

LEGISLATIVE BILL 1120

Approved by the Governor April 19, 2018

Introduced by Larson, 40; Thibodeau, 6.

A BILL FOR AN ACT relating to government regulation; to amend sections 53-116.01, 53-116.02, 53-119.01, 53-134.03, 53-134.04, 53-135.01, 53-138.01, 53-148.01, 53-1,115, 59-1401, 59-1403, 59-1404, 59-1405, and 59-1406, Reissue Revised Statutes of Nebraska, and sections 53-101, 53-103, 53-117, 53-123, 53-123.15, 53-124, 53-124.01, 53-129, 53-131, 53-132, 53-133, 53-134, 53-134.01, 53-135, 53-177, 53-177.01, 53-186.01, and 53-1,100, Revised Statutes Cumulative Supplement, 2016; to provide for licensure of bottle clubs and to define terms under the Nebraska Liquor Control Act; to provide and change provisions relating to fees; to change provisions relating to container size under a limited bottling endorsement and relating to rehearings as prescribed; to change provisions relating to music licensing; to name the Music Licensing Agency Act and to define terms under the act; to provide and change duties of the Secretary of State and the Department of Revenue; to require registration of music licensing agencies and filing of performing-rights agreements as prescribed; to provide duties relating to contracts; to provide powers, duties, and limitations relating to collection of royalties; to provide for applicability; to change penalties; to harmonize provisions; to provide severability; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 53-101, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-101 Sections 53-101 to 53-1,122 and sections 3 and 4 of this act shall be known and may be cited as the Nebraska Liquor Control Act.

Sec. 2. Section 53-103, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-103 For purposes of the Nebraska Liquor Control Act, the definitions found in sections 53-103.01 to 53-103.46 and section 3 of this act apply.

Sec. 3. Bottle club means an operation, whether formally organized as a club having a regular membership list, dues, officers, and meetings or not, keeping and maintaining premises where persons who have made their own purchases of alcoholic liquor congregate for the express purpose of consuming alcoholic liquor upon the payment of a fee or other consideration.

Sec. 4. (1) A bottle club may be operated by a club, an individual, a partnership, a limited liability company, or a corporation. An accurate and current membership list shall be maintained upon the licensed premises which contains the names and residences of the members but shall not be subject to disclosure except as required by warrant, subpoena, or court order.

(2) A bottle club shall not operate on any day between the hours of 5 a.m. and 6 a.m.

(3) The holder of a bottle club license shall not simultaneously hold another license under the Nebraska Liquor Control Act.

(4) The holder of a bottle club license shall be subject to all provisions of the Nebraska Liquor Control Act and the rules and regulations adopted and promulgated under the act that govern the operation of retail licensees except as otherwise provided in subsection (2) of this section.

Sec. 5. Section 53-116.01, Reissue Revised Statutes of Nebraska, is amended to read:

53-116.01 The commission and local governing bodies shall cause frequent inspection to be made on the premises of all retail licensees and bottle club licensees, and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and regulations of the commission adopted and promulgated under the act or is failing to observe in good faith the purposes of the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense.

Sec. 6. Section 53-116.02, Reissue Revised Statutes of Nebraska, is amended to read:

53-116.02 Whenever any retail licensee, bottle club licensee, craft brewery licensee, or microdistillery licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of the license and all money that had been paid for the license. The local governing body may conditionally revoke the license subject to a final order of the commission, or the commission may revoke the license in an original proceeding brought before it for that purpose.

Sec. 7. Section 53-117, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

(1) To receive applications for and to issue licenses to and suspend, cancel, and revoke licenses of manufacturers, wholesalers, nonbeverage users, retailers, railroads including owners and lessees of sleeping, dining, and cafe

cars, airlines, boats, bottle clubs, and pedal-pub vehicles in accordance with the Nebraska Liquor Control Act;

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

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

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

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

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

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

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

(9) To investigate the administration of laws in relation to alcoholic liquor in this and other states and to recommend to the Governor and through him or her to the Legislature amendments to the act; and

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

Sec. 8. Section 53-119.01, Reissue Revised Statutes of Nebraska, is amended to read:

53-119.01 The commission may request the State Fire Marshal to inspect for fire safety pursuant to section 81-502 any premises for which an annually renewable retail license or bottle club license, or renewal of such a license, is sought. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 which shall be payable by the licensee or applicant for a license. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502.

