

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 330**

FINAL READING

Introduced by Larson, 40.

Read first time January 15, 2015

Committee: General Affairs

1 A BILL FOR AN ACT relating to alcoholic liquor; to amend sections  
2 53-117.07, 53-123.11, 53-130, 53-135, 53-167.02, 53-167.03,  
3 53-1,111, and 53-1,113, Reissue Revised Statutes of Nebraska, and  
4 sections 29-431, 53-101, 53-103, 53-103.03, 53-117, 53-123,  
5 53-123.15, 53-124, 53-124.01, 53-131, 53-133, and 53-177, Revised  
6 Statutes Cumulative Supplement, 2014; to define and redefine terms;  
7 to prohibit powdered alcohol as prescribed; to provide penalties; to  
8 provide for licensure and regulation of pedal-pub vehicles; to  
9 provide for manufacture, sale, and distribution of hard cider as  
10 prescribed, a limited bottling endorsement, and a nonrefundable tax  
11 credit for use of certain beer-related crops; to change and  
12 eliminate provisions relating to shipping licenses, application for  
13 and renewal of licenses, location of licensees, keg sales, and  
14 disposition of seized alcoholic liquor; to harmonize provisions; to  
15 provide operative dates; to provide severability; to repeal the  
16 original sections; and to declare an emergency.  
17 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-431, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 29-431 As used in sections 28-416, 29-422, 29-424, 29-425, 29-431 to  
4 29-434, and 48-1231 and section 8 of this act, unless the context  
5 otherwise requires, infraction means the violation of any law, ordinance,  
6 order, rule, or regulation, not including those related to traffic, which  
7 is not otherwise declared to be a misdemeanor or a felony. Infraction  
8 includes violations of section 60-6,267.

9 Sec. 2. Section 53-101, Revised Statutes Cumulative Supplement,  
10 2014, is amended to read:

11 53-101 Sections 53-101 to 53-1,122 and sections 5 to 8, 14, 15, and  
12 22 of this act shall be known and may be cited as the Nebraska Liquor  
13 Control Act.

14 Sec. 3. Section 53-103, Revised Statutes Cumulative Supplement,  
15 2014, is amended to read:

16 53-103 For purposes of the Nebraska Liquor Control Act, the  
17 definitions found in sections 53-103.01 to 53-103.43 and sections 5 to 7  
18 of this act apply.

19 Sec. 4. Section 53-103.03, Revised Statutes Cumulative Supplement,  
20 2014, is amended to read:

21 53-103.03 Beer means a beverage obtained by alcoholic fermentation  
22 of an infusion or concoction of barley or other grain, malt, and hops in  
23 water and includes, but is not limited to, beer, ale, stout, lager beer,  
24 porter, near beer, ~~and~~ flavored malt beverage, and hard cider.

25 Sec. 5. Hard cider means still wine (1)(a)(i) derived primarily  
26 from apples or apple concentrate and water such that apple juice, or the  
27 equivalent amount of concentrate reconstituted to the original brix of  
28 the juice prior to concentration, represents more than fifty percent of  
29 the volume of the finished product and (ii) containing no other fruit  
30 product nor any artificial product which imparts a fruit flavor other  
31 than apple or (b)(i) derived primarily from pears or pear concentrate and

1 water such that pear juice, or the equivalent amount of concentrate  
2 reconstituted to the original brix of the juice prior to concentration,  
3 represents more than fifty percent of the volume of the finished product  
4 and (ii) containing no other fruit product nor any artificial product  
5 which imparts a fruit flavor other than pear, (2) containing at least  
6 one-half of one percent and less than eight and one-half percent alcohol  
7 by volume, (3) having the taste, aroma, and characteristics generally  
8 attributed to hard cider, and (4) sold or offered for sale as hard cider.

9       Sec. 6. Pedal-pub vehicle means a multi-passenger, human-powered  
10 vehicle.

11       Sec. 7. Powdered alcohol means alcohol prepared in a powdered form  
12 for either direct use or consumption after the powder is combined with a  
13 liquid.

14       Sec. 8. (1) Except as otherwise provided in subsection (5) of this  
15 section, a person shall not purchase, sell, offer to sell, use, or  
16 possess with intent to sell powdered alcohol.

17       (2) A person holding a license under the Nebraska Liquor Control Act  
18 shall be subject to having the license suspended, canceled, or revoked  
19 pursuant to the act for a violation of this section.

20       (3) Any person, other than a person licensed under the act, who  
21 sells a powdered alcohol product shall be guilty of a Class I  
22 misdemeanor.

23       (4) Any person knowingly or intentionally possessing powdered  
24 alcohol shall:

25       (a) For the first offense, be guilty of an infraction, receive a  
26 citation, and be fined three hundred dollars;

27       (b) For the second offense, be guilty of a Class IV misdemeanor,  
28 receive a citation, and be fined four hundred dollars and may be  
29 imprisoned not to exceed five days; and

30       (c) For the third and all subsequent offenses, be guilty of a Class  
31 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and

1 be imprisoned not to exceed seven days.

2 (5) This section does not apply to a hospital that operates  
3 primarily for the purpose of conducting scientific research, a state  
4 institution conducting bona fide research, a private college or  
5 university conducting bona fide research, or a pharmaceutical company or  
6 biotechnology company conducting bona fide research.

