

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 456

Introduced by Lautenbaugh, 18.

Read first time January 22, 2013

Committee:

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 section 53-124, Reissue Revised Statutes of Nebraska, and
3 section 53-123.04, Revised Statutes Cumulative
4 Supplement, 2012; to provide for removal of containers of
5 draft beer from licensed premises as prescribed; to
6 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 53-123.04, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

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

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

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

1 (b) If the resealed bottle of wine is transported in a
2 motor vehicle, it must be placed in the trunk of the motor vehicle or
3 the area behind the last upright seat of such motor vehicle if the
4 area is not normally occupied by the driver or a passenger and the
5 motor vehicle is not equipped with a trunk.

6 (c) For purposes of this subsection, full-course meal
7 means a diversified selection of food which is ordinarily consumed
8 with the use of tableware and cannot conveniently be consumed while
9 standing or walking.

10 (4) A licensee holding a Class A or Class C license as
11 described in section 53-124 may permit a customer to remove one or
12 more containers of draft beer for consumption off the premises. The
13 licensee or his or her agent shall securely seal such containers and
14 each such container may not contain more than two gallons of draft
15 beer.

16 Sec. 2. Section 53-124, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 53-124 (1) At the time application is made to the
19 commission for a license of any type, the applicant shall pay the fee
20 provided in section 53-124.01 and, if the applicant is an individual,
21 provide the applicant's social security number. The commission shall
22 issue the types of licenses described in this section.

23 (2) There shall be an airline license, a boat license,
24 and a railroad license. The commission shall charge one dollar for
25 each duplicate of an airline license or a railroad license.

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

5 (i) 1 to 100 barrel daily capacity, or any part thereof,
6 tier one;

7 (ii) 100 to 150 barrel daily capacity, tier two;

8 (iii) 150 to 200 barrel daily capacity, tier three;

9 (iv) 200 to 300 barrel daily capacity, tier four;

10 (v) 300 to 400 barrel daily capacity, tier five;

11 (vi) 400 to 500 barrel daily capacity, tier six;

12 (vii) 500 barrel daily capacity, or more, tier seven.

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

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

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

23 (6)(a) There shall be five classes of retail licenses:

24 (i) Class A: Beer only, for consumption on the premises
25 except as provided in subsection (4) of section 53-123.04;

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

3 (iii) Class C: Alcoholic liquor, for consumption on the
4 premises and off the premises, sales in original packages only except
5 as provided in subsection (4) of section 53-123.04. If a Class C
6 license is held by a nonprofit corporation, it shall be restricted to
7 consumption on the premises only. A Class C license may have a
8 sampling designation restricting consumption on the premises to
9 sampling, but such designation shall not affect sales for consumption
10 off the premises under such license;

11 (iv) Class D: Alcoholic liquor, including beer, for
12 consumption off the premises, sales in the original packages only,
13 except as provided in subsection (2) of section 53-123.04; and

14 (v) Class I: Alcoholic liquor, for consumption on the
15 premises.

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

21 (7) There shall be three types of shipping licenses as
22 described in section 53-123.15: Manufacturers, vintage wines, and
23 direct sales.

24 (8) There shall be two types of wholesale licenses:
25 Alcoholic liquor and beer only. The annual fee shall be paid for the

1 first and each additional wholesale place of business operated in
2 this state by the same licensee and wholesaling the same product.

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

16 Sec. 3. Original section 53-124, Reissue Revised Statutes
17 of Nebraska, and section 53-123.04, Revised Statutes Cumulative
18 Supplement, 2012, are repealed.