Sec. 9. Section 53-123, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-123 Licenses issued by the commission shall be of the following types: (1) Manufacturer's license; (2) alcoholic liquor wholesale license, except beer; (3) beer wholesale license; (4) retail license; (5) railroad license; (6) airline license; (7) boat license; (8) nonbeverage user's license; (9) farm winery license; (10) craft brewery license; (11) shipping license; (12) special designated license; (13) catering license; (14) microdistillery license; (15) entertainment district license; ~~and~~ (16) pedal-pub vehicle license; and (17) bottle club license.

Sec. 10. Section 53-123.15, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

(2) The commission may issue a shipping license to a manufacturer. Such license shall allow the licensee to ship alcoholic liquor only to a licensed wholesaler. A person who receives a license pursuant to this subsection shall pay the fee required in sections 53-124 and 53-124.01 for a manufacturer's shipping license. Such fee shall be collected by the commission and be remitted

to the State Treasurer for credit. ~~Fees remitted prior to July 1, 2016, shall be credited to the General Fund, except that the fee received for a shipping license issued to a beer manufacturer pursuant to this subsection. Fees remitted beginning on July 1, 2016,~~ shall be credited to the Nebraska Beer Industry Promotional Fund.

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

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

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

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

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

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

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

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

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

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

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

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

revoked; and

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

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

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

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

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

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

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

(f) Cause the direct shipment of alcoholic liquor to be by approved common carrier only. The commission shall adopt and promulgate rules and regulations pursuant to which common carriers may apply for approval to provide common carriage of alcoholic liquor shipped by a holder of a shipping license issued pursuant to subsection (4) or (5) of this section. The rules and regulations shall include provisions that require (i) the recipient to demonstrate, upon delivery, that he or she is at least twenty-one years of age, (ii) the recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the commission, and (iii) the commission-approved common carrier to submit to the commission such information as the commission may prescribe. The commission-approved common carrier shall refuse delivery when the proposed recipient appears to be under the age of twenty-one years and refuses to present valid identification. All holders of shipping licenses shipping alcoholic liquor pursuant to this subdivision shall affix a conspicuous notice in sixteen-point type or larger to the outside of each package of alcoholic liquor shipped within or into the State of Nebraska, in a conspicuous location, stating: CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY. Any delivery of alcoholic beverages to a minor by a common carrier shall constitute a violation by the common carrier. The common carrier and the holder of the shipping license shall be liable only for their independent acts.

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

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

Sec. 11. Section 53-124, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

dollars.

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

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

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

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

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

(iii) Class C: Alcoholic liquor, for consumption on the premises and off the premises, sales in original packages only. If a Class C license is held by a nonprofit corporation, it shall be restricted to consumption on the premises only. A Class C license may have a sampling designation restricting consumption on the premises to sampling, but such designation shall not affect sales for consumption off the premises under such license;

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

(v) Class I: Alcoholic liquor, for consumption on the premises; and

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

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

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

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

(9) There shall be a bottle club license. All applicable license fees shall be paid by the applicant or licensee directly to the city or village treasurer in the case of premises located inside the corporate limits of a city or village and directly to the county treasurer in the case of premises located outside the corporate limits of a city or village.

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

Sec. 12. Section 53-124.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

(2) Airline license ... \$100

(3) Boat license ... \$50

(4) Bottle club license ... \$300

~~(5)~~ (4) Manufacturer's license:

Class	Fee - In Dollars
Alcohol and spirits	1,000
Beer - tier one	100
Beer - tier two	200
Beer - tier three	350
Beer - tier four	500
Beer - tier five	650
Beer - tier six	700
Beer - tier seven	800
Wine	250

~~(6)~~ (5) Nonbeverage user's license:

Class	Fee - In Dollars
Class 1	5
Class 2	25
Class 3	50
Class 4	100
Class 5	250

(7) ~~(6)~~ Operator's license:

Class	Fee - In Dollars
Craft brewery	250
Farm winery	250
Microdistillery	250

(8) ~~(7)~~ Pedal-pub vehicle license ... \$50

(9) ~~(8)~~ Railroad license ... \$100

(10) ~~(9)~~ Retail license:

Class	Fee - In Dollars
Class A	100
Class B	100
Class C	300
Class D	200
Class I	250
Class J	50

(11) ~~(10)~~ Shipping license:

Class	Fee - In Dollars
Manufacturer	1,000
Vintage wines	1,000
Manufacture direct sales	500
Retail direct sales	500

(12) ~~(11)~~ Wholesale license:

Class	Fee - In Dollars
Alcoholic liquor	750
Beer	500

Sec. 13. Section 53-129, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-129 Retail, bottle club, craft brewery, and microdistillery licenses issued under the Nebraska Liquor Control Act apply only to that part of the premises described in the application approved by the commission and in the license issued on the application. For retail, bottle club, and microdistillery licenses, only one location shall be described in each license. For craft brewery licenses, up to five separate physical locations may be described in each license. After such license has been granted for particular premises, the commission, with the approval of the local governing body and upon proper showing, may endorse upon the license permission to add to, delete from, or abandon the premises described in such license and, if applicable, to move from the premises to other premises approved by it, but in order to obtain such approval the retail, bottle club, craft brewery, or microdistillery licensee shall file with the local governing body a request in writing and a statement under oath which shows that the premises as added to or deleted from or to which such move is to be made comply in all respects with the requirements of the act. No such addition, deletion, or move shall be made by any such licensee until the license has been endorsed to that effect in writing by the local governing body and by the commission and the licensee furnishes proof of payment of the renewal fee prescribed in subsection (4) of section 53-131.

Sec. 14. Section 53-131, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

(a) An application upon forms prescribed by the commission, including the information required by subsection (3) of this section for an application to operate a cigar shop;

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

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

(2) The commission shall notify the clerk of the city or village in which such license is sought or, if the license sought is not sought within a city or village, the county clerk of the county in which such license is sought, of the receipt of the application and shall include one copy of the application with the notice. No such license shall be issued or denied by the commission until the expiration of the time allowed for the receipt of a recommendation of denial or an objection requiring a hearing under subdivision (1)(a) or (b) of section 53-133. During the period of forty-five days after the date of receipt by mail or electronic delivery of such application from the commission, the local governing body of such city, village, or county may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

(3) For an application to operate a cigar shop, the application shall include proof of the cigar shop's annual gross revenue as requested by the commission and such other information as requested by the commission to establish the intent to operate as a cigar shop. The commission may adopt and promulgate rules and regulations to regulate cigar shops. The rules and regulations existing on August 1, 2014, applicable to cigar bars shall apply to cigar shops until amended or repealed by the commission.

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

Sec. 15. Section 53-132, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-132 (1) If no hearing is required pursuant to subdivision (1)(a) or (b) of section 53-133 and the commission has no objections pursuant to subdivision (1)(c) of such section, the commission may waive the forty-five-day objection period and, if not otherwise prohibited by law, cause a retail license, bottle club license, craft brewery license, or microdistillery license to be signed by its chairperson, attested by its executive director over the seal of the commission, and issued in the manner provided in subsection (4) of this section as a matter of course.

(2) A retail license, bottle club license, craft brewery license, or microdistillery license may be issued to any qualified applicant if the commission finds that (a) the applicant is fit, willing, and able to properly provide the service proposed within the city, village, or county where the premises described in the application are located, (b) the applicant can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, (c) the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act, and (d) the issuance of the license is or will be required by the present or future public convenience and necessity.

(3) In making its determination pursuant to subsection (2) of this section the commission shall consider:

(a) The recommendation of the local governing body;

(b) The existence of a citizens' protest made in accordance with section 53-133;

(c) The existing population of the city, village, or county and its projected growth;

(d) The nature of the neighborhood or community of the location of the proposed licensed premises;

(e) The existence or absence of other retail licenses, bottle club licenses, craft brewery licenses, or microdistillery licenses with similar privileges within the neighborhood or community of the location of the proposed licensed premises and whether, as evidenced by substantive, corroborative documentation, the issuance of such license would result in or add to an undue concentration of licenses with similar privileges and, as a result, require the use of additional law enforcement resources;

(f) The existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises;

(g) The adequacy of existing law enforcement;

(h) Zoning restrictions;

(i) The sanitation or sanitary conditions on or about the proposed licensed premises; and

(j) Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

(4) Retail licenses, bottle club licenses, craft brewery licenses, or microdistillery licenses issued or renewed by the commission shall be mailed or

delivered to the clerk of the city, village, or county who shall deliver the same to the licensee upon receipt from the licensee of proof of payment of (a) the license fee if by the terms of subsection (6) of section 53-124 the fee is payable to the treasurer of such city, village, or county, (b) any fee for publication of notice of hearing before the local governing body upon the application for the license, (c) the fee for publication of notice of renewal as provided in section 53-135.01, and (d) occupation taxes, if any, imposed by such city, village, or county except as otherwise provided in subsection (6) of this section. Notwithstanding any ordinance or charter power to the contrary, no city, village, or county shall impose an occupation tax on the business of any person, firm, or corporation licensed under the act and doing business within the corporate limits of such city or village or within the boundaries of such county in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.