7 Sec. 9. Section 53-117, Revised Statutes Cumulative Supplement,  
8 2014, is amended to read:

9 53-117 The commission has the following powers, functions, and  
10 duties:

11 (1) To receive applications for and to issue licenses to and  
12 suspend, cancel, and revoke licenses of manufacturers, wholesalers,  
13 nonbeverage users, retailers, railroads including owners and lessees of  
14 sleeping, dining, and cafe cars, airlines, ~~and~~ boats, and pedal-pub  
15 vehicles in accordance with the Nebraska Liquor Control Act;

16 (2) To fix by rules and regulations the standards of manufacture of  
17 alcoholic liquor not inconsistent with federal laws in order to insure  
18 the use of proper ingredients and methods in the manufacture and  
19 distribution thereof and to adopt and promulgate rules and regulations  
20 not inconsistent with federal laws for the proper labeling of containers,  
21 barrels, casks, or other bulk containers or of bottles of alcoholic  
22 liquor manufactured or sold in this state. The Legislature intends, by  
23 the grant of power to adopt and promulgate rules and regulations, that  
24 the commission have broad discretionary powers to govern the traffic in  
25 alcoholic liquor and to enforce strictly all provisions of the act in the  
26 interest of sanitation, purity of products, truthful representations, and  
27 honest dealings in a manner that generally will promote the public health  
28 and welfare. All such rules and regulations shall be absolutely binding  
29 upon all licensees and enforceable by the commission through the power of  
30 suspension or cancellation of licenses, except that all rules and  
31 regulations of the commission affecting a club possessing any form of

1 retail license shall have equal application to all such licenses or shall  
2 be void;

3 (3) To call upon other administrative departments of the state,  
4 county and municipal governments, county sheriffs, city police  
5 departments, village marshals, peace officers, and prosecuting officers  
6 for such information and assistance as the commission deems necessary in  
7 the performance of its duties. The commission shall enter into an  
8 agreement with the Nebraska State Patrol in which the Nebraska State  
9 Patrol shall hire six new patrol officers and, from the entire Nebraska  
10 State Patrol, shall designate a minimum of six patrol officers who will  
11 spend a majority of their time in administration and enforcement of the  
12 Nebraska Liquor Control Act;

13 (4) To recommend to local governing bodies rules and regulations not  
14 inconsistent with law for the distribution and sale of alcoholic liquor  
15 throughout the state;

16 (5) To inspect or cause to be inspected any premises where alcoholic  
17 liquor is manufactured, distributed, or sold and, when sold on unlicensed  
18 premises or on any premises in violation of law, to bring an action to  
19 enjoin the use of the property for such purpose;

20 (6) To hear and determine appeals from orders of a local governing  
21 body in accordance with the act;

22 (7) To conduct or cause to be conducted an audit to inspect any  
23 licensee's records and books;

24 (8) In the conduct of any hearing or audit authorized to be held by  
25 the commission (a) to examine or cause to be examined, under oath, any  
26 licensee and to examine or cause to be examined the books and records of  
27 such licensee, (b) to hear testimony and take proof material for its  
28 information in the discharge of its duties under the act, and (c) to  
29 administer or cause to be administered oaths;

30 (9) To investigate the administration of laws in relation to  
31 alcoholic liquor in this and other states and to recommend to the

1 Governor and through him or her to the Legislature amendments to the act;  
2 and

3 (10) To receive, account for, and remit to the State Treasurer state  
4 license fees and taxes provided for in the act.

5 Sec. 10. Section 53-117.07, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 53-117.07 All proceedings for the suspension, cancellation, or  
8 revocation of licenses of manufacturers, wholesalers, nonbeverage users,  
9 craft breweries, microdistilleries, railroads, airlines, shippers, ~~and~~  
10 boats, and pedal-pub vehicles shall be before the commission, and the  
11 proceedings shall be in accordance with rules and regulations adopted and  
12 promulgated by it not inconsistent with law. No such license shall be so  
13 suspended, canceled, or revoked except after a hearing by the commission  
14 with reasonable notice to the licensee and opportunity to appear and  
15 defend.

16 Sec. 11. Section 53-123, Revised Statutes Cumulative Supplement,  
17 2014, is amended to read:

18 53-123 Licenses issued by the commission shall be of the following  
19 types: (1) Manufacturer's license; (2) alcoholic liquor wholesale  
20 license, except beer; (3) beer wholesale license; (4) retail license; (5)  
21 railroad license; (6) airline license; (7) boat license; (8) nonbeverage  
22 user's license; (9) farm winery license; (10) craft brewery license; (11)  
23 shipping license; (12) special designated license; (13) catering license;  
24 (14) microdistillery license; ~~and~~ (15) entertainment district license;  
25 and (16) pedal-pub vehicle license.

26 Sec. 12. Section 53-123.11, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 53-123.11 (1) A farm winery license shall entitle the holder to:

29 (a) Sell wines produced at the farm winery onsite at wholesale and  
30 retail and to sell wines produced at the farm winery at off-premises  
31 sites holding the appropriate retail license;

1 (b) Sell wines produced at the farm winery at retail for consumption  
2 on the premises;

3 (c)(i) Permit a customer to remove one unsealed bottle of wine for  
4 consumption off the premises. The licensee or his or her agent shall (A)  
5 securely reseal such bottle and place the bottle in a bag designed so  
6 that it is visibly apparent that the resealed bottle of wine has not been  
7 opened or tampered with and (B) provide a dated receipt to the customer  
8 and attach to such bag a copy of the dated receipt for the resealed  
9 bottle of wine.

10 (ii) If the resealed bottle of wine is transported in a motor  
11 vehicle, it must be placed in the trunk of the motor vehicle or the area  
12 behind the last upright seat of such motor vehicle if the area is not  
13 normally occupied by the driver or a passenger and the motor vehicle is  
14 not equipped with a trunk;

15 (d) Ship wines produced at the farm winery by common carrier and  
16 sold at retail to recipients in and outside the State of Nebraska, if the  
17 output of such farm winery for each calendar year as reported to the  
18 commission by December 31 of each year does not exceed thirty thousand  
19 gallons. In the event such amount exceeds thirty thousand gallons, the  
20 farm winery shall be required to use a licensed wholesaler to distribute  
21 its wines for the following calendar year, except that this requirement  
22 shall not apply to wines produced and sold onsite at the farm winery  
23 pursuant to subdivision (1)(a) of this section;

24 (e) Allow sampling of the wine at the farm winery and at one branch  
25 outlet in the state in reasonable amounts;

