

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 781

Introduced by Smith, 14.

Read first time January 04, 2012

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 sections 53-160 and 53-164.01, Reissue Revised Statutes
3 of Nebraska; to change provisions relating to the
4 gallonage tax; and to repeal the original sections.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-160, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 53-160 (1) For the purpose of raising revenue, a tax is
4 imposed upon the privilege of engaging in business as a manufacturer
5 or a wholesaler at a rate of thirty-one cents per gallon on all beer;
6 ninety-five cents per gallon for wine, except for wines produced and
7 released from bond in farm wineries; six cents per gallon for wine
8 produced and released from bond in farm wineries; and three dollars
9 and seventy-five cents per gallon on alcohol and spirits manufactured
10 and sold by such manufacturer or shipped for sale in this state by
11 such wholesaler in the course of such business. The gallonage tax
12 imposed by this subsection shall be imposed only on alcoholic liquor
13 upon which a federal excise tax is imposed.

14 (2) Manufacturers or wholesalers of alcoholic liquor
15 shall be exempt from the payment of the gallonage tax on such
16 alcoholic liquor upon satisfactory proof, including bills of lading
17 furnished to the commission by affidavit or otherwise as the
18 commission may require, that such alcoholic liquor was manufactured
19 in this state but shipped out of the state for sale and consumption
20 outside this state.

21 (3) Dry wines or fortified wines manufactured or shipped
22 into this state solely and exclusively for sacramental purposes and
23 uses shall not be subject to the gallonage tax.

24 (4) The gallonage tax shall not be imposed upon any
25 alcoholic liquor, whether manufactured in or shipped into this state,

1 when sold to a licensed nonbeverage user for use in the manufacture
2 of any of the following when such products are unfit for beverage
3 purposes: Patent and proprietary medicines and medicinal, antiseptic,
4 and toilet preparations; flavoring extracts, syrups, food products,
5 and confections or candy; scientific, industrial, and chemical
6 products, except denatured alcohol; or products for scientific,
7 chemical, experimental, or mechanical purposes.

8 (5) The gallonage tax shall not be imposed upon the
9 privilege of engaging in any business in interstate commerce or
10 otherwise, which business may not, under the Constitution and
11 statutes of the United States, be made the subject of taxation by
12 this state.

13 (6) The gallonage tax shall be in addition to all other
14 occupation or privilege taxes imposed by this state or by any
15 municipal corporation or political subdivision thereof.

16 (7) The commission shall collect the gallonage tax and
17 shall account for and remit to the State Treasurer at least once each
18 week all money collected pursuant to this section. If any alcoholic
19 liquor manufactured in or shipped into this state is sold to a
20 licensed manufacturer or wholesaler of this state to be used solely
21 as an ingredient in the manufacture of any beverage for human
22 consumption, the tax imposed upon such manufacturer or wholesaler
23 shall be reduced by the amount of the taxes which have been paid as
24 to such alcoholic liquor so used under the Nebraska Liquor Control
25 Act. The net proceeds of all revenue arising under this section shall

1 be credited to the General Fund.

2 Sec. 2. Section 53-164.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 53-164.01 Payment of the tax provided for in section
5 53-160 on alcoholic liquor shall be paid by the manufacturer or
6 wholesaler as follows:

7 (1)(a) All manufacturers or wholesalers, except farm
8 winery producers, whether inside or outside this state shall, on or
9 before the twenty-fifth day of each calendar month following the
10 month in which shipments were made, submit a report to the commission
11 upon forms furnished by the commission showing the total amount of
12 alcoholic liquor in gallons or fractional parts thereof shipped by
13 such manufacturer or wholesaler, whether inside or outside this
14 state, during the preceding calendar month;

15 (b) All beer wholesalers shall, on or before the twenty-
16 fifth day of each calendar month following the month in which
17 shipments were made, submit a report to the commission upon forms
18 furnished by the commission showing the total amount of beer in
19 gallons or fractional parts thereof shipped by all manufacturers,
20 whether inside or outside this state, during the preceding calendar
21 month to such wholesaler;

22 (c)(i) Except as provided in subdivision (ii) of this
23 subdivision, farm winery producers which paid less than one thousand
24 dollars of excise taxes pursuant to section 53-160 for the previous
25 calendar year and which will pay less than one thousand dollars of

1 excise taxes pursuant to section 53-160 for the current calendar year
2 shall, on or before the twenty-fifth day of the calendar month
3 following the end of the year in which wine was packaged ~~or bottled~~
4 ~~for sale, and released from bond,~~ submit a report to the commission
5 upon forms furnished by the commission showing the total amount of
6 wine in gallons or fractional parts thereof packaged ~~or bottled and~~
7 released from bond by such producer during the preceding calendar
8 year; and