(5) Each license shall designate the name of the licensee, the place of business licensed, and the type of license issued.

(6) Class J retail licensees shall not be subject to occupation taxes under subsection (4) of this section.

Sec. 16. Section 53-133, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

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

(b) Within ten days after the receipt of a recommendation from the city, village, or county, or, if no recommendation is received, within forty-five days after the date of receipt of such application by the city, village, or county clerk, objections in writing by not less than three persons residing within such city, village, or county, protesting the issuance of the license. Withdrawal of the protest does not prohibit the commission from conducting a hearing based upon the protest as originally filed and making an independent finding as to whether the license should or should not be issued;

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

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

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

Sec. 17. Section 53-134, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-134 The local governing body of any city or village with respect to licenses within its corporate limits and the local governing body of any county with respect to licenses not within the corporate limits of any city or village but within the county shall have the following powers, functions, and duties with respect to retail, bottle club, craft brewery, microdistillery, and entertainment district licenses:

(1) To cancel or revoke for cause retail, craft brewery, microdistillery, or entertainment district licenses to sell or dispense alcoholic liquor or bottle club licenses, issued to persons for premises within its jurisdiction, subject to the right of appeal to the commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the local governing body has been or is being violated and at such time examine the premises of such licensee in connection with such determination. Any law enforcement officer who determines that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the local governing body has been or is being violated shall report such violation in writing to the executive director of the commission (a) within thirty days after determining that such violation has occurred, (b) within thirty days after the conclusion of an ongoing police investigation, or (c) within thirty days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the

verdict would jeopardize such prosecution, whichever is later;

(3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the act;

(4) To receive retail license fees, bottle club license fees, craft brewery license fees, and microdistillery license fees as provided in sections 53-124 and 53-124.01 and entertainment district license fees as provided in section 53-123.17 and pay the same, after the license has been delivered to the applicant, to the city, village, or county treasurer;

(5) To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, craft brewery licensee, microdistillery licensee, or entertainment district licensee upon whom notice of cancellation or revocation has been served as provided in the act, to examine or cause to be examined the books and records of any applicant or licensee except as otherwise provided for bottle club licensees in section 4 of this act, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the local governing body may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the commission within thirty days after the date of the order by filing a notice of appeal with the commission. The commission shall handle the appeal in the manner provided for hearing on an application in section 53-133; and

(7) Upon receipt from the commission of the notice and copy of application as provided in section 53-131, to fix a time and place for a hearing at which the local governing body shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in such city, village, or county one time not less than seven and not more than fourteen days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the local governing body in support of or in protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than forty-five days after the date of receipt of the notice from the commission, and after such hearing the local governing body shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The clerk of such city, village, or county shall mail to the commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commission refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs.

Sec. 18. Section 53-134.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-134.01 (1) The holder of a Class C license may obtain a limited bottling endorsement for such license as prescribed in this section. The endorsement shall be issued for the same period and may be renewed in the same manner as the Class C license. A limited bottling endorsement may not be used in conjunction with a special designated license.

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

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

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

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

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

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

Sec. 19. Section 53-134.03, Reissue Revised Statutes of Nebraska, is amended to read:

53-134.03 The governing bodies of cities and villages are authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act,

the business of all retail, bottle club, craft brewery, or microdistillery licensees carried on within the corporate limits of the city or village.

Sec. 20. Section 53-134.04, Reissue Revised Statutes of Nebraska, is amended to read:

53-134.04 Any five residents of the city or village shall have the right to file a complaint with the local governing body of such city or village stating that any retail licensee or bottle club licensee subject to the jurisdiction of such local governing body has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the local governing body and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the local governing body is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the local governing body within thirty days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the commission as provided in section 53-1,115.