26 (f) Sell wines produced at the farm winery to other Nebraska farm  
27 winery licensees, in bulk, bottled, labeled, or unlabeled, in accordance  
28 with 27 C.F.R. 24.308, 27 C.F.R. 24.309, and 27 C.F.R. 24.314, as such  
29 regulations existed on January 1, 2008;

30 (g) Purchase distilled spirits from licensed microdistilleries in  
31 Nebraska, in bulk or bottled, made entirely from Nebraska-licensed farm

1 winery wine to be used in the production of fortified wine at the  
2 purchasing licensed farm winery; and

3 (h) Store and warehouse products produced at the farm winery in a  
4 designated, secure, offsite storage facility if the holder of the farm  
5 winery license notifies the commission of the location of the facility  
6 and maintains, at the farm winery and at the facility, a separate  
7 perpetual inventory of the product stored at the facility. Consumption of  
8 alcoholic liquor at the facility is strictly prohibited.

9 (2) No farm winery shall manufacture wine in excess of fifty  
10 thousand gallons per year.

11 (3) A farm winery may manufacture and sell hard cider on its  
12 licensed premises. A farm winery shall not otherwise distribute the hard  
13 cider it manufactures except by sale to a wholesaler licensed under the  
14 Nebraska Liquor Control Act.

15 (4 3) A holder of a farm winery license may obtain a special  
16 designated license pursuant to section 53-124.11.

17 (5 4) A holder of a farm winery license may obtain an annual  
18 catering license pursuant to section 53-124.12.

19 Sec. 13. Section 53-123.15, Revised Statutes Cumulative Supplement,  
20 2014, is amended to read:

21 53-123.15 (1) No person shall order or receive alcoholic liquor in  
22 this state which has been shipped directly to him or her from outside  
23 this state by any person other than a holder of a shipping license issued  
24 by the commission, except that a licensed wholesaler may receive not more  
25 than three gallons of wine in any calendar year from any person who is  
26 not a holder of a shipping license.

27 (2) The commission may issue a shipping license to a manufacturer.  
28 Such license shall allow the licensee to ship alcoholic liquor only to a  
29 licensed wholesaler, ~~except that a licensed wholesaler may, without a~~  
30 ~~shipping license and for the purposes of subdivision (2) of section~~  
31 ~~53-161, receive beer in this state which has been shipped from outside~~

1 ~~the state by a manufacturer in accordance with the Nebraska Liquor~~  
2 ~~Control Act to the wholesaler, then transported by the wholesaler to~~  
3 ~~another state for retail distribution, and then returned by the retailer~~  
4 ~~to such wholesaler.~~ A person who receives a license pursuant to this  
5 subsection shall pay the fee required in sections 53-124 and 53-124.01  
6 for a manufacturer's shipping license. Such fee shall be collected by the  
7 commission and be remitted to the State Treasurer for credit to the  
8 General Fund.

9 (3) The commission may issue a shipping license to any person who  
10 deals with vintage wines, which shipping license shall allow the licensee  
11 to distribute such wines to a licensed wholesaler in the state. For  
12 purposes of distributing vintage wines, a licensed shipper must utilize a  
13 designated wholesaler if the manufacturer has a designated wholesaler.  
14 For purposes of this section, vintage wine shall mean a wine verified to  
15 be ten years of age or older and not available from a primary American  
16 source of supply. A person who receives a license pursuant to this  
17 subsection shall pay the fee required in sections 53-124 and 53-124.01  
18 for a vintage wine dealer's shipping license. Such fee shall be collected  
19 by the commission and be remitted to the State Treasurer for credit to  
20 the General Fund.

21 (4) The commission may issue a shipping license to any manufacturer  
22 who sells and ships alcoholic liquor from another state directly to a  
23 consumer in this state if the manufacturer satisfies the requirements of  
24 subsections (7) through (9) of this section. A manufacturer who receives  
25 a license pursuant to this subsection shall pay the fee required in  
26 sections 53-124 and 53-124.01 for a manufacture direct sales shipping  
27 license. Such fee shall be collected by the commission and remitted to  
28 the State Treasurer for credit to the Winery and Grape Producers  
29 Promotional Fund.

30 (5) The commission may issue a shipping license to any retailer who  
31 is licensed within or outside Nebraska, who is authorized to sell

1 alcoholic liquor at retail in the state of domicile of the retailer, and  
2 who is not a manufacturer if such retailer satisfies the requirements of  
3 subsections (7) through (9) of this section to ship alcoholic liquor from  
4 another state directly to a consumer in this state. A retailer who  
5 receives a license pursuant to this subsection shall pay the fee required  
6 in sections 53-124 and 53-124.01 for a retail direct sales shipping  
7 license. Such fee shall be collected by the commission and remitted to  
8 the State Treasurer for credit to the Winery and Grape Producers  
9 Promotional Fund.

10 (6) The application for a shipping license under subsection (2) or  
11 (3) of this section shall be in such form as the commission prescribes.  
12 The application shall contain all provisions the commission deems proper  
13 and necessary to effectuate the purpose of any section of the act and the  
14 rules and regulations of the commission that apply to manufacturers and  
15 shall include, but not be limited to, provisions that the applicant, in  
16 consideration of the issuance of such shipping license, agrees:

17 (a) To comply with and be bound by sections 53-162 and 53-164.01 in  
18 making and filing reports, paying taxes, penalties, and interest, and  
19 keeping records;

20 (b) To permit and be subject to all of the powers granted by section  
21 53-164.01 to the commission or its duly authorized employees or agents  
22 for inspection and examination of the applicant's premises and records  
23 and to pay the actual expenses, excluding salary, reasonably attributable  
24 to such inspections and examinations made by duly authorized employees of  
25 the commission if within the United States; and

26 (c) That if the applicant violates any of the provisions of the  
27 application or the license, any section of the act, or any of the rules  
28 and regulations of the commission that apply to manufacturers, the  
29 commission may suspend, cancel, or revoke such shipping license for such  
30 period of time as it may determine.

