

LEGISLATIVE BILL 681

Approved by the Governor April 13, 1974

Introduced by Simpson, 46

AN AC1 to amend sections 20-113, 53-117, 53-135.01, and 53-179, Reissue Revised Statutes of Nebraska, 1943, and sections 20-134, 53-112, and 53-124, Revised Statutes Supplement, 1973; to provide for civil rights ordinances or resolutions more comprehensive than state law; to provide for revocation of certain liquor licenses for prescribed violations; to prohibit discrimination based on sex; to provide for expenses of members of the Nebraska Liquor Control Commission; to provide additional powers for the commission; to change the renewal time for class C licenses; to make certain acts unlawful; to provide an operative date; and to repeal the original sections.

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

Section 1. That section 20-113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

20-113. Any incorporated city may enact ordinances, and any county may adopt resolutions, which are substantially equivalent to sections 20-105 to ~~26-125~~ 20-143, 48-1102, and 48-1116, or which are more comprehensive than such sections in the protection of civil rights. Certified copies of such ordinances or resolutions shall be transmitted to the commission. When the commission determines that any such city or county has enacted an ordinance or adopted a resolution that is substantially equivalent to sections 20-105 to ~~26-125~~ 20-143, 48-1102, and 48-1116, or is more comprehensive than such sections in the protection of civil rights, and has established an agency to administer such ordinance or resolution, the commission shall thereafter refer all complaints arising in such city or county to the appropriate local agency; provided, that all complaints arising within a city shall be referred to the appropriate agency in such city when both the city and the county in which the city is located have established agencies pursuant to this section. When the commission refers a complaint to a local agency, it shall take no further action on such complaint if the local agency proceeds promptly to handle such complaint pursuant to the local ordinance or resolution. If the commission determines that a local agency is not handling a

complaint with reasonable promptness, or that the protection of the rights of the parties or the interests of justice requires such action, the commission may regain jurisdiction of the complaint and proceed to handle it in the same manner as other complaints which are not referred to local agencies.

Any club which has been issued a license by the Nebraska Liquor Control Commission to sell, serve, or dispense alcoholic liquor shall have that license revoked if it shall discriminate because of race, color, religion, sex, or national origin in the sale, serving, or dispensing of alcoholic liquor to any person who is a guest of a member of such club. The procedure for revocation shall be as prescribed in sections 53-1,114 to 53-1,116.

Sec. 2. That section 20-134, Revised Statutes Supplement, 1973, be amended to read as follows:

20-134. Any person who directly or indirectly refuses, withholds from, denies, or attempts to refuse, withhold, or deny, to any other person any of the accommodations, advantages, facilities, services, or privileges, or who segregates any person in a place of public accommodation on the basis of race, creed, color, sex, religion, national origin, or ancestry, shall be guilty of discriminatory practice and shall be subject to the penalties of sections 20-132 to 20-143.

Sec. 3. That section 53-112, Revised Statutes Supplement, 1973, be amended to read as follows:

53-112. Each member of the commission shall receive an annual salary of not to exceed twelve thousand five hundred dollars, to be fixed by the Governor, payable monthly and in addition necessary expenses incurred on behalf of the commission. The salary of the secretary of the commission shall be fixed by the commission, payable monthly. All clerks, inspectors, and employees of the commission shall receive reasonable compensation in an amount fixed by the commission, subject to the approval in writing of the Governor.

Sec. 4. That section 53-117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-117. The commission shall have the following powers, functions and duties: (1) To receive applications for and to issue and revoke licenses to manufacturers, distributors, nonbeverage users, retailers, railroads, including owners and lessees of