Sec. 21. Section 53-135, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

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

Sec. 22. Section 53-135.01, Reissue Revised Statutes of Nebraska, is amended to read:

53-135.01 The city, village, or county clerk shall cause to be published in a legal newspaper in or of general circulation in such city, village, or county, one time between January 10 and January 30 of each year, individual notice of the right of automatic renewal of each retail liquor and beer license and each bottle club license, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year within such city, village, or county, in substantially the following form:

NOTICE OF RENEWAL OF RETAIL LIQUOR OR BOTTLE CLUB LICENSE

Notice is hereby given pursuant to section 53-135.01 that a liquor license [or bottle club license] may be automatically renewed for one year from May 1, 20...., or November 1, 20...., for the following retail liquor [or bottle club] licensee:

(Name of Licensee) (Address of licensed premises)

Notice is hereby given that written protests to the issuance of automatic renewal of license may be filed by any resident of the city (village or county) on or before February 10, 20...., or August 10, 20...., in the office of the city (village or county) clerk and that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of the license should be allowed.

(Name)

City (village or county) Clerk

Upon the conclusion of any hearing required by this section, the local governing body may request a licensee to submit an application as provided in section 53-135.

Sec. 23. Section 53-138.01, Reissue Revised Statutes of Nebraska, is amended to read:

53-138.01 The State Treasurer shall credit three hundred ninety-five dollars of each four-hundred-dollar application fee and forty dollars of each forty-five-dollar application fee and each renewal fee to the General Fund and the remaining five dollars to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund to be used for providing licensees with materials pursuant to section 53-117.05. All retail and bottle club license fees received by the city or village treasurer, as the case may be, shall inure to the school fund of the district lying wholly or partially within the corporate limits of such city or village. Except as otherwise provided in section 53-123.15, the State Treasurer shall distribute license fees received by the commission for licenses issued pertaining to alcoholic liquor, including beer, in accordance with Article VII, section 5, of the Constitution of Nebraska. All retail and bottle club license fees received by the county treasurer, as provided in section 53-124, shall be credited to the school fund of the county.

Sec. 24. Section 53-148.01, Reissue Revised Statutes of Nebraska, is amended to read:

53-148.01 Any retail or bottle club licensee shall post in a conspicuous

place a sign which clearly reads as follows: Warning: Drinking alcoholic beverages during pregnancy can cause birth defects. The commission shall prescribe the form of such warning sign and shall make such warning signs available to all retail and bottle club licensees.

Sec. 25. Section 53-177, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-177 (1) Except as otherwise provided in subsection (2) of this section, no license shall be issued for the sale at retail of any alcoholic liquor or for a bottle club within one hundred fifty feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. This prohibition does not apply (a) to any location within such distance of one hundred fifty feet for which a license to sell alcoholic liquor at retail or for a bottle club has been granted by the commission for two years continuously prior to making of application for license, (b) to hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935, or (c) to a college or university in the state which is subject to section 53-177.01.

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

Sec. 26. Section 53-177.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-177.01 (1) No alcoholic liquor shall be sold for consumption on the premises within three hundred feet from the campus of any college or university in the state, except that this section:

(a) Does not prohibit a nonpublic college or university from contracting with an individual or corporation holding a license to sell alcoholic liquor at retail for the purpose of selling alcoholic liquor at retail on the campus of such college or university at events sanctioned by such college or university but does prohibit the sale of alcoholic liquor at retail by such licensee on the campus of such nonpublic college or university at student activities or events; and

(b) Does not prohibit sales of alcoholic liquor by a community college culinary education program pursuant to section 53-124.15.

(2) Except as otherwise provided in subsection (4) of this section, the commission may waive the three-hundred-foot restriction in subsection (1) of this section taking into consideration one or more of the following:

(a) The impact of retail sales of alcoholic liquor for consumption on the premises on the academic mission of the college or university;

(b) The impact on students and prospective students if such sales were permitted on or near campus;

(c) The impact on economic development opportunities located within or in proximity to the campus; and

(d) The waiver would likely reduce the number of applications for special designated licenses requested by the college or university or its designee.

(3) To apply for a waiver under this section, the applicant shall submit a written application to the commission. The commission shall notify the governing body of the affected college or university when the commission receives an application for a waiver. The application shall include:

(a) The address of the location for which the waiver is requested;

(b) The name and type of business for which the waiver is requested; and

(c) A description of the justification for the waiver explaining how the proposed location complies with the findings prescribed in subsection (2) of this section.

