

# LB 1105

**A bill that would increase youth access to alcohol and require Nebraska taxpayers to shoulder the costs**

## »» LB 1105 Overview

LB 1105 is an omnibus bill that proposes numerous changes to the Nebraska Liquor Control Act. The bill, introduced by Sen. Tyson Larson of O'Neill, includes several provisions go against the available science for protecting public health and safety by preventing excessive alcohol consumption, which includes underage drinking. As introduced, the bill would make a number of troubling changes, including:

- **Allows persons 16-18 years of age to serve and sell alcoholic liquor** if they are certified as beverage servers, and allows persons aged 16 and older to complete a transaction for the sale of alcoholic liquor if they are not handling or serving the alcohol.
- **Creates the Nebraska Craft Brewery Board**, to provide a forum for beer manufacturers and producers of agricultural products used in the brewing process to discuss policies and procedures, and serves as an advisory board to the Nebraska Liquor Control Commission (LCC), the board tasked with regulating the craft brewery industry. Creates fund to develop and maintain programs for research and advancement of process, as well as marketing and promotion of the industry. LB 1105 does not create a board of experts to advise the LCC on matters related to public health and safety.
- **Creates a Class T liquor license** for retail licensees whose annual gross revenues from alcohol sales does not exceed 20% of licensee's total annual gross revenue from all retail sales. License would allow for the off-sale of alcoholic liquor, including beer.
- **Removes the requirement that licensed establishments in annexed areas must reapply for their liquor license.** Currently, licensed establishments must reapply to the annexing local governmental body. This is particularly useful if there are licensees who have a history of liquor violations to ensure that these businesses are held accountable for their actions.

The General Affairs Committee has advanced the bill out of committee to the full Unicameral for debate and *designated LB 1105 as a Committee Priority Bill*, which means it will be debated soon given the short 60-day legislative session. The Committee has proposed a number of changes in Committee Amendment AM 2029, the most important of which would **eliminate the provision to allow persons 16-18 years old to sell and serve alcohol**, and "Christmas-trees" onto the proposal two additional bills, LB 748 and LB 1046.

## POLICY Decisions using the Science

Underage drinking and excessive alcohol consumption are major public health problems. Alcohol is the most commonly used and abused drug among youth in the United States, more than tobacco and illicit drugs,<sup>i</sup> and is responsible for more than 4,300 annual deaths among underage youth<sup>1</sup>. Although drinking by persons under the age of 21 is illegal, people aged 12 to 20 years drink 10% of all alcohol consumed in the United States.<sup>iii</sup> Furthermore, in 2010, there were approximately 189,000 emergency rooms visits by persons under age 21 for injuries and other conditions linked to alcohol.<sup>ii</sup>

**In Nebraska**, underage drinkers consumed 8% of all alcohol sold in the state in 2012, totaling \$54 million in sales (in 2013 dollars).<sup>iii</sup>

According to America’s Public Health Rankings data, Nebraska ranks 5<sup>th</sup>-worst in the country for our rates of excessive drinking, and CDC data indicates that 4 Nebraska communities rank in the top 15 cities (Norfolk, Lincoln, Sioux City, and Omaha) in the country. In 2012, our state’s underage drinkers consumed 2.5 times more alcohol (4.3 drinks per day) than legal drinkers (1.6 drinks per day).<sup>iii</sup> Excessive alcohol consumption, including binge drinking and underage drinking, cost taxpayers over \$1.16 billion in 2010, \$491 million of which was paid by Nebraska taxpayers.<sup>iv</sup> In contrast, alcohol excise tax receipts collected by the state for 2010 were \$27.6 million, or 5.6 percent of the state’s costs.<sup>v</sup> Furthermore, research released by the CDC shows that an average of 11 people die of alcohol poisoning each year in our state.<sup>vi</sup>



**Bringing Public Health and Safety to the Table:**

In an effort to address the alcohol-related harms and costs in Nebraska, it seems prudent that the Legislature consider creating an advisory board of public health and safety professionals, as opposed to creating a board solely for the purpose of increasing revenue for, and influence of, the beer industry in the state. Pursuant to Neb. Rev. Stat. 53-117(2), the Nebraska Liquor Control Commission (Commission) is tasked with promoting public health and welfare, not the interests of the industry. The creation of a Public Health and Safety Advisory Board would bring an important stakeholder to the table to advise the Commission about areas essential to their mission.

On the other hand, the craft brewery industry, by all accounts, is growing by leaps and bounds. Should the creation of a Nebraska Craft Brewery Board be necessary and desired within the industry, such an endeavor can and should be left to those within the industry. The creation of said Board should not require statutory language to achieve. The Commission has enough challenges related to the regulation and enforcement of the Nebraska Liquor Control Act, as evidenced by recent requests for additional funding.

**Addressing the Availability of Alcohol:**

In Nebraska, the current age at which a young person can legally sell alcohol is 19. As introduced, LB 1105 would move that age from 19 to 16. While this may seem a small change in a large bill, it has the potential for moving Nebraska in the wrong direction when it comes to protecting youth people’s health and safety – it increases access to alcohol. It should not be the policy of Nebraska to allow kids to serve kids alcohol. Sadly, we have recently seen the consequences of what appears to have been a young server selling alcohol to a minor in Waterloo. The risk we allow in these situations has the very real potential of immediately putting the lives of young people in danger.