31 (7) The application for a shipping license under subsection (4) or

1 (5) of this section shall be in such form as the commission prescribes.  
2 The application shall require an applicant which is a manufacturer, a  
3 craft brewery, a craft distillery, or a farm winery to identify the  
4 brands of alcoholic liquor that the applicant is requesting the authority  
5 to ship either into or within Nebraska. For all applicants, unless  
6 otherwise provided in this section, the application shall contain all  
7 provisions the commission deems proper and necessary to effectuate the  
8 purpose of any section of the act and the rules and regulations of the  
9 commission that apply to manufacturers or retailers and shall include,  
10 but not be limited to, provisions that the applicant, in consideration of  
11 the issuance of such shipping license, agrees:

12 (a) To comply with and be bound by sections 53-162 and 53-164.01 in  
13 making and filing reports, paying taxes, penalties, and interest, and  
14 keeping records;

15 (b) To permit and be subject to all of the powers granted by section  
16 53-164.01 to the commission or its duly authorized employees or agents  
17 for inspection and examination of the applicant's premises and records  
18 and to pay the actual expenses, excluding salary, reasonably attributable  
19 to such inspections and examinations made by duly authorized employees of  
20 the commission if within the United States;

21 (c) That if the applicant violates any of the provisions of the  
22 application or the license, any section of the act, or any of the rules  
23 and regulations of the commission that apply to manufacturers or  
24 retailers, the commission may suspend, cancel, or revoke such shipping  
25 license for such period of time as it may determine;

26 (d) That the applicant agrees to notify the commission of any  
27 violations in the state in which he or she is domiciled and any  
28 violations of the direct shipping laws of any other states. Failure to  
29 notify the commission within thirty days after such a violation may  
30 result in a hearing before the commission pursuant to which the license  
31 may be suspended, canceled, or revoked; and

1 (e) That the applicant, if a manufacturer, craft brewery, craft  
2 distillery, or farm winery, agrees to notify any wholesaler licensed in  
3 Nebraska that has been authorized to distribute such brands that the  
4 application has been filed for a shipping license. The notice shall be in  
5 writing and in a form prescribed by the commission. The commission may  
6 adopt and promulgate rules and regulations as it reasonably deems  
7 necessary to implement this subdivision, including rules and regulations  
8 that permit the holder of a shipping license under this subdivision to  
9 amend the shipping license by, among other things, adding or deleting any  
10 brands of alcoholic liquor identified in the shipping license.

11 (8) Any manufacturer or retailer who is granted a shipping license  
12 under subsection (4) or (5) of this section shall:

13 (a) Only ship the brands of alcoholic liquor identified on the  
14 application;

15 (b) Only ship alcoholic liquor that is owned by the holder of the  
16 shipping license;

17 (c) Only ship alcoholic liquor that is properly registered with the  
18 Alcohol and Tobacco Tax and Trade Bureau of the United States Department  
19 of the Treasury;

20 (d) Not ship any alcoholic liquor products that the manufacturers or  
21 wholesalers licensed in Nebraska have voluntarily agreed not to bring  
22 into Nebraska at the request of the commission;

23 (e) Not ship more than nine liters of alcoholic liquor per month to  
24 any person in Nebraska to whom alcoholic beverages may be lawfully sold.  
25 All such sales and shipments shall be for personal consumption only and  
26 not for resale; and

27 (f) Cause the direct shipment of alcoholic liquor to be by approved  
28 common carrier only. The commission shall adopt and promulgate rules and  
29 regulations pursuant to which common carriers may apply for approval to  
30 provide common carriage of alcoholic liquor shipped by a holder of a  
31 shipping license issued pursuant to subsection (4) or (5) of this

1 section. The rules and regulations shall include provisions that require  
2 (i) the recipient to demonstrate, upon delivery, that he or she is at  
3 least twenty-one years of age, (ii) the recipient to sign an electronic  
4 or paper form or other acknowledgement of receipt as approved by the  
5 commission, and (iii) the commission-approved common carrier to submit to  
6 the commission such information as the commission may prescribe. The  
7 commission-approved common carrier shall refuse delivery when the  
8 proposed recipient appears to be under the age of twenty-one years and  
9 refuses to present valid identification. All holders of shipping licenses  
10 shipping alcoholic liquor pursuant to this subdivision shall affix a  
11 conspicuous notice in sixteen-point type or larger to the outside of each  
12 package of alcoholic liquor shipped within or into the State of Nebraska,  
13 in a conspicuous location, stating: CONTAINS ALCOHOLIC BEVERAGES;  
14 SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY. Any  
15 delivery of alcoholic beverages to a minor by a common carrier shall  
16 constitute a violation by the common carrier. The common carrier and the  
17 holder of the shipping license shall be liable only for their independent  
18 acts.

19 (9) For purposes of sections 53-160, 77-2703, and 77-27,142, each  
20 shipment of alcoholic liquor by the holder of a shipping license under  
21 subsection (3), (4), or (5) of this section shall constitute a sale in  
22 Nebraska by establishing a nexus in the state. The holder of the shipping  
23 license shall collect all the taxes due to the State of Nebraska and any  
24 political subdivision and remit any excise taxes monthly to the  
25 commission and any sales taxes to the Department of Revenue.

26 (10) By July 1, 2014, the commission shall report to the General  
27 Affairs Committee of the Legislature the number of shipping licenses  
28 issued for license years 2013-14 and 2014-15. The report shall be made  
29 electronically.

30 Sec. 14. (1) The holder of a Class C license may obtain a limited  
31 bottling endorsement for such license as prescribed in this section. The

1 endorsement shall be issued for the same period and may be renewed in the  
2 same manner as the Class C license. A limited bottling endorsement may  
3 not be used in conjunction with a special designated license.