(4) The commission shall not waive the three-hundred-foot restriction in subsection (1) of this section without written approval from the governing body of the college or university or its designee if the physical location of the property which is the subject of the requested waiver is (a) surrounded by property owned by the college or university including any public or private easement, street, or right-of-way adjacent to the property owned by the college or university or (b) adjacent to property on two or more sides owned by the college or university including any public or private easement, street, or right-of-way adjacent to the property owned by the college or university.

(5) No bottle club shall be operated within three hundred feet from the campus of any college or university in the state.

Sec. 27. Section 53-186.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-186.01 (1) It shall be unlawful for any person owning, operating, managing, or conducting any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act.

(2) It shall be unlawful for any person to consume alcoholic liquor in any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the act.

(3) This section shall not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under section 60-6,211.08.

(4) Any person violating subsection (1) of this section shall, upon conviction thereof, be subject to the penalties contained in section 53-1,100.

(5) Any person violating subsection (2) of this section shall be guilty of a Class III misdemeanor.

Sec. 28. Section 53-1,100, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-1,100 (1) Any person (a) who imports alcoholic liquor for distribution as a wholesaler or distributes or sells alcoholic liquor at any place within the state without having first obtained a valid license to do so under the Nebraska Liquor Control Act, (b) who manufactures alcoholic liquor other than spirits within the state without having first obtained a valid license to do so under the act, (c) who makes any false statement or otherwise violates any of the provisions of the act in obtaining any license under the act, (d) who, having obtained a license under the act, violates any of the provisions of the act with respect to the manufacture, possession, distribution, or sale of alcoholic liquor or with respect to the maintenance of the licensed premises, or (e) who violates any other provision of the act for which a penalty is not otherwise provided, shall for a first offense be guilty of a Class IV misdemeanor and for a second or subsequent offense shall be guilty of a Class II misdemeanor.

(2) Any person who manufactures spirits at any place within the state without having first obtained a valid license to do so under the act shall be guilty of a Class I misdemeanor for a first offense and a Class IV felony for a second or subsequent offense.

(3) Each day any person engages in business as a manufacturer, wholesaler, ~~or~~ retailer, or bottle club in violation of the act shall constitute a separate offense.

(4) In any prosecution in which a person is charged with an offense arising out of the failure to obtain a valid license as provided in subdivision (1)(a) or (b) or subsection (2) of this section, evidence of the failure of the accused to produce such license upon demand shall constitute prima facie proof that a license has not been issued by the commission to such person.

Sec. 29. Section 53-1,115, Reissue Revised Statutes of Nebraska, is amended to read:

53-1,115 (1) A copy of the rule, regulation, order, or decision of the commission denying an application or suspending, canceling, or revoking a license or of any notice required by any proceeding before it, certified under the seal of the commission, shall be served upon each party of record to the proceeding before the commission. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the commission shall enter his or her appearance and indicate to the commission his or her address for such service. The mailing of a copy of any rule, regulation, order, or decision of the commission or of any notice by the commission, in the proceeding, to such party at such address shall be deemed to be service upon such party.

(2) Within thirty days after the service of any rule, regulation, order, or decision of the commission denying an application or suspending, canceling, or revoking any license upon any party to the proceeding, as provided for by subsection (1) of this section, such party may apply for a rehearing with respect to any matters determined by the commission. The commission shall receive and consider such application for a rehearing within thirty days after its filing with the executive director of the commission. If such application for rehearing is granted, the commission shall proceed as promptly as possible to consider the matters presented by such application. No appeal shall be allowed from any decision of the commission except as provided in section 53-1,116.

(3) Upon final disposition of any proceeding, costs shall be paid by the party or parties against whom a final decision is rendered. Costs may be taxed or retaxed to local governing bodies as well as individuals. Only one rehearing referred to in subsection (2) of this section shall be granted by the commission on application of any one party.

(4) For purposes of this section, party of record means:

(a) In the case of an administrative proceeding before the commission on the application for a retail, bottle club, craft brewery, or microdistillery license:

(i) The applicant;

(ii) Each individual protesting the issuance of such license pursuant to subdivision (1)(b) of section 53-133;

(iii) The local governing body if it is entering an appearance to protest the issuance of the license or if it is requesting a hearing pursuant to subdivision (1)(c) of section 53-133; and

(iv) The commission;

(b) In the case of an administrative proceeding before a local governing body to cancel or revoke a retail, bottle club, craft brewery, or microdistillery license:

(i) The licensee; and

(ii) The local governing body; and

(c) In the case of an administrative proceeding before the commission to suspend, cancel, or revoke a retail, bottle club, craft brewery, or microdistillery license:

(i) The licensee; and

(ii) The commission.