sleeping, dining and cafe cars, airlines, and boats, in accordance with the provisions of this act; (2) to fix by regulations the standards of manufacture of alcoholic liquors not inconsistent with federal laws in order to insure the use of proper ingredients and methods in the manufacture and distribution thereof; and to establish rules, not inconsistent with federal laws, for the proper labeling of containers or barrels, casks or other bulk containers or bottles of alcoholic liquor manufactured or sold in this state; it is intended by this grant of the power to adopt rules and regulations, that the commission shall be clothed with broad discretionary powers to govern the traffic in alcoholic liquors, and to enforce strictly all the provisions of this act in the interest of sanitation, purity of products, truthful representations and honest dealings in such manner as generally will promote the public health and welfare; and 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 Class H, Class 9 or a club possessing any form of retail 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 upon prosecuting officers for such information and assistance as it may deem necessary in the performance of its duties; (4) to recommend to local governing bodies rules and regulations, not inconsistent with law, for the distribution and sale of alcoholic liquors throughout the state; (5) to submit to the Governor annually on or before December 15, reports of its official acts and recommendations; (6) to inspect, or cause to be inspected, any premises where alcoholic liquors are manufactured, distributed or sold and where sold on an unlicensed premise or on any premises in violation of law, to bring an action to enjoin the use of the property for such purpose; (7) to hear and determine appeals from orders of a local governing body in accordance with the provisions of this act, as hereinafter set forth; (8) in the conduct of any hearing authorized to be held by the commission, 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; to hear testimony and take proof material for its information in the discharge of its duties hereunder; and to administer or cause to be administered oaths; (9) to investigate the administration of laws in relation to alcoholic liquors in this and other states, and to recommend from time to time to the Governor and through him to the Legislature of this state, amendments

to this act; and (10) to receive, account for and turn over to the state treasurer state license fees and taxes provided for in this act.

Members of the commission and all persons appointed by them to the office of storekeeper or inspector, as hereafter provided, shall be appointed deputy state sheriffs by the Governor, and, upon qualifying for such office, shall possess all the powers which attach to such office, except that their powers and duties shall be restricted to the enforcement of this act. For any duties as deputy state sheriffs they shall not receive any additional compensation.

Sec. 5. That section 53-124, Revised Statutes Supplement, 1973, be amended to read as follows:

53-124. At the time application is made to the commission for a license of any class, the applicant shall pay the fee hereinafter provided. The fees for annual licenses finally issued by the commission shall be as follows:

(1) For a license to manufacture alcohol and spirits \$1,000.00;

(2) For a license to manufacture beer and wine:

A. Beer, regardless of alcoholic content:	
(a) 1 to 100 barrel daily capacity, or any part thereof	\$100.00
(b) 100 to 150 barrel daily capacity	200.00
(c) 150 to 200 barrel daily capacity	350.00
(d) 200 to 300 barrel daily capacity	500.00
(e) 300 to 400 barrel daily capacity	650.00
(f) 400 to 500 barrel daily capacity	700.00
(g) 500 barrel daily capacity, or more	800.00;

E. Wines \$250.00;
Provided, the words daily capacity, as used herein, shall mean the average daily barrel production for the previous twelve months of manufacturing operation; and provided further, 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;

- (3) Alcoholic liquor distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the same licensee and wholesaling or jobbing alcoholic liquors, except beer \$500.00;
- (4) Beer distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the same licensee and wholesaling or jobbing beer only \$250.00;
- (5) For a retailer's license:
 - A. Beer only, within the corporate limits of cities and villages, for consumption on the premises, regardless of alcoholic content, the sum of ten dollars in villages of five hundred population or less; twenty-five dollars in villages or cities, as the case may be, having a population of more than five hundred inhabitants and not more than twenty-five hundred inhabitants; fifty dollars in cities having a population of more than twenty-five hundred inhabitants and less than ten thousand inhabitants; and one hundred dollars in cities having a population of ten thousand inhabitants or more;
 - B. Beer only, for consumption off the premises, regardless of alcoholic content, sales in the original packages only, the sum of twenty-five dollars;
 - C. Alcoholic liquors within the corporate limits of cities and villages, for consumption on the premises and off the premises, sales in original packages only, the sum of two hundred and fifty dollars; provided, this license held by a nonprofit corporation shall be restricted to consumption on the premises only;
 - D. Alcoholic liquors, including beer, regardless of alcoholic content, within the corporate limits of cities and villages, for consumption off the premises, sales in the original packages only, the sum of one hundred and fifty dollars;
 - E. Alcoholic liquors without the corporate limits of cities and villages, in counties

mentioned in section 53-127, for consumption off the premises, sales in the original packages only, not less than one hundred and fifty dollars for each license;