4 (2) A licensee desiring to obtain a limited bottling endorsement for  
5 a license shall file with the commission an application upon such forms  
6 as the commission prescribes and a fee of three hundred dollars payable  
7 to the commission.

8 (3) The holder of a limited bottling endorsement may sell beer for  
9 consumption off the licensed premises in sealed containers filled as  
10 provided in this subsection if:

11 (a) The sale occurs on the licensed premises of the licensee during  
12 the hours the licensee is authorized to sell beer;

13 (b) The licensee uses sanitary containers purchased by the customer  
14 from the licensee or exchanged for containers previously purchased by the  
15 customer from the licensee. The containers shall prominently display the  
16 endorsement holder's trade name or logo or some other mark that is unique  
17 to the endorsement holder and shall hold no more than thirty-two ounces;

18 (c) The licensee seals the container in a manner designed so that it  
19 is visibly apparent whether the sealed container has been tampered with  
20 or opened or seals the container and places the container in a bag  
21 designed so that it is visibly apparent whether the sealed container has  
22 been tampered with or opened; and

23 (d) The licensee provides a dated receipt to the customer and  
24 attaches a copy of the dated receipt to the sealed container or, if the  
25 sealed container is placed in a bag, to the bag.

26 Sec. 15. (1) The commission may issue a license to a person to  
27 operate a pedal-pub vehicle in this state. Each pedal-pub vehicle license  
28 shall expire on April 30 of each year. Each license shall be good  
29 throughout this state as a state license. Only one license shall be  
30 required for all pedal-pub vehicles operated in this state by the same  
31 owner. Each owner shall keep a duplicate of such license posted in each

1 pedal-pub vehicle where alcoholic liquor is sold or consumed. No further  
2 license shall be required or tax levied by any county, city, or village  
3 for the privilege of operating a pedal-pub vehicle for the purpose of  
4 selling and allowing the consumption of alcoholic liquor while on or in a  
5 pedal-pub vehicle.

6 (2) The holder of a pedal-pub vehicle license may sell alcoholic  
7 liquor in individual drinks to customers who are twenty-one years of age  
8 or older to consume while they are on or in the pedal-pub vehicle and may  
9 allow such customers to consume alcoholic liquor not purchased from the  
10 licensee while the customers are on or in the pedal-pub vehicle. The  
11 licensee shall serve alcoholic liquor in opaque plastic containers that  
12 prominently display the licensee's trade name or logo or some other mark  
13 that is unique to the licensee under the licensee's pedal-pub vehicle  
14 license and shall require the use of such containers for the consumption  
15 of alcoholic liquor not purchased from the licensee.

16 (3) No customer shall take any open container of alcoholic liquor  
17 from the pedal-pub vehicle or consume the alcoholic liquor after leaving  
18 the pedal-pub vehicle. A customer may take unopened containers of  
19 alcoholic liquor not purchased from the licensee from the pedal-pub  
20 vehicle.

21 (4) The licensee shall not allow open containers of alcoholic liquor  
22 to leave the pedal-pub vehicle. The licensee shall be responsible for  
23 picking up and disposing of any litter or other waste or any personal  
24 property that originates from the pedal-pub vehicle and lands on public  
25 or private property.

26 Sec. 16. Section 53-124, Revised Statutes Cumulative Supplement,  
27 2014, is amended to read:

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

1 described in this section.

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

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

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

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

10 (b) All applicable license fees shall be paid by the applicant or  
11 licensee directly to the city or village treasurer in the case of  
12 premises located inside the corporate limits of a city or village and  
13 directly to the county treasurer in the case of premises located outside  
14 the corporate limits of a city or village.

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

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

22 (9) The license year, unless otherwise provided in the Nebraska  
23 Liquor Control Act, shall commence on May 1 of each year and shall end on  
24 the following April 30, except that the license year for a Class C  
25 license shall commence on November 1 of each year and shall end on the  
26 following October 31. During the license year, no license shall be issued  
27 for a sum less than the amount of the annual license fee as fixed in  
28 section 53-124.01, regardless of the time when the application for such  
29 license has been made, except that (a) when there is a purchase of an  
30 existing licensed business and a new license of the same class is issued  
31 or (b) upon the issuance of a new license for a location which has not

1 been previously licensed, the license fee and occupation taxes shall be  
2 prorated on a quarterly basis as of the date of issuance.

3 Sec. 17. Section 53-124.01, Revised Statutes Cumulative Supplement,  
4 2014, is amended to read:

5 53-124.01 (1) The fees for annual licenses finally issued by the  
6 commission shall be as provided in this section and section 53-124.

7 (2) Airline license ... \$100

8 (3) Boat license ... \$50

9 (4) Manufacturer's license:

10 Class	Fee - In Dollars
11 Alcohol and spirits	1,000
12 Beer - tier one	100
13 Beer - tier two	200
14 Beer - tier three	350
15 Beer - tier four	500
16 Beer - tier five	650
17 Beer - tier six	700
18 Beer - tier seven	800
19 Wine	250

20 (5) Nonbeverage user's license:

21 Class	Fee - In Dollars
22 Class 1	5
23 Class 2	25
24 Class 3	50
25 Class 4	100
26 Class 5	250

27 (6) Operator's license:

