



Jim Pillen
Governor

STATE OF NEBRASKA

NEBRASKA LIQUOR CONTROL COMMISSION

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November 13th, 2023

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

Dear Governor Jim Pillen 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 regulations of alcoholic beverages.

1. ALLOW WHOLESALERS TO OBTAIN SHIPPING LICENSES

Currently, Out of State Wholesalers ship alcoholic products from their wholly owned entities to their licensed Wholesale entities in Nebraska. These Out of State Wholesalers do not currently have the ability to obtain licenses. The NLCC would like these out of state Wholesalers to obtain a Shipping license, so the NLCC would have the ability to know what alcoholic products are shipped between these wholesale entities and to ensure all taxes are paid.

2. OUT OF STATE RETAILERS BEING EXEMPT FROM BRAND REGISTRATION

Nebraska allows out of state retailers to ship to a Nebraska resident. These products will often be in the marketplace already and it makes sense to exclude the out of state retailers from having to register brands as they are not the original importer nor a shipper of a domestically produced product.

3. MANDATORY EDUCATION

The Commission believes that mandatory server training as well as mandatory education for bar owners or bar managers would be a benefit to the overall industry in the area of compliance and information which would lead to benefits for the safety and welfare of the general public. With the implementation of POSSE, we would have the ability to have our own Education program. Statutory language would need to be updated so fees can be collected from a customer to the vendors.

Kim Lowe
Commissioner

Bruce Bailey
Chairman

Harry A. Hoch
Commissioner

4. A. 3RD PARTY DELIVERY PERMITS: TO CONSUMERS

There has been issues with third parties taking possession of alcohol and making deliveries for retail licensees. The Commission believes that those delivering alcohol should have a permit to ensure compliance with training and age requirements.

B. 3RD PARTY DELIVERY PERMITS: TO RETAILERS AND PRIVATE CARRIERS TRANSPORTING WITHIN THE STATE

Neb. Stat. 53-192 allows a person or common carrier to haul/transport alcoholic liquor as long as the required labeling or gauging fee, tax, duty, or license is paid, either in this state or the state where such alcoholic liquor was purchased. The Commission, based on 53-192, has determined private carriers are acting as authorized agents of the underlying liquor license holder and are not required to be permitted by the Commission to transport alcoholic beverages from the Nebraska wholesale distribution warehouse to the Nebraska retail liquor license holder or from the U.S. supplier/importer to the Nebraska wholesale distribution warehouse. However, the Commission has identified enforcement issues with private transport carriers such as multiple cases of alcoholic beverages becoming missing. The Commission has no jurisdiction to provide enforcement. Creating a requirement for these carriers to obtain a permit to transport alcoholic beverages would allow the Commission to have enforcement jurisdiction and would also provide additional verification of taxable quantities.

5. DEFINE BOOTLEGGING & INCLUDE THE BOOTLEGGING REFERENCE IN 53-164.02 EVASION OF LIQUOR TAX

The Commission has seen an increase in “bootlegging” by means of transporting product across state lines. Most often the Commission finds it difficult to capture the product swiftly but this additional inclusion in the Liquor Control Act could serve as incentive for law enforcement. The Commission would like it defined as such in order to have the authority to apply 53-164.02 to double the excise tax so evaded and apply the Class II misdemeanor in order to further deter this criminal behavior and protect the 3-tiered system. Bootlegging definition is proposed to be the illegal manufacture, distribution, transportation, or sale of alcoholic products.

6. AUCTIONS OF ALCOHOL REQUIRE A PERMIT

The Commission requests statutory authority to permit auctions and auction companies to sell alcoholic beverages if they are part of the auction and the Commission to create rules and regulations in this area. The Commission only anticipates a nominal fee for this permit.

7. CANNABIS

If Nebraska makes the decision to allow recreational cannabis, the Commission believes it should be regulated in a similar fashion to alcohol and that the Commission should regulate the product. The CAMP project will allow the Commission to effectively license and enforce Cannabis regulation.

8. ADDITIONAL NEBRASKA STATE PATROL INVESTIGATORS

The Nebraska State Patrol (Neb. Rev. Stat. 53-117(3)) provides principal investigation and enforcement services to the Commission. There are currently six (6) full time positions assigned to this division. However, more enforcement resources are needed especially in the urban areas with the highest number of licensed locations. The Commission requests that the NSP Liquor Investigators be increased to nine (9) positions with those positions being assigned to Troop H and Troop A.

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,

NEBRASKA LIQUOR CONTROL COMMISSION



Kim Lowe
Commissioner



Bruce Bailey
Chairman



Harry Hoch
Commissioner