Sec. 30. Section 59-1401, Reissue Revised Statutes of Nebraska, is amended

to read:

~~59-1401 Sections 59-1401 to 59-1406 and sections 31 and 33 to 37 of this act shall be known and may be cited as the Music Licensing Agency Act. As used in sections 59-1401 to 59-1406, person means any individual, resident or nonresident of this state, and every domestic, foreign, or alien partnership, limited liability company, society, association, or corporation and the words performing rights refer to public performance for profit.~~

~~Sec. 31. For purposes of the Music Licensing Agency Act:~~

~~(1) Copyright owner means the owner of a copyright of a nondramatic musical work recognized and enforceable under the copyright laws of the United States pursuant to 17 U.S.C. 101 et seq., as such sections existed on January 1, 2018, and does not include the owner of a copyright in a motion picture or audiovisual work or in part of a motion picture or audiovisual work;~~

~~(2) Music licensing agency means an association or corporation that licenses the public performance of nondramatic musical works on behalf of copyright owners;~~

~~(3) Performing right means the right to perform a copyrighted nondramatic musical work publicly for profit;~~

~~(4) Person means any individual, resident or nonresident of this state, and every domestic, foreign, or alien partnership, limited liability company, society, association, corporation, or music licensing agency;~~

~~(5) Proprietor means the owner of a retail establishment, restaurant, inn, bar, tavern, sports or entertainment facility, or other similar place of business or professional office located in this state in which the public may assemble and in which nondramatic musical works or similar copyrighted works may be performed, broadcast, or otherwise transmitted for the enjoyment of members of the public there assembled; and~~

~~(6) Royalty means the fees payable to a copyright owner for a performing right.~~

~~Sec. 32. Section 59-1403, Reissue Revised Statutes of Nebraska, is amended to read:~~

~~59-1403 There From and after August 10, 1945, there is hereby levied and there shall be collected a tax for the act or privilege of selling, licensing, or otherwise disposing in this state of performing rights in any musical composition, which has been copyrighted under the laws of the United States, in an amount equal to three percent of the gross receipts of all such sales, licenses, or other dispositions of performing rights in this state, payable to the Department of Revenue Secretary of State on or before March 15, 1946, with respect to all such gross receipts for the portion of the calendar year 1945 from August 10, 1945, and annually thereafter, on or before March 15 of each succeeding year with respect to the gross receipts of the preceding calendar year. At the time of paying the said tax the Secretary of State shall issue a receipt therefor in duplicate, one of which shall be given to the taxpayer and one filed with the State Treasurer at the time the tax collected is paid by the Secretary of State to the state treasury. The department Secretary of State shall adopt and promulgate publish rules and regulations not in conflict with this section herewith, as well as a form of return and any other forms necessary to carry out the provisions of this section.~~

~~Sec. 33. (1) Beginning January 1, 2019, a music licensing agency shall not license or attempt to license the use of or collect or attempt to collect any compensation with regard to any sale, license, or other disposition of a performing right unless the music licensing agency registers and files annually, on or before February 15, with the Department of Revenue an electronic copy of each variation of the performing-rights agreement providing for the payment of royalties made available from the music licensing agency to any proprietor within this state. The registration shall be valid for the calendar year. The department shall impose a fine for failure to renew or register in the amount of ten thousand dollars for each forty-five-day period which has passed since February 15 of the registration year if a music licensing agency fails to renew a registration or engages in business without registration.~~

~~(2) Each registered music licensing agency shall make available electronically to proprietors the most current available list of members and affiliates represented by the music licensing agency and the most current available list of the performed works that the music licensing agency licenses.~~

~~Sec. 34. (1) Beginning January 1, 2019, no music licensing agency may enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless at least seventy-two hours prior to the execution of that contract it provides to the proprietor or the proprietor's employees, in writing, the following:~~

~~(a) A schedule of the rates and terms of royalties under the contract; and~~

~~(b) Notice that the proprietor is entitled to the information filed with the Department of Revenue pursuant to section 33 of this act.~~

~~(2) Beginning January 1, 2019, a contract for the payment of royalties executed in this state shall:~~

~~(a) Be in writing;~~

~~(b) Be signed by the parties; and~~

~~(c) Include, at least, the following information:~~

~~(i) The proprietor's name and business address;~~

~~(ii) The name and location of each place of business to which the contract applies;~~

~~(iii) The duration of the contract; and~~

~~(iv) The schedule of rates and terms of the royalties to be collected~~

under the contract, including any sliding scale or schedule for any increase or decrease of those rates for the duration of the contract.