28 Class	Fee - In Dollars
29 Craft brewery	250
30 Farm winery	250

1	Microdistillery	250
2	<u>(7) Pedal-pub vehicle license ... \$50</u>	
3	<u>(8 7) Railroad license ... \$100</u>	
4	<u>(9 8) Retail license:</u>	
5	Class	Fee - In Dollars
6	Class A	100
7	Class B	100
8	Class C	300
9	Class D	200
10	Class I	250
11	<u>(10 9) Shipping license:</u>	
12	Class	Fee - In Dollars
13	Manufacturer	1,000
14	Vintage wines	1,000
15	Manufacture direct sales	500
16	Retail direct sales	500
17	<u>(11 10) Wholesale license:</u>	
18	Class	Fee - In Dollars
19	Alcoholic liquor	750
20	Beer	500
21	Sec. 18. Section 53-130, Reissue Revised Statutes of Nebraska, is	
22	amended to read:	
23	53-130 (1) New licenses to manufacturers, wholesalers, railroads,	
24	airlines, boats, <u>pedal-pub vehicles,</u> and nonbeverage users of alcoholic	
25	liquor may be issued by the commission upon (a) written application in	
26	duplicate filed in the manner and on such forms as the commission	
27	prescribes and in which the applicant for a beer wholesale license sets	
28	forth the sales territory in Nebraska in which it is authorized by a	
29	manufacturer or manufacturers to sell their brand or brands and the name	
30	of such brand or brands, (b) receipt of bond, (c) payment in advance of	

1 the nonrefundable application fee of forty-five dollars and the license  
2 fee, and (d) such notice and hearing as the commission fixes by its own  
3 order.

4 (2) A notice of such application shall be served upon the  
5 manufacturer or manufacturers listed in any application for a beer  
6 wholesale license and upon any existing wholesaler licensed to sell the  
7 brand or brands in the described sales territory.

8 (3) A license so issued may be renewed without formal application  
9 upon payment of license fees and a renewal fee of forty-five dollars  
10 prior to or within thirty days after the expiration of the license. The  
11 payment of such fees shall be an affirmative representation and  
12 certification by the licensee that all answers contained in an  
13 application, if submitted, would be the same in all material respects as  
14 the answers contained in the last previous application. The commission  
15 may at any time require a licensee to submit an application.

16 Sec. 19. Section 53-131, Revised Statutes Cumulative Supplement,  
17 2014, is amended to read:

18 53-131 (1) Any person desiring to obtain a new license to sell  
19 alcoholic liquor at retail, a craft brewery license, or a microdistillery  
20 license shall file with the commission:

21 (a) An application ~~in triplicate original~~ upon forms the commission  
22 prescribes, including the information required by subsection (3) of this  
23 section for an application to operate a cigar bar;

24 (b) The license fee if under sections 53-124 and 53-124.01 such fee  
25 is payable to the commission, which fee shall be returned to the  
26 applicant if the application is denied; and

27 (c) The nonrefundable application fee in the sum of four hundred  
28 dollars, except that the nonrefundable application fee for an application  
29 for a cigar bar shall be one thousand dollars.

30 (2) The commission shall notify the clerk of the city or village in  
31 which such license is sought or, if the license sought is not sought

1 within a city or village, the county clerk of the county in which such  
2 license is sought, of the receipt of the application and shall include  
3 one copy of the application with the notice. No such license shall be  
4 issued or denied by the commission until the expiration of the time  
5 allowed for the receipt of a recommendation of denial or an objection  
6 requiring a hearing under subdivision (1)(a) or (b) of section 53-133.  
7 During the period of forty-five days after the date of receipt by mail or  
8 electronic delivery of such application from the commission, the local  
9 governing body of such city, village, or county may make and submit to  
10 the commission recommendations relative to the granting or refusal to  
11 grant such license to the applicant.

12 (3) For an application to operate a cigar bar, the application shall  
13 include proof of the cigar bar's annual gross revenue as requested by the  
14 commission and such other information as requested by the commission to  
15 establish the intent to operate as a cigar bar. The commission may adopt  
16 and promulgate rules and regulations to regulate cigar bars.

17 (4) For renewal of a license under this section, a licensee shall  
18 file with the commission an application, the license fee as provided in  
19 subdivision (1)(b) of this section, and a renewal fee of forty-five  
20 dollars.

21 Sec. 20. Section 53-133, Revised Statutes Cumulative Supplement,  
22 2014, is amended to read:

23 53-133 (1) The commission shall set for hearing before it any  
24 application for a retail license, craft brewery license, or  
25 microdistillery license relative to which it has received:

26 (a) Within forty-five days after the date of receipt of such  
27 application by the city, village, or county clerk, a recommendation of  
28 denial from the city, village, or county;

29 (b) Within ten days after the receipt of a recommendation from the  
30 city, village, or county, or, if no recommendation is received, within  
31 forty-five days after the date of receipt of such application by the

1 city, village, or county clerk, objections in writing by not less than  
2 three persons residing within such city, village, or county, protesting  
3 the issuance of the license. Withdrawal of the protest does not prohibit  
4 the commission from conducting a hearing based upon the protest as  
5 originally filed and making an independent finding as to whether the  
6 license should or should not be issued;

7 (c) Within forty-five days after the date of receipt of such  
8 application by the city, village, or county clerk, objections by the  
9 commission or any duly appointed employee of the commission, protesting  
10 the issuance of the license; or

11 (d) An indication on the application that the location of a proposed  
12 retail establishment is within one hundred fifty feet of a church as  
13 described in subsection (2) of section 53-177 and a written request by  
14 the church for a hearing.

15 (2) Hearings upon such applications shall be in the following  
16 manner: Notice indicating the time and place of such hearing shall be  
17 mailed or electronically delivered to the applicant, the local governing  
18 body, each individual protesting a license pursuant to subdivision (1)(b)  
19 of this section, and any church affected as described in subdivision (1)  
20 (d) of this section, at least fifteen days prior to such hearing. The  
21 notice shall state that the commission will receive evidence for the  
22 purpose of determining whether to approve or deny the application.  
23 Mailing or electronic delivery to the attorney of record of a party shall  
24 be deemed to fulfill the purposes of this section. The commission may  
25 receive evidence, including testimony and documentary evidence, and may  
26 hear and question witnesses concerning the application. The commission  
27 shall not use electronic delivery with respect to an applicant, a  
28 protestor, or a church under this section without the consent of the  
29 recipient to electronic delivery.