9 (ii) Farm winery producers which paid one thousand
10 dollars or more of excise taxes pursuant to section 53-160 for the
11 previous calendar year or which become liable for one thousand
12 dollars or more of excise taxes pursuant to section 53-160 during the
13 current calendar year shall, on or before the twenty-fifth day of
14 each calendar month following the month in which wine was packaged ~~or~~
15 ~~bottled for sale, and released from bond,~~ submit a report to the
16 commission upon forms furnished by the commission showing the total
17 amount of wine in gallons or fractional parts thereof packaged ~~or~~
18 ~~bottled and released from bond~~ by such producer during the preceding
19 calendar month. A farm winery producer which becomes liable for one
20 thousand dollars or more of excise taxes pursuant to section 53-160
21 during the current calendar year shall also pay such excise taxes
22 immediately;

23 (d) A craft brewery shall, on or before the twenty-fifth
24 day of each calendar month following the month in which the beer was
25 ~~produced~~ released from bond for sale, submit a report to the

1 commission on forms furnished by the commission showing the total
2 amount of beer in gallons or fractional parts thereof produced for
3 sale by the craft brewery during the preceding calendar month;

4 (e) A microdistillery shall, on or before the twenty-
5 fifth day of each calendar month following the month in which the
6 distilled liquor was ~~produced~~ released from bond for sale, submit a
7 report to the commission on forms furnished by the commission showing
8 the total amount of distilled liquor in gallons or fractional parts
9 thereof produced for sale by the microdistillery during the preceding
10 calendar month; and

11 (f) Reports submitted pursuant to subdivision (a), (b),
12 or (c) of this subdivision shall also contain a statement of the
13 total amount of alcoholic liquor, except beer, in gallons or
14 fractional parts thereof shipped to licensed retailers inside this
15 state and such other information as the commission may require;

16 (2) The wholesaler or farm winery producer shall at the
17 time of the filing of the report pay to the commission the tax due on
18 alcoholic liquor, except beer, shipped to licensed retailers inside
19 this state at the rate fixed in accordance with section 53-160. The
20 tax due on beer shall be paid by the wholesaler on beer shipped from
21 all manufacturers;

22 (3) The tax imposed pursuant to section 53-160 shall be
23 due on the date the report is due less a discount of one percent of
24 the tax on alcoholic liquor for submitting the report and paying the
25 tax in a timely manner. The discount shall be deducted from the

1 payment of the tax before remittance to the commission and shall be
2 shown in the report to the commission as required in this section. If
3 the tax is not paid within the time provided in this section, the
4 discount shall not be allowed and shall not be deducted from the tax;

5 (4) If the report is not submitted by the twenty-fifth
6 day of the calendar month or if the tax is not paid to the commission
7 by the twenty-fifth day of the calendar month, the following
8 penalties shall be assessed on the amount of the tax: One to five
9 days late, three percent; six to ten days late, six percent; and over
10 ten days late, ten percent. In addition, interest on the tax shall be
11 collected at the rate of one percent per month, or fraction of a
12 month, from the date the tax became due until paid;

13 (5) No tax shall be levied or collected on alcoholic
14 liquor manufactured inside this state and shipped or transported
15 outside this state for sale and consumption outside this state;

16 (6) In order to insure the payment of all state taxes on
17 alcoholic liquor, together with interest and penalties, persons
18 required to submit reports and payment of the tax shall, at the time
19 of application for a license under sections 53-124 and 53-124.01,
20 enter into a surety bond with corporate surety, both the bond form
21 and surety to be approved by the commission. Subject to the
22 limitations specified in this subdivision, the amount of the bond
23 required of any taxpayer shall be fixed by the commission and may be
24 increased or decreased by the commission at any time. In fixing the
25 amount of the bond, the commission shall require a bond equal to the

1 amount of the taxpayer's estimated maximum monthly excise tax
2 ascertained in a manner as determined by the commission. Nothing in
3 this section shall prevent or prohibit the commission from accepting
4 and approving bonds which run for a term longer than the license
5 period. The amount of a bond required of any one taxpayer shall not
6 be less than one thousand dollars. The bonds required by this section
7 shall be filed with the commission; and

8 (7) When a manufacturer or wholesaler sells and delivers
9 alcoholic liquor upon which the tax has been paid to any
10 instrumentality of the armed forces of the United States engaged in
11 resale activities as provided in section 53-160.01, the manufacturer
12 or wholesaler shall be entitled to a credit in the amount of the tax
13 paid in the event no tax is due on such alcoholic liquor as provided
14 in such section. The amount of the credit, if any, shall be deducted
15 from the tax due on the following monthly report and subsequent
16 reports until liquidated.

17 Sec. 3. Original sections 53-160 and 53-164.01, Reissue
18 Revised Statutes of Nebraska, are repealed.