

Transcript Prepared by Clerk of the Legislature Transcribers Office
General Affairs Committee February 3, 2025

HOLDCROFT: OK, we're going to start. Are you ready, Barb?

BARB DORN: Yes.

HOLDCROFT: OK. Welcome to the General Affairs Committee. I am Senator Rick Holdcroft representing Legislative District 36, and I serve as chair of the committee. The committee will take up the bills in the order posted. This public hearing today is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets that are on the table at the back of the room. Be sure to print clearly and fill it out completely. Please move to the front row to be ready to testify. When it is your turn to come forward, give the testifier sheet to the page. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by the proponents of the bill, then opponents of the bill. And, finally, by anyone speaking in the neutral capacity. We will finish with the closing statement by the introducer if they wish to give one. We will be using a 3-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have 1 minute remaining, and the red light indicates you need to wrap up your thought-- your final thought and stop. Questions from the committee may follow when-- which do not count against your time. Also, committee members may come and go during the hearing. This has nothing to do with the importance of the bills being heard. It is just part of the process as senators may have bills to introduce in other committees. A few final items to facilitate today's hearings. If you have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website and nebraskalegislature.gov. Written position papers will be included in the official hearing record, but only those testifying in person before the committee will be included

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on the committee statement. I will now have the committee members with us today introduce themselves, starting on my left.

ANDERSEN: I'm Bob Andersen, representing District 49, which is northwest Sarpy County in Omaha.

DeKAY: Barry DeKay, representing District 40, which consists of Holt, Knox, Antelope, Cedar, northern part of Pierce, and northern part of Dixon County.

J. CAVANAUGH: John Cavanaugh, District 9, midtown Omaha.

QUICK: Dan Quick, District 35, Grand Island.

CLOUSE: Stan Clouse, District 37: Shelton, Gibbon, and Kearney.

ROUNTREE: Victor Rountree, District 3: Bellevue and Papillion.

STORM: Good afternoon. Jared Storm, District 23: Saunders, most of Butler, and Colfax County.

HOLDCROFT: Also assisting the committee today, to my right is our committee research analyst Micah Chaffee; and to my far left is our committee clerk Barb Dorn. Our pages for the committee today are Tate Smith of Columbus, a junior at the University of Nebraska-Lincoln, majoring in political science; and Arnav Rishi, also a junior at UNL and political science major. Today's agenda is posted outside the hearing room. With that, we will begin today's hearings with LB478.

J. CAVANAUGH: Good afternoon, Chairman Holdcroft. You are welcome to open on your bill or, I guess, the committee bill, LB478.

HOLDCROFT: Thank you, Vice Chair Cavanaugh and members of the General Affairs Committee. For the record, my name is Senator Rick Holdcroft, spelled R-i-c-k H-o-l-d-c-r-o-f-t, and I represent Legislative District 36, which includes west and south Sarpy County. Today, as the chair of the General Affairs Committee, I am introducing LB478. A committee bill brought forward on behalf of the Liquor Control Commission. The purpose of the Commission is to regulate and control the alcoholic beverage industry and beverages coming in and out of the state in an efficient, effective manner in order to promote the public health, safety, and welfare. One of the duties assigned to the Nebraska Liquor Control Commission is to investigate administration of laws in relation to alcohol liquor reco-- to alcoholic liquor, recommend them to the Legislature. LB478 contains several of these recommendations. The first recommendation allows wholesalers to obtain

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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 Commission would like these out-of-state wholesalers to obtain a shipping license so the Commission would have the ability to know what alcoholic products are shipped between the wholesale entities and to ensure all taxes are being paid. The second recommendation updates the Commission's brand registration system by exempting, by exempting out-of-state retailers from brand registration and creates a renewal fee. This system requires all manufacturers, Nebraska craft breweries, micro distilleries, and farm wineries who hold a shipping license to register their brands. Nebraska law allows out-of-state retailers to ship to Nebraska residents because these products will often be in the marketplace already. The Commission would like to exclude out-of-state retailers from having to register brands as they are not the, not the original importer nor a shipper of a domestically produced product. The Commission is also requesting a renewal fee be added to the brand registration system. In many states without a renewal procedure, products no longer available in the state remain in the database for years. The third recommendation is to give the Commission statutory authority to permit options and option companies if they are part of the option. This authority would allow them to create the rules and regulations for the permit process assessing a nominal fee. The final recommendation by the Commission, the Commission provides various technical changes driven by a newly implemented agencywide computer managed system to regulate the alcohol industry in Nebraska. Vice Chairman Cavanaugh and members of the General Affairs Committee, thank you for your consideration of LB478. A representative from the Liquor Control Commission is here to provide additional information about LB478 and answer any technical questions you may have. Thank you.