- F. Beer only, regardless of alcoholic content, without the corporate limits of cities and villages, for consumption on the premises, not less than twenty-five dollars for each license, the precise amount in each case to be such sum as shall equal the amount of license fee herein fixed plus the occupation tax fixed by ordinance, if any, in the nearest incorporated city or village in the same county;
- G. Alcoholic liquors without the corporate limits of cities or villages in existing privately-owned recreation areas, on which are located hotels or motels to be licensed in which twenty-five or more rooms are used for the sleeping accommodations of guests and having one or more public dining rooms where meals are served and which are of sufficient size to serve at least one hundred patrons, which recreational areas shall have, after licensing, a principal business purpose or purposes other than the sale of alcoholic liquors and have at least one hundred sixty acres of real estate of the area under contiguous single ownership or lease, for consumption on the premises and off the premises, sales in original packages only, the sum of two hundred fifty dollars. The commission shall first find that the proposed licensed premises are a part of an existing recreational area of substantial size and operation and that such area does, in fact, have a recreational purpose; subsequent to this finding the commission shall then determine that the issuance of the proposed license would be in the public interest;
- H. Alcoholic liquors, including beer, issued to a nonprofit corporation, for consumption on the premises, which license shall not be issued to any corporation authorized by law to receive a license under the provisions of subdivision (5) C. of this section; Provided, that this provision shall not apply when the nonprofit corporation shall be open for sale of alcoholic liquors, including beer, for consumption on the premises not

more than two days in any week:

- (a) Within the corporate limits of cities and villages, for consumption on the premises, regardless of alcoholic content, the sum of twenty dollars in villages of five hundred population or less; fifty dollars in villages or cities, as the case may be, having a population of more than five hundred inhabitants and not more than twenty-five hundred inhabitants; one hundred dollars in cities having a population of more than twenty-five hundred inhabitants and less than ten thousand inhabitants; and two hundred dollars in cities having a population of ten thousand inhabitants or more; and
- (b) Without the corporate limits of cities and villages, for consumption on the premises, not less than two hundred fifty dollars for each license, the precise amount in each case to be such sum as shall equal the amount of license fee herein fixed plus the occupation tax fixed by ordinance, if any, in the nearest incorporated city or village in the same county; Provided, that if the incorporated city or village does not have an occupation tax for nonprofit corporation licenses, then the licensee shall pay an amount equal to a class C license occupation tax for such city or village; and provided further, the applicable fee shall be paid by the applicant or licensee, as the case may be, directly to the city or village treasurer in the case of class A, C and H (a) licenses; directly to the city or village treasurer in the case of class E licenses within the corporate limits of cities and villages, directly to the county treasurer in the case of class E and H (b) licenses outside of the corporate limits of cities and villages; directly to the commission in the case of class D and F licenses; and directly to the county treasurer in the case of class F and G licenses;
- (6) For a railroad license \$100.00
and \$1.00 for each duplicate;

- (7) For a boating license \$ 50.00
- (8) For a nonleverage user's license:
 - Class 1 \$ 5.00
 - Class 2 25.00
 - Class 3 50.00
 - Class 4 100.00
 - Class 5 250.00
- (9) Ecctle club license \$250.00
 in any county having a population of less than five thousand five hundred inhabitants, and \$500.00 in any county having a population of five thousand five hundred inhabitants or more; Provided, that no such license shall be issued within the corporate limits of any city or village when a license as provided in subdivision (5) C. of this section has been issued in such city or village; and
- (10) For an airline license \$100.00
 and \$1.00 for each duplicate.

The license year, unless otherwise provided in this act, shall commence on May 1 of each year and shall end on the following April 30, except for class C licenses which 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 this section, regardless of the time when the application for such license shall have been made.

