

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 512

Introduced by Brewer, 43.

Read first time January 17, 2023

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 section 53-123.01, Reissue Revised Statutes of Nebraska, and
3 sections 53-123.14, 53-123.16, and 53-129, Revised Statutes
4 Cumulative Supplement, 2022; to change the number of locations
5 allowed for a craft brewery or microdistillery licensee; to
6 harmonize provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-123.01, Reissue Revised Statutes of Nebraska,
2 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 ten ~~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 ten
27 ~~five~~ locations. The licensee shall not begin operation at any new retail
28 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 Sec. 2. Section 53-123.14, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 53-123.14 (1) Any person who operates a craft brewery shall obtain a
6 license pursuant to the Nebraska Liquor Control Act. A license to operate
7 a craft brewery shall permit the production of a maximum of twenty
8 thousand barrels of beer per year in the aggregate from all physical
9 locations comprising the licensed premises. A craft brewery may also sell
10 to beer wholesalers for sale and distribution to licensed retailers. A
11 craft brewery license issued pursuant to this section shall be the only
12 license required by the Nebraska Liquor Control Act for the manufacture
13 and retail sale of beer for consumption on or off the licensed premises,
14 except that the sale of any beer other than beer manufactured by the
15 craft brewery licensee, wine, or alcoholic liquor by the drink for
16 consumption on the licensed premises shall require the appropriate retail
17 license. Any license held by the operator of a craft brewery shall be
18 subject to the act. A holder of a craft brewery license may obtain an
19 annual catering license pursuant to section 53-124.12, a special
20 designated license pursuant to section 53-124.11, an entertainment
21 district license pursuant to section 53-123.17, or a promotional farmers
22 market special designated license pursuant to section 53-124.16. For
23 purposes of this section, licensed premises may include up to ten ~~five~~
24 separate physical locations.

25 (2)(a) A holder of a craft brewery license may directly sell for
26 resale up to two hundred fifty barrels per calendar year of beer produced
27 at its licensed premises directly to retail licensees located in the
28 State of Nebraska which hold the appropriate retail license if the holder
29 of the craft brewery license:

30 (i) Only self-distributes its beer in a territory in which the craft
31 brewery licensee has not entered into a distribution agreement with a

1 licensed Nebraska wholesaler for the territory where such retail licensee
2 is located;

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

6 (iii) Complies with all relevant statutes, rules, and regulations
7 that apply to Nebraska beer wholesalers regarding distribution of such
8 beer.

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

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

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

23 Sec. 3. Section 53-123.16, Revised Statutes Cumulative Supplement,
24 2022, is amended to read:

25 53-123.16 Any person who operates a microdistillery shall obtain a
26 license pursuant to the Nebraska Liquor Control Act. A license to operate
27 a microdistillery shall permit the licensee to produce a maximum of one
28 hundred thousand gallons of liquor per year in the aggregate from all
29 physical locations comprising the licensed premises. For purposes of this
30 section, licensed premises may include up to ten ~~five~~ separate physical
31 locations. A microdistillery may also sell to licensed wholesalers for

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

21 Sec. 4. Section 53-129, Revised Statutes Cumulative Supplement,
22 2022, is amended to read:

23 53-129 (1) Except as otherwise provided in subsection (3) of this
24 section, retail, bottle club, craft brewery, and microdistillery licenses
25 issued under the Nebraska Liquor Control Act apply only to that part of
26 the premises described in the application approved by the commission and
27 in the license issued on the application. For retail and bottle club
28 licenses, only one location shall be described in each license. For craft
29 brewery and microdistillery licenses, up to ten ~~five~~ separate physical
30 locations may be described in each license.

31 (2) After such license has been granted for the particular premises,

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

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

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

1 corporation, for profit or not for profit, (v) a statement of the type of
2 activity to be carried on during the time period for which a temporary
3 expansion is requested, and (vi) sufficient evidence that the temporary
4 expansion will be supervised by persons or managers who are agents of and
5 directly responsible to the licensee.

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

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

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

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

27 Sec. 5. Original section 53-123.01, Reissue Revised Statutes of
28 Nebraska, and sections 53-123.14, 53-123.16, and 53-129, Revised Statutes
29 Cumulative Supplement, 2022, are repealed.