30 Sec. 21. Section 53-135, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           53-135 A retail license issued by the commission and outstanding may  
2 be automatically renewed by the commission without formal application  
3 upon payment of the renewal fee and license fee if payable to the  
4 commission prior to or within thirty days after the expiration of the  
5 license. The payment shall be an affirmative representation and  
6 certification by the licensee that all answers contained in an  
7 application, if submitted, would be the same in all material respects as  
8 the answers contained in the last previous application. The commission  
9 may at any time require a licensee to submit an application, and the  
10 commission shall at any time require a licensee to submit an application  
11 if requested in writing to do so by the local governing body.

12           If a licensee files an application form in triplicate original upon  
13 seeking renewal of his or her license, the application shall be processed  
14 as set forth in section 53-131.

15           Any licensed retail premises located in an area which is annexed to  
16 any governmental subdivision shall file a formal application for a  
17 license, and while such application is pending, the licensee may continue  
18 all license privileges until the original license expires or is canceled  
19 or revoked. If such license expires within sixty days following the  
20 annexation date of such area, the license may be renewed by order of the  
21 commission for not more than one year.

22           Sec. 22. (1) The Legislature finds that encouraging manufacturers  
23 of beer to use beer-related crops grown in this state in their  
24 manufacturing operations stimulates the creation of jobs and investments  
25 in small communities in this state, encourages the use of lands upon  
26 which beer-related crops may be grown, and provides tax revenue to the  
27 state which would not otherwise be realized. It is the intent of the  
28 Legislature to encourage the use of such beer-related crops by providing  
29 a nonrefundable tax credit as provided in this section.

30           (2) For purposes of this section, beer-related crop means barley or  
31 hops.

1       (3) A nonrefundable credit against the tax imposed in section 53-160  
2 shall be allowed to any manufacturer of beer if at least ten percent of  
3 the beer-related crops used by such manufacturer in the previous calendar  
4 year were grown in this state. The credit shall be an amount equal to the  
5 percentage specified in subsection (4) of this section multiplied by the  
6 total amount of tax paid under section 53-160 in the previous calendar  
7 year on the first twenty thousand barrels of beer sold by such  
8 manufacturer.

9       (4) The percentage used to determine the credit shall be as follows:

10       (a) If at least ten percent but less than forty percent of the beer-  
11 related crops used by the manufacturer in the previous calendar year were  
12 grown in this state, the percentage used to determine the credit shall be  
13 fifteen percent;

14       (b) If at least forty percent but less than seventy percent of the  
15 beer-related crops used by the manufacturer in the previous calendar year  
16 were grown in this state, the percentage used to determine the credit  
17 shall be twenty-five percent; and

18       (c) If at least seventy percent of the beer-related crops used by  
19 the manufacturer in the previous calendar year were grown in this state,  
20 the percentage used to determine the credit shall be thirty-five percent.

21       (5) A manufacturer of beer shall apply for the credit to the  
22 commission on a form prescribed by the commission. The application shall  
23 be submitted on or before January 25 of each year and shall contain the  
24 following information:

25       (a) The name of the manufacturer;

26       (b) The total number of barrels of beer sold and the total amount of  
27 tax paid under section 53-160 during the previous calendar year;

28       (c) The percentage of beer-related crops used by the manufacturer in  
29 the previous calendar year that were grown in this state; and

30       (d) Such other information as required by the commission to verify  
31 that the manufacturer is qualified to receive the credit allowed under

1 this section and to calculate the amount of the credit.

2 (6) If the manufacturer of beer qualifies for the credit, the  
3 commission shall approve the application and notify the manufacturer of  
4 the amount of the credit approved. The manufacturer may then claim the  
5 credit on the reports due each month under section 53-164.01 as an offset  
6 against the taxes due pursuant to such reports until the credit is fully  
7 utilized or until the following December 31, whichever occurs first.

8 Sec. 23. Section 53-167.02, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 53-167.02 (1) When any person licensed to sell alcoholic liquor at  
11 retail sells alcohol beer for consumption off the premises in a container  
12 with a liquid capacity of five or more gallons or eighteen and ninety-two  
13 hundredths or more liters, the seller shall record the date of the sale,  
14 the keg identification number, the purchaser's name and address, and the  
15 number of the purchaser's motor vehicle operator's license, state  
16 identification card, or military identification, if such military  
17 identification contains a picture of the purchaser, together with the  
18 purchaser's signature. Such record shall be on a form prescribed by the  
19 commission and shall be kept by the licensee at the retail establishment  
20 where the purchase was made for not less than six months.

21 (2) The commission shall adopt and promulgate rules and regulations  
22 which require the licensee to place a label on the alcohol beer  
23 container, which label shall at least contain a keg identification number  
24 and shall be on a form prescribed by the commission. Such label shall be  
25 placed on the keg at the time of retail sale. The licensee shall purchase  
26 the forms referred to in this section from the commission. The cost  
27 incurred to produce and distribute such forms shall be reasonable and  
28 shall not exceed the reasonable and necessary costs of producing and  
29 distributing the forms. Any money collected by the commission relating to  
30 the sale of such forms shall be credited to the Nebraska Liquor Control  
31 Commission Rule and Regulation Cash Fund.

1           (3) The keg identification number for each container shall be  
2 registered with the commission. The records kept pursuant to this section  
3 shall be available for inspection by any law enforcement officer during  
4 normal business hours or at any other reasonable time. Any person  
5 violating this section shall, upon conviction, be guilty of a Class III  
6 misdemeanor.

7           Sec. 24. Section 53-167.03, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9           53-167.03 (1) Any person who unlawfully tampers with, alters, or  
10 removes the keg identification number from a ~~beer~~ container described in  
11 section 53-167.02 or is in possession of a ~~beer~~ container described in  
12 section 53-167.02 with an altered or removed keg identification number  
13 after such container has been taken from the licensed premises pursuant  
14 to a retail sale and before its return to such licensed premises or other  
15 place where returned kegs are accepted shall be guilty of a Class III  
16 misdemeanor.