J. CAVANAUGH: Thank you, Chair Holdcroft. Let me see if the committee has any questions. No. Looks like you got off easy. Will you stay to close?

HOLDCROFT: Yes, I'll be here.

J. CAVANAUGH: All right. Thank you. Proponents? We'll take proponents first.

HOBERT RUPE: Good afternoon, good afternoon, Vice Chair Cavanaugh and members of the General Affairs Committee. My name is Hobert Rupe, H-o-b-e-r-t R-u-p-e. I serve as the executive director of the Nebraska Liquor Control Commission, and I want to thank the committee for

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bringing forth this relatively technical bill so there might be a couple issues we'll go through. As stated by Senator Holdcroft, the Commission has the ability to make recommendations. You-- every year, you would get a legislative letter from us and a lot of these were the-- were in that letter to be, to be addressed. I'll go through the bill kind of occasionally and then if there's any questions we can look at. The first part is Section 2, auction houses. Currently we do this by a manual process. So these would be if someone, you know, either through a sheriff sale or through death, they're doing an auction with an auction house. We've worked with the auction industry for years on this. This is one of those that it was working pretty well when everything was by paper. But now that we've gone electronic, almost everything-- this would streamline that by giving them a permit, not a license. They would have to notify us when and where they're utilizing the permit. But we just speed up the process that we utilize currently for that purpose. The wholesaler or the wholesaler issue is-- technically right now a Nebraska wholesaler can ship to another Nebraska wholesaler. What this is would be an out-of-state wholesaler and the example I'll use right now, is there's one in Iowa who is receiving some of the weird-- the stranger product for-- and then they're shipping it to their existing brother or sister wholesaler in Nebraska. We've been doing that also by paper. By allowing them to get a shippers license, which technically they, they wouldn't qualify for, we then track it because then they would have to file reports with us. And then we'd build a cross check for tax purposes. So it would, it would streamline and make the issue a little bit easier for that. Sections 4, 5, 6, and 7 are primarily just things we missed when we implemented POSSE last year and we had done some bills beforehand. A lot of these things were things we did not recognize we would need to change until POSSE was implemented, such as we only get one set of fingerprints. We don't issue licenses-- or send licenses anymore. Now the system, they show up in your email and they print them off themselves. So getting rid of a fee for duplicate licenses and such as that. And so that's taking care of most of those technical bills, things that when you replace a system that went live in the late 1980s with something more modern, you forget you need to change some of the statutory changes for it. Section 8 has a change for new-- newspaper notification. This was a near miss for us earlier this year when the local papers in Valentine we're going to be closed and, and they have sense-- somebody else bought them which meant there was nobody in that general area to do notice of new liquor licenses or renewals. And so we, we spoke with people who know much more about open meetings at the AG's Office. And this was their thing is to go with a general one if there's not a local. And then the big one is

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renewal fee. The fiscal-- the brand registration went live, and currently we have just under 40,000 brands registered, went live on July 1. We have a much better idea of the types and numbers of alcohol coming into the state so we can track them more appropriately. At the time that bill was passed, it was assumed-- in fact, it was even the fiscal note that there would be a renewal fee and then the renewal fee serves two purposes. One is to maintain the cost of maintaining the system. So we figured the industry should, should maintain the system. And the second one was every other state which has a system said make sure you have a renewal fee or your data will go bad quickly. Because without a renewal fee, they never take brands that are no longer sold out. For instance, Missouri has about 45,000 brands registered that are active. They have over 300,000 that are in their database, their old, old brands no longer sold, no longer distributed in Missouri. And so our theory is right now we would be probably looking about-- our lowest is up to 30. We're looking at probably a 5 to 10 renewal fee, which would keep-- and I-- you know, we went through it to have enough skin in the game to maintain the system, but also maintain the integrity. But I'm not trying to make, you know, use this as a revenue source. I see I'm now into the red so I'll stop and I'll be happy to answer any questions or, or expand.

J. CAVANAUGH: I'm, I'm certain you'll get questions. Thank you, Mr. Rupe. Let me see if the committee has any questions.

CLOUSE: Yes.

J. CAVANAUGH: Oh, Senator Clouse.

CLOUSE: Thank you, Senator. So most of these are really driven towards updating the fees collected to update the, the system.