Sec. 6. That section 53-135.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-135.01. The city or village clerk or the county clerk, as the case may be, shall cause to be published in a legal newspaper in or of general circulation in such city, village, or county, as the case may be, one time between February 20 and March 5 of each year, individual notice of the right of automatic renewal of each retail liquor and beer license, except class C licenses which shall be published between the dates of August 20 and September 5 of each year, for which provision is made in subdivision (5) of section 53-124, within such city, village or county, as the case may be, in the following form:

NOTICE OF RENEWAL
 OF RETAIL LIQUOR LICENSE

Notice is hereby given that pursuant to section 53-135.01 liquor license may be automatically renewed for one year from May 1, 19...., or November

1, 19.... for the following retail liquor licensee, to wit:

(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, as the case may be) on or before March 15, 19...., or September 15, 19.... in the office of the city (village or county, as the case may be) clerk; that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of said license should be allowed.

(Name)

City (village or county, as the case may be) Clerk

The city, village or county clerk, as the case may be, shall file or cause to be filed with the Nebraska Liquor Control Commission proof of publication of said notices on or before March 12 or September 12 of each year.

In the event written protests are filed by three or more residents of the city, village or county, as the case may be, against said license, the city, village or county clerk, as the case may be, shall deliver the same to the local governing body who shall thereupon proceed in the manner set forth in section 53-135 to require said licensee to submit an application.

Sec. 7. That section 53-179, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-179. (1) No person shall sell at retail or dispense any alcoholic liquor on the day of any election, including any primary election, within the boundaries of any political subdivision when the election is one in which all of the electors of such political subdivision may participate in the voting, during the hours the polls are open within the political subdivision in which such election is being held.

(2) No alcoholic liquors, including beer, shall be sold at retail or dispensed on the first day of the week, commonly called Sunday, between the hours of one o'clock a.m. Sunday and six o'clock a.m. Sunday. No alcoholic liquors for consumption on the premises, except beer, shall be sold at retail or dispensed on the first day of the week, commonly called Sunday, between the hours of six o'clock a.m. Sunday and six o'clock p.m. Sunday; and no alcoholic liquors for consumption off the premises, except beer, shall be sold at retail or

dispensed on the first day of the week, commonly called Sunday, between the hours of six o'clock a.m. Sunday and twelve o'clock midnight Sunday; Provided, that such limitations shall not apply after twelve o'clock noon on Sunday to a licensee which is a nonprofit corporation as defined in section 53-103 and is the holder of a license issued under the provisions of either subdivision (5) C. or subdivision (5) H. of section 53-124 but such licensee shall not sell or dispense liquors on more than six days each week. The permissible hours for the sale of alcoholic liquors, including beer, at retail or the dispensing thereof on Sunday, if allowed, by other than a nonprofit corporation licensee, within the corporate limits of cities and villages, shall be governed by ordinance of the local governing body; and outside the corporate limits of cities and villages, as shall be determined by resolution of the county board as provided more fully in subsection (3) hereof.

(3) No alcoholic liquors, including beer, shall be sold at retail or dispensed on secular days between one o'clock a.m. and six o'clock a.m.; Provided, that the local governing body of any city or village, in respect to the licensees within the corporate limits of cities or villages, or the county board, in respect to licensees outside the corporate limits of cities or villages, may require closing prior to one o'clock a.m. by ordinance or resolution on any day, including Sundays.

(4) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption after one fifteen o'clock a.m. on any day; Provided, that where any city or village provides by law for an earlier closing hour, the provisions of this subsection shall become effective fifteen minutes after such closing hour.

~~(4)~~ (5) Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section.

Sec. 8. Sections 5 and 6 of this act shall become operative on May 1, 1975.

Sec. 9. That original sections 20-113, 53-117, 53-135.01, and 53-179, Reissue Revised Statutes of Nebraska, 1943, and sections 20-134, 53-112, and 53-124, Revised Statutes Supplement, 1973, are repealed.