According to the National Institute on Alcohol Abuse and Alcoholism’s Alcohol Policy Information System, only one state in the entire country currently allows 17-year-olds to serve or sell alcohol for consumption on the premises, and no state currently allows 16-year-olds to sell alcohol for that purpose. With regard to the sale of alcohol for consumption off the premises, only a handful of states allow 16- to 17-year-olds to sell alcohol.<sup>vii</sup> Furthermore, adolescents’ brains are rapidly developing and

continue through their early-20s,<sup>viii</sup> meaning that they do not have the capacity to adequately weigh the potential risks and consequences when deciding whether or not to sell alcohol. They will undoubtedly also be subjected to a great deal of peer pressure to provide access to the alcohol that those 16- to 18-year-olds would have control over as a result of LB 1105.

LB 1105 also proposes to create a new Class T license<sup>1</sup> for retailers whose annual gross revenues from alcohol sales does not exceed 20 percent from all retail sales. Our state has ranked consistently among the worst in the nation with regard to excessive alcohol consumption and the consequences it has on our communities. Scientific research has shown that one important factor in preventing underage and excessive consumption and related harms is limiting the physical availability of alcohol. Instead of increasing the number and types of places allowed to sell alcohol, the state should be considering evidence-based policies that reduce and prevent excessive consumption, its related harms, and the enforcement challenges that such a proposal could present.

The Community Preventive Services Task Force (an independent, nonfederal, unpaid panel of public health and prevention experts) ***recommends applying regulatory authority to reduce alcoholic beverage outlet density or to limit the increase of alcoholic beverage outlet density*** as a way to reduce underage drinking, excessive alcohol consumption and related-harms. A systematic review of the literature showed that when the density of on-or off-premises alcohol outlets is high or increases, excessive consumption and its diverse related harms occur.<sup>ix</sup>

LB 1105 would increase the number licensees that are able to sell alcoholic liquor – as a result, it will be easier for youth to access alcoholic beverages.

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<sup>i</sup> Centers for Disease Control and Prevention (CDC). Alcohol-Related Disease Impact (ARDI). Atlanta, GA: CDC, Retrieved on January 20, 2015 from [http://apps.nccd.cdc.gov/DACH\\_ARDI/Default/Default.aspx](http://apps.nccd.cdc.gov/DACH_ARDI/Default/Default.aspx)

<sup>ii</sup> Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. The DAWN Report: Highlights of the 2010 Drug Abuse Warning Network (DAWN) Findings on Drug-Related Emergency Department Visits. Rockville, MD; 2012, Retrieved on January 20, 2015 from <http://archive.samhsa.gov/data/2k12/DAWN096/SR096EDHighlights2010.pdf>

<sup>iii</sup> Pacific Institute for Research and Evaluation (PIRE) with funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Underage Drinking Costs: Nebraska Factsheet.

<sup>iv</sup> Sacks J, Gonzales K, Bouchery E, Tomedi L, Brewer R. (2015). "State Costs of Excessive Alcohol Consumption, 2010." American Journal of Preventive Medicine 2015; 49(5):e73-79.

<sup>v</sup> Nebraska Liquor Control Commission. (n.d.). "History of Gallonage." Last revised March 2015.

<sup>vi</sup> Centers for Disease Control and Prevention (CDC). Vital Signs: Alcohol Poisoning Deaths – United States, 2010-2012, Retrieved on January 20, 2015 from [http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6353a2.htm?s\\_cid=mm6353a2\\_w#tab2](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6353a2.htm?s_cid=mm6353a2_w#tab2)

<sup>vii</sup> National Institute on Alcohol Abuse and Alcoholism. (n.d.). "Underage Drinking: Minimum Ages for On-Premises Servers and Bartenders." Last revised January 2015. Retrieved on January 25, 2016 from [https://alcoholpolicy.niaaa.nih.gov/Minimum\\_Ages\\_for\\_On-Premises\\_Servers\\_and\\_Bartenders.html?tab=about&date=1%2f1%2f2003&dateStart=1%2f1%2f2003&dateEnd=1%2f1%2f2015&onlyChanges=True](https://alcoholpolicy.niaaa.nih.gov/Minimum_Ages_for_On-Premises_Servers_and_Bartenders.html?tab=about&date=1%2f1%2f2003&dateStart=1%2f1%2f2003&dateEnd=1%2f1%2f2015&onlyChanges=True)

<sup>viii</sup> Johnson S, Blum R, Giedd J. (2009). Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy. Journal of Adolescent Health, 2009 Sep; 45(3): 216-221. Retrieved on January 25, 2016 from <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2892678/>

<sup>ix</sup> The Task Force on Community Preventive Services. (2009). "Recommendations for Reducing Excessive Alcohol Consumption and Alcohol-Related Harms by Limiting Alcohol Outlet Density." American Journal of Preventive Medicine, 2009;23(6): 570-1.

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<sup>1</sup> Changed to Class G in AM2029