

NOTICE

NOTICE is hereby given that the Nebraska Liquor Control Commission will hold a public hearing pursuant to Neb. Rev. Stat. Sec. 84-907, on Thursday, the 7th day of September at 9:00 a.m., at its offices on the 1st Floor of the State Office Building, located at 301 Centennial Mall, South, Lincoln, Nebraska.

The purpose of the hearing is to take testimony and evidence about the amendments to Rule 237-LCC13 (Farm Wineries/Craft Breweries/Micro Distilleries). The subject matter and scope of the rule-making action is:

1. To Adopt Amendments to Rule 237-LCC13 (Farm Wineries/Craft Breweries/Micro Distilleries).

The proposed resolution impacts Nebraska Farm Wineries (Class Y), Nebraska Craft Breweries (Class L), and Nebraska Micro Distilleries (Class Z) license holders. It codifies all three Nebraska small producer regulations into one rule chapter and includes policy changes to implement recent statutory changes allowing limited self-distribution. Other than existing enforcement by the Commission and the Nebraska State Patrol, no additional impact upon State agencies, or political subdivisions is expected.

Draft or working copies of the proposed rules are available at the office of the Nebraska Liquor Control Commission, or at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508. There is no expected fiscal impact from adopting this rule on state agencies, regulated persons, or political subdivisions.

All interested persons may attend and testify orally or by written submission at the hearing. Interested persons may also submit written comments prior to hearing which will be made part of the hearing record at the time of hearing if received by the Nebraska Liquor Control Commission on or before September 7th, 2023. If auxiliary aids or reasonable accommodations are needed to participate in the hearing, please call the Commission at (402) 471-2571 a minimum of ten (10) days prior to the date of hearing.

Dated this 18th day of July 2023.

NEBRASKA LIQUOR CONTROL COMMISSION


(Executive Director)



CHAPTER 13-FARM WINERIES/CRAFT BREWERIES/MICRO DISTILLERIES
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01 Waiver of ~~75%/25%~~ 60%/40%

01.01 The Commission may grant an exemption under 53-123.13 for a natural disaster only.

01.02 Agricultural product under 53-103(32) shall mean any grapes, fruit, berries or honey whether in whole cluster, whole berry, crushed, uncrushed or pressed to juice form, liquid or frozen, as long as the product has not been altered or added to in any way (other than skin removal). "Agricultural product" shall not mean any product that already contains alcohol, produced from outside this state.

01.03 The ~~75%~~ 60% limitation will be calculated based on the number of gallons of finished wine produced from Agricultural Products grown in this state. The remaining ~~25%~~ 40% will be based on the number of gallons of finished wine produced from Agricultural Products imported from outside the state. The licensee may import an agriculture product from outside the state of Nebraska during a calendar year in an amount needed to produce a quantity of finished wine not exceeding ~~25%~~ 40% of the finished wine produced by the licensee from the same Nebraska-grown agricultural product during the prior calendar year.

02 Signs, Advertising

02.01 Any bottle(s) containing more than ~~twenty-five~~ forty percent of products from outside the state shall not be labeled to imply the product is a Nebraska product.

03 Record Keeping/Documentation

03.01 Production records/documentation shall be kept on each product to include the amounts and type of raw material used, source of raw materials and amount produced. These records shall be maintained for a period of not less than three years and open to audit/inspection by any agent or employee of the Nebraska Liquor Control Commission.

04 Branch Outlet/Sampling

04.01 A farm winery desiring the branch outlet allowed for sampling in 53-123.11(d) need not apply for a separate license but shall seek prior approval of the location from the Commission and the local governing body.

06 05 Place of Fermentation

06.01 The fermentation of Agricultural Products shall take place on the licensed premises. This does not include any natural fermentation of product being shipped into the farm winery under 001.03.

