

STATE OF NEBRASKA

Pete Ricketts
Governor

NEBRASKA LIQUOR CONTROL COMMISSION

Hobert B. Rupe

Executive Director

301 Centennial Mall South, 5th Floor

P.O. Box 95046

Lincoln, Nebraska 68509-5046

Phone (402) 471-2571

Fax (402) 471-2814 or (402) 471-2374

TRS USER 800 833-7352 (TTY)

web address: <http://www.lcc.ne.gov/>

October 27, 2015

The Honorable, Pete Ricketts
Governor of Nebraska
and Senators of the Legislature
State Capitol Building
Lincoln NE 68509

Dear Governor Ricketts and Senators:

Pursuant to Neb. Rev. Stat. §53-117(9) it is the duty of the Nebraska Liquor Control Commission "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". The following are our recommendations. Although listed numerically, we believe them to be equally important to further the health, safety, and welfare of the people of Nebraska through the regulation of alcoholic beverages.

1) ALCOHOL IMPACT ZONES

Many jurisdictions utilize Alcohol Impact Zones to minimize problems with chronic public inebriation or illegal activities linked to the sale or consumption of alcohol within a geographic area of a city or town. The Commission believes that a statute granting it the authority to create said zones would benefit the public's health, safety and welfare.

2) EXCISE TAXES

The Commission believes that a review of the state excise taxes imposed on the manufacture and distribution of alcoholic liquors pursuant to Neb. Rev. Stat. §53-160 is warranted to insure that they are set at an appropriate level and comparable to similar taxes levied by states in the surrounding region. Special attention should be given to the current level of the state excise tax on farm wineries.

3) MANDATORY SERVER TRAINING

The Commission believes a statute requiring mandatory server training of employees of licensees should be enacted. Having all employees involved in the sale or serving of alcohol complete a certified training course would enhance the overall safety and welfare of the general public.

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Janice M. Wiebusch
Commissioner

Robert Batt
Chairman

Bruce Bailey
Commissioner

- 4) ENHANCE PENALTIES FOR ADULTS PROCURING FOR MINORS
The Commission believes that licensed individuals including parents who host house parties and allow consumption of alcohol by minors who are not their own children should face more significant criminal repercussions.

- 5) SPECIAL DESIGNATED LICENSE'S ISSUED TO NON-LICENSEES
Currently, certain entities including non-profit, religious, and political organizations can apply for and receive special designated licenses for the sale and consumption of alcoholic beverages at events ranging from county fairs to community picnics to weddings. The Commission believes that the issuance of a special designated license should be limited to the holders of a retail liquor license as it would promote the public health, safety and welfare. This would insure a level of professionalism in the serving of liquor at these events. In the alternative, an annual certification system could be created to provide for preapproval of potential special designed licensees and allow adequate time to confirm that licensees meet the statutory qualifications for issuance of such a license.

- 6) PARTY BUS/LIMO LICENSE
With the statutory change allowing the consumption of alcohol on the highways, an unintended consequence has been a proliferation of what are fittingly denominated as "Party Buses". This has resulted in an increase of consumption by minors on these party buses. Currently they are unregulated by the Commission; however, the Commission believes that this activity should be licensed under the Liquor Control Act.

- 7) BREW PUB / MICROBREWERY
Currently the Class L liquor license is the type used by both brewpubs and microbreweries. That definition sufficed upon original definition; however the two referenced markets have diversified and are increasingly dissected. It is the position of the Commission that the two types should be bifurcated.

- 8) ALCOHOL ENFORCEMENT
The Commission believes that Alcohol Enforcement needs to remain a priority. Although the creation of funding for six Nebraska State Patrol Investigator positions has helped, the Commission believes that more State resources need to be allocated to Enforcement of the Nebraska Liquor Control Act.

- 9) “MOONSHINE” PRODUCTION OR SALE
The Commission has encountered a disturbing trend as more people are allegedly manufacturing distilled spirits without a license in violation of Neb. Rev. Stat. 53-168.06, and has encountered such products in retail locations. The Commission has concerns that the current penalty of a Class IV Misdemeanor for a first offense is not a sufficient deterrent and not a significant type of case to attract prosecutorial action. The Commission believes that the penalty should be raised to a Class I Misdemeanor for a first offense and a Class IV Felony for a second or subsequent conviction. (Neb. Rev. Stat. Sec. 53-1,100)
- 10) ANNEXATION
Neb. Rev. Stat. 53-135 currently requires a license which is annexed into a governmental subdivision to file a new application. The Commission is of the opinion that such a requirement is burdensome and should be eliminated.
- 11) RESTAURANT CHECK-OUT
Currently it is a violation of Neb. Rev. Stat. Sec. 53-180.02 for an employee under the age of nineteen (19) to sell alcohol. A situation has arisen where an under nineteen (19) employee running the register at a restaurant who had no involvement with the serving of the alcohol (waitress was only person involved) was faced with a possible illegal act when they took payment for a meal which included alcohol. The Commission believes that an exception to the sale issue be made where the employee does not have actual control of the alcohol or is responsible for confirming the age and condition of the purchaser.
- 12) TECHINAL AND CORRECTIVE UPDATES
1. Neb. Rev. Stat. 53-178 needs to be applicable to wholesale, manufacturing, farm winery, microcraft and brew pub licensees as well as retail licensees.
 2. Neb. Rev. Stat. Sec. 53-187 needs to be updated. The amount is from a previous tax rate and the amount of 2.10 should be changed to 3.75.
 3. Neb. Rev. Stat. Sec. 53-175 contains an exception to the purchase from other than a licensed wholesaler. Said exception has never been used and continues to create confusion among retailers who erroneously believe they can purchase up to three hundred dollars of product from another retailer. The Commission believes the exception should be eliminated.

Thank you for your consideration of our recommendations. We will work with you on the drafting of language or provide you with any further information that is requested.

Sincerely,

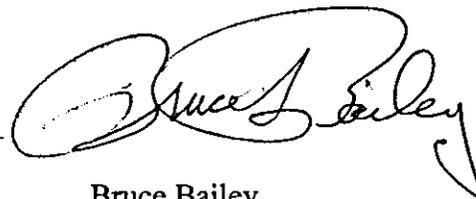
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