

## GUIDANCE DOCUMENT

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This guidance document may change with updated information or added examples. The Nebraska Liquor Control Commission recommends you check this document for the most up to date information regarding this guidance.

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**In the 2022 Legislative Session of the Nebraska Unicameral LB1236 was adopted which included, but is not limited to, a limited self-distribution of beer produced by a Nebraska Craft Brewery on their premise. This bill goes into effect on *July 21, 2022*.**

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**Nebraska Revised Statute 53-123.14 was amended to add a second subsection:**

(2)(a) A holder of a craft brewery license may directly sell for resale up to two hundred fifty barrels per calendar year of beer produced at its licensed

premises directly to retail licensees located in the State of Nebraska which hold the appropriate retail license if the holder of the craft brewery license:

- (i) Only self-distributes its beer in a territory in which the craft brewery licensee has not entered into a distribution agreement with a licensed Nebraska wholesaler for the territory where such retail licensee is located;
- (ii) Self-distributes its beer utilizing only persons exclusively and solely employed by the craft brewery licensee in vehicles exclusively and solely owned or leased by the craft brewery licensee; and
- (iii) Complies with all relevant statutes, rules, and regulations that apply to Nebraska beer wholesalers regarding distribution of such beer.

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

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

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

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#### **Where Craft Breweries Can Deliver:**

Craft Breweries can only sell to retailers in areas where they do not have a territory agreement with a Nebraska wholesaler.

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#### **Invoice Guidance:**

Invoices to retailers are required to have the following items:

- Retailer Name and Address
- Brewery Name and Address
- All products sold and sizes thereof
- Total gallonage sold to retailer
- Final Price
- Signatures of both delivery driver and receiver at retailer

Invoices are required to be provided with monthly reports for the first three months of the craft brewery conducting self-distribution. Normal record retention will also be required for all invoices.

**Payment Requirements:**

- All sales to retailers must be paid for upon delivery or by the means laid out in Chapter 6 015 Acceptable Means of Payment in the [Rules And Regulations](#) of the Liquor Control Commission.
  - No credit shall be extended to retailers for the purchase of beer. (Nebraska Revised Statute 53-168 (1))
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**Reporting Requirements:**

- Sales to Retailers will be reported on the “Sales to Nebraska Wholesalers” section of the monthly excise tax return. (Form 35-7137)
  - Invoices must be included for the first three (3) months of self-distribution for a craft brewery.
  - After the first three months a spreadsheet may be included in lieu of invoices providing the spreadsheets include the following:
    - Name of retailer
    - Address of retailer
    - Product names
    - Product sizes
    - Total gallonage sold to retailer
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**Vehicle Requirements:**

- Must be owned or leased by the craft brewery
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**Employee Requirements:**

- Employees must only work for one craft brewery for the purposes of delivery.
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**Offsite Storage Requirements:**

Requests for offsite storage must be made to the Commission before offsite storage is granted.

- Requests will be on a form as provided by the Commission.
- There shall be no consumption on the premise of any alcoholic beverages.
- A perpetual inventory must be kept at both the offsite location as well as the primary brewery location of what is stored at the offsite location.
- Product transferred to the offsite storage must be tax paid.
  - Offsite product will be reported under “Internal Sales” as “Transfer to Offsite Storage”
  - Any product sold to Nebraska Wholesalers, Nebraska Retailers, or Out of State from the offsite storage shall be reported as follows:

- On “Internal Sales” the product will be reported as “Sales to Nebraska Wholesaler,” “Sale to Nebraska Retailer,” or “Sale out of State” as a negative number reflecting the gallonage being sold to the respective area removed from the offsite storage.
- For Sales to Nebraska Wholesalers the product will be reported as normal on the “Sales to Nebraska Wholesalers” form.
- For Sales to Nebraska Retailers sales will be reported as outlined above.
- For Sales to Out of State sales will be reported as normal as “Shipments Out-of-State” with the normal record requirements.

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**Farm Wineries and Hard Cider:**

- Hard Cider is taxed and classified as beer in the State of Nebraska if it is under 8.5% ABV.
- LB1236 granted Craft Breweries a right of limited self-distribution
- Farm Wineries must still distribute Hard Cider through wholesalers as outlined in 53-123.11 subsection 3.