06 Satellite Locations:

Craft Breweries, a holder of a Class L Craft Brewery liquor license under Neb. Rev. Stat. 53-123.14, and a holder of a manufacturing license under Neb. Rev. Stat. 53-123.01(2), a holder of a Class Z Micro Distillery license under Neb. Rev. Stat. 53-123.16, and a holder of a Class Y Farm Winery License under Neb. Rev. Stat. 53-123.11, may hold additional retail licensed locations as authorized by Neb. Rev. Stat. 53-123.14 and 53-123.01(2), hereinafter called Satellite Locations. A Satellite Location must be licensed for the sale of alcohol at retail and conform to all other requirements for a retail license. To qualify as a Satellite Location, it must be wholly owned in common by the holder of the Class L brewery license under Neb. Rev. Stat. 53-123.14, the holder of the manufacturing license under Neb. Rev. Stat. 53-123.01(2), the holder of a Class Z Micro Distillery license under Neb. Rev. Stat. 53-123.16, or a holder of a Class Y Farm Winery License under Neb. Rev. Stat. 53-123.11. Such Class L brewery licensee under Neb. Rev. Stat. 53-123.14, manufacturing licensee under Neb. Rev. Stat. 53-123.01(2), Class Z Micro Distillery license under Neb. Rev. Stat. 53-123.16, or Farm Winery License under Neb. Rev. Stat. 53-123.11 may transfer product produced at the licensed brewery to its Satellite Locations without the use of a Nebraska Wholesaler. However, proper documentation of all quantities of transfers shall be maintained by such Class L brewery licensee under Neb. Rev. Stat. 53-123.14, manufacturing licensee under Neb. Rev. Stat. 53-123.01(2), Class Z Micro Distillery license, under Neb. Rev. Stat. 53-123.16 or Farm Winery License under Neb. Rev. Stat. 53-123.11. Any sale to any licensed retailer other than a Satellite Location must be accomplished through a Nebraska Wholesaler.

07 Farm Winery/Craft Brewery/Micro Distillery Off – Site Storage Facility

07.01 A farm winery, craft brewery, and micro distillery licensee desiring an off-site storage facility shall seek prior approval from the Commission. The ~~farm winery~~ written request must include but not limited to the following:

- a) Address of the proposed facility;
- b) Dimensions of the facility;
- c) Security measures in place.

07.02 Off-site storage facility requirements:

- a) Copy of ~~farm winery~~ license;
- b) Perpetual inventory record of finished ~~wine~~-products;
- c) No consumption or tasting allowed on or about the facility;
- d) ~~No Alcoholic beverages other than products classified as wine can be stored in the facility. No alcoholic beverages other than those produced by licensee can be stored in the facility.~~

05-08 Distribution

05 8.01 Farm wineries, Craft breweries, and Micro distilleries may wholesale to licensed retailers on and off site.

05 8.02 Farm wineries, Craft breweries, and Micro distilleries may ship wines by common carrier to licensed wholesalers.

08.03 Farm Wineries

- a) Farm Wineries may self-distribute wine if the overall production for the farm winery is less than 50,000 gallons per year.
- b) Only distribute products produced onsite of the farm winery.
- c) May not grant credit for sale of self-distributed product in excess of 30 days.
- d) Dock sales are permitted.
- e) Farm wineries with annual production not exceeding 30,000 gallons in the prior calendar year may also ship wines by common carrier to licensed retailers, and to consumers.

08.04 Craft Breweries

- a) Craft breweries may not exceed 250 barrels of self-distributed product.
- b) All sales to retailers can only be made to retailers in areas where the craft brewery has no territory agreement.
- c) Deliveries must be made with vehicles owned or leased by the brewery.
- d) Only employees employed by the single craft brewery may deliver beer.
- e) Only distributes beer manufactured at the craft brewery's licensed location.

- f) Collect payment for beer from retailers as laid out in the Acceptable Means of Payment rule.
- g) Payment for beer must be made upon delivery.
- h) Dock sales are permitted.

08.05 Micro Distilleries

- a) Micro distilleries may not exceed 500 gallons of self-distributed product.
- b) Deliveries must be made by an employee employed by the microdistillery.
- c) Only distributes products manufactured on the licensed premise.
- d) May not grant credit for sale of self-distributed product in excess of 30 days.
- e) Dock sales are permitted.