HOBERT RUPE: Yes. The, the, the, the renewal fee serves the purpose of that. And also it's been found in other states that if they have to actually look and actually pay some nominal money, they're going to actually look instead of just clicking renew. If there's no fee, they just automatically renew, which means even if a brand that wasn't-- hasn't been sold for 5 years is on their list, they'll still click renew on it.

J. CAVANAUGH: Any more questions?

CLOUSE: Can I continue?

J. CAVANAUGH: Keep going.

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CLOUSE: So how does this impact the individual distributors? I mean, is it a pretty significant impact? Is it, you know, is it [INAUDIBLE], is, is it just--

HOBERT RUPE: I'll give you an example. You know, you're going to hear from some craft breweries because I know that they've, they've been talking to me. They're upset about it. A lot of them have somewhere between 15 and 30 brands, most of them. Budweiser has almost 250. Boston Beer has almost 200 brands that they've registered already with us. So we think the-- so if you say average of \$25, which is our-- probably where we're going to be settling at. And the reason that the fee is sort of fluctuating so we can just-- you know, the reason to maintain the cost of the system and for compliance, that's really what we're looking at doing. So I think it's relatively nominal. The, the craft breweries in the state also have the ability to just sort of designate some in-store experimental tap handles. So even though they might be changing the beer on that, it's-- they don't have to do it because it's really not going out for general purposes of being consumed at the tap house is not a big problem for us. The main reason why we're looking to what's in there, and it just happened the other day, there was a small recall on some Coors Light runs and so we were able to work with the wholesaler, track the beer, make sure that those beers-- make sure that they're getting-- able to get it back as a, as an allowable return. Nothing is wrong safety wise. It was-- apparently, they had a bad batch. It was actually a bad tasting batch, but we were able to track that through the system and, and help make sure that those things come back. And so that was-- that's just a very small example. I mean, one-- years ago when we first started looking at this, there was one where there was some glass had broken in, in, in one of the-- and so they had to pull a lot of that out immediately because that would pose a health safety and welfare issue.

CLOUSE: OK. Thank you.

J. CAVANAUGH: Any other questions from the committee? Oh, Senator Quick.

QUICK: Yeah, thank you, Vice Chair. So on the fees, is that one-time fee or is that yearly or how does that--

HOBERT RUPE: The, the fee for the renewals?

QUICK: Um-hum.

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HOBERT RUPE: OK. What there is, is right now we have a \$20 initial. When we first did the rules when we thought we could do renewals was, was going to be 10 and 10. And then the-- what happened was although everybody who, who was involved thought we had, had renewal rights. The AG doing the rules disagreed with us. And so then we had to scramble. So we raised it to \$20 for the initial just so we have enough money to maintain the system because we knew that the second biennium we would lose that other 10. And so that-- and so we're probably looking to have those reassessed right now. I mean, the, the fees are primarily designed just to maintain the system and to have them have some skin in the game on the renewals, you know.

J. CAVANAUGH: Any other questions?

CLOUSE: Yeah.

J. CAVANAUGH: Oh, Senator Clouse.

CLOUSE: Thank you, Senator. Talk about the auction house again. Yeah, explain that a little bit more.

HOBERT RUPE: OK. A couple different ways where we deal with auctions. Sometimes it will be a sheriff sale and there'll be alcohol involved. And so we have to give them-- we basically give them a-- right now, it's sort of a letter saying it's OK for you to sell alcohol because, remember, it's illegal to sell alcohol without a liquor license. It's a misdemeanor crime. And so we're doing it as a very manual basis, so it would happen, or sometimes you would have an auction house going in, someone might have a large wine collection that they're wishing to sell. And so those are generally being sold to fine wine consumers are doing the collection. The other type we'll see at the auctions will be if there's a license going bankrupt or going out of business, they'll be some other-- oftentimes, other retailers will come and try to buy that. And so we have a system in place so we can track that, that-- you know-- so that then sort of replaces the invoicing normally we get from their liquor or beer wholesaler that they purchased it and the tax has already been paid. Most of these products are tax-- I mean as far as retail taxes have already been paid when it was originally purchased, so therefore doubling down so there's no tax implication on this. This is just a way to streamline that to the major auction houses who do a lot of these. And like I said, it's been working pretty well, we'll just make--we'll make it easier and, and automated.

J. CAVANAUGH: Any other questions?

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CLOUSE: Oh, Senator, I may have some, we'll just wait and see if we get some other--

J. CAVANAUGH: Well, I'll, I