17           (2) A licensee may require a deposit of not more than the  
18 replacement cost of the container described in section 53-167.02 from a  
19 person purchasing alcohol ~~beer~~ for consumption off the premises. Such  
20 deposit may be retained by the licensee, in the amount of actual damages,  
21 if upon return the container or any associated equipment is damaged or if  
22 the keg identification number has been unlawfully tampered with, altered,  
23 or removed and such tampering, alteration, or removal has been reported  
24 to a law enforcement officer.

25           Sec. 25. Section 53-177, Revised Statutes Cumulative Supplement,  
26 2014, is amended to read:

27           53-177 (1) Except as otherwise provided in subsection (2) of this  
28 section, no license shall be issued for the sale at retail of any  
29 alcoholic liquor within one hundred fifty feet of any church, school,  
30 hospital, or home for ~~aged or indigent~~ persons or for veterans, and their  
31 wives or children. This prohibition does not apply (a) to any location

1 within such distance of one hundred fifty feet for which a license to  
2 sell alcoholic liquor at retail has been granted by the commission for  
3 two years continuously prior to making of application for license, (b) to  
4 hotels offering restaurant service, to regularly organized clubs, or to  
5 restaurants, food shops, or other places where sale of alcoholic liquor  
6 is not the principal business carried on, if such place of business so  
7 exempted was established for such purposes prior to May 24, 1935, or (c)  
8 to a college or university in the state which is subject to section  
9 53-177.01.

10 (2) If a proposed location for the sale at retail of any alcoholic  
11 liquor is within one hundred fifty feet of any church, a license may be  
12 issued if the commission gives notice to the affected church and holds a  
13 hearing as prescribed in section 53-133 if the affected church submits a  
14 written request for a hearing.

15 Sec. 26. Section 53-1,111, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 53-1,111 Upon the issuance of any search warrant pursuant to section  
18 53-1,108, it shall be the duty of the officers executing the same to  
19 enter the house, building, premises, boat, vehicle, receptacle, or other  
20 place described, either in the daytime or nighttime, by force if  
21 necessary and to remove and confiscate any alcoholic liquor manufactured,  
22 possessed, or kept for sale contrary to the terms of the Nebraska Liquor  
23 Control Act and any machinery, equipment, or material used in connection  
24 therewith and to hold such property until all prosecution arising out of  
25 such search and seizure shall have ended and determined. It shall be the  
26 duty of the officers executing such search warrant to arrest any person  
27 or persons found using or in possession or control of such alcoholic  
28 liquor, articles, or things. All alcoholic liquor unlawfully  
29 manufactured, stored, kept, sold, or otherwise disposed of, and the  
30 containers thereof, and all equipment used or fit for use in the  
31 manufacture or production of the same which are found at or about any

1 still or outfit for the unlawful manufacture of alcoholic liquor on  
2 unlicensed premises are hereby declared contraband, and no right of  
3 property shall be or exist in any person owning, furnishing, or  
4 possessing any such property, liquor, material, or equipment, but all  
5 such property, articles, and things, including alcoholic liquor, shall be  
6 sold upon an order of the court as in the manner hereinafter provided in  
7 section 53-1,113, and the proceeds thereof shall be disposed of in the  
8 manner provided for the disposition of license money under the  
9 Constitution of Nebraska.

10 Sec. 27. Section 53-1,113, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 53-1,113 (1) It shall be the duty of the officer who has seized and  
13 is holding any of the property mentioned in section 53-1,111 to make  
14 application to the court on final determination of any prosecution  
15 arising under such search and seizure, and in which such prosecution has  
16 been commenced or prosecuted, for an order to sell such property. The  
17 court, if satisfied that the property so seized and held was at the time  
18 of its seizure being kept or used, or was fit for use in the unlawful  
19 manufacture or production of alcoholic liquor, shall make an order that  
20 (a) the commission dispose of any alcoholic liquor in accordance with the  
21 Nebraska Liquor Control Act and (b) any other such property and effects  
22 be sold by such officer subject to and shall fix the time, place, manner,  
23 and notice of such sale set by the order.

24 (2) Nothing contained in the Nebraska Liquor Control Act shall be  
25 considered to authorize the sale of any alcoholic liquor unlawfully  
26 manufactured fit for human consumption which comes into the possession of  
27 any officer or the commission by seizure, confiscation, or forfeiture  
28 under the provisions of the act without the payment of all taxes and  
29 inspection fees required by the laws of this state and of the United  
30 States, and all such unlawfully manufactured alcoholic liquor which is  
31 unfit for human consumption shall be destroyed.

1           (3) The commission shall destroy alcoholic liquor which is unfit for  
2 human consumption and may sell alcoholic liquor, when directed by order  
3 of the court, at the time, place, and manner the commission determines to  
4 be in the public interest and subject to the taxes and inspection fees  
5 required by the laws of this state and of the United States.

6           Sec. 28. Sections 4, 5, 12, and 30 of this act become operative on  
7 July 1, 2015. The other sections of this act become operative on their  
8 effective date.

9           Sec. 29. If any section in this act or any part of any section is  
10 declared invalid or unconstitutional, the declaration shall not affect  
11 the validity or constitutionality of the remaining portions.

12           Sec. 30. Original section 53-123.11, Reissue Revised Statutes of  
13 Nebraska, and section 53-103.03, Revised Statutes Cumulative Supplement,  
14 2014, are repealed.

15           Sec. 31. Original sections 53-117.07, 53-130, 53-135, 53-167.02,  
16 53-167.03, 53-1,111, and 53-1,113, Reissue Revised Statutes of Nebraska,  
17 and sections 29-431, 53-101, 53-103, 53-117, 53-123, 53-123.15, 53-124,  
18 53-124.01, 53-131, 53-133, and 53-177, Revised Statutes Cumulative  
19 Supplement, 2014, are repealed.

20           Sec. 32. Since an emergency exists, this act takes effect when  
21 passed and approved according to law.