Liquor Control Act.

25 (b) The licensee shall file an application with the local governing
26 body which shall contain (i) the name of the applicant, (ii) the premises
27 for which a temporary expansion is requested, identified by street and
28 number if practicable and, if not, by some other appropriate description
29 which definitely locates the premises, (iii) the name of the owner or
30 lessee of the premises for which the temporary expansion is requested,
31 (iv) sufficient evidence that the licensee will carry on the activities

1 and business authorized by the license for himself, herself, or itself
2 and not as the agent of any other person, group, organization, or
3 corporation, for profit or not for profit, (v) a statement of the type of
4 activity to be carried on during the time period for which a temporary
5 expansion is requested, and (vi) sufficient evidence that the temporary
6 expansion will be supervised by persons or managers who are agents of and
7 directly responsible to the licensee.

8 (c) No temporary expansion provided for by this subsection shall be
9 granted without the approval of the local governing body. The local
10 governing body may establish criteria for approving or denying a
11 temporary expansion. The local governing body may designate an agent to
12 determine whether a temporary expansion is to be approved or denied. Such
13 agent shall follow criteria established by the local governing body in
14 making the determination. The determination of the agent shall be
15 considered the determination of the local governing body unless otherwise
16 provided by the local governing body.

17 (d) For purposes of this section, the local governing body shall be
18 that of the city or village within which the premises for which the
19 temporary expansion is requested are located or, if such premises are not
20 within the corporate limits of a city or village, then the local
21 governing body shall be that of the county within which the premises for
22 which the temporary expansion is requested are located.

23 (e) The decision of the local governing body shall be final. If the
24 applicant does not qualify for a temporary expansion, the temporary
25 expansion shall be denied by the local governing body.

26 (f) The city, village, or county clerk shall deliver confirmation of
27 the temporary expansion to the licensee upon receipt of any fee or tax
28 imposed by such city, village, or county.

29 **Sec. 6.** If any section in this act or any part of any section is
30 declared invalid or unconstitutional, the declaration shall not affect
31 the validity or constitutionality of the remaining portions.

1 **Sec. 7.** Original section 53-123.17, Reissue Revised Statutes of
2 Nebraska, and sections 53-123.01, 53-123.14, 53-123.16, and 53-129,
3 Revised Statutes Cumulative Supplement, 2024, are repealed.