Sec. 35. (1) Beginning January 1, 2019, before seeking payment or a contract for payment of royalties for the use of copyrighted works by that proprietor, a representative or agent for a music licensing agency shall identify himself or herself to the proprietor or the proprietor's employees, disclose that he or she is acting on behalf of a music licensing agency, and disclose the purpose for being on the premises.

(2) A representative or agent of a music licensing agency shall not:

(a) Use obscene, abusive, or profane language when communicating with a proprietor or his or her employees;

(b) Communicate by telephone or in person with a proprietor other than at the proprietor's place of business during the hours when the proprietor's business is open to the public unless otherwise authorized by the proprietor or the proprietor's agents, employees, or representatives;

(c) Engage in any coercive conduct, act, or practice that is substantially disruptive to a proprietor's business;

(d) Use or attempt to use any unfair or deceptive act or practice in negotiating with a proprietor; or

(e) Communicate with an unlicensed proprietor about licensing performances of musical works at the proprietor's establishment after receiving notification in writing from an attorney representing the proprietor that all further communications related to the licensing of the proprietor's establishment by the music licensing agency should be addressed to the attorney. However, the music licensing agency may resume communicating directly with the proprietor if the attorney fails to respond to communications from the music licensing agency within sixty days or the attorney becomes nonresponsive for a period of sixty days or more.

Sec. 36. The Department of Revenue shall inform proprietors of their rights and responsibilities regarding the public performance of copyrighted music as part of the business licensing service.

Sec. 37. Nothing in the Music Licensing Agency Act may be construed to prohibit a music licensing agency from conducting an investigation to determine the existence of music use by a proprietor's business or informing a proprietor of the proprietor's obligations under the copyright laws of the United States pursuant to 17 U.S.C. 101 et seq., as such sections existed on January 1, 2018.

Sec. 38. Section 59-1404, Reissue Revised Statutes of Nebraska, is amended to read:

59-1404 Upon compliance with the Music Licensing Agency Act, provisions of sections 59-1401 to 59-1406 the copyright owner, and his or her proprietors, their assigns and licensees, of a nondramatic musical work compositions copyrighted under the laws of the United States shall be entitled to all the benefits thereof.

Sec. 39. Section 59-1405, Reissue Revised Statutes of Nebraska, is amended to read:

59-1405 All music licensing agencies persons who sell, license the use of, or in any manner whatsoever dispose of, in this state, the performing rights in or to any copyrighted musical composition shall refrain from discriminating in price or terms between licensees similarly situated, except ; Provided, however, that differentials based upon applicable business factors which justify different prices or terms shall not be considered discriminations within the meaning of this section. Nothing ; and provided further, that nothing contained in this section shall prevent price changes from time to time by reason of changing conditions affecting the market for or marketability of performing rights.

Sec. 40. Section 59-1406, Reissue Revised Statutes of Nebraska, is amended to read:

59-1406 Any person violating the Music Licensing Agency Act sections 59-1401 to 59-1406 shall be fined an amount not less than five one hundred dollars and not more than two one thousand dollars. Multiple violations on a single day may be considered separate violations.

Sec. 41. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 42. Original sections 53-116.01, 53-116.02, 53-119.01, 53-134.03, 53-134.04, 53-135.01, 53-138.01, 53-148.01, 53-1,115, 59-1401, 59-1403, 59-1404, 59-1405, and 59-1406, Reissue Revised Statutes of Nebraska, and sections 53-101, 53-103, 53-117, 53-123, 53-123.15, 53-124, 53-124.01, 53-129, 53-131, 53-132, 53-133, 53-134, 53-134.01, 53-135, 53-177, 53-177.01, 53-186.01, and 53-1,100, Revised Statutes Cumulative Supplement, 2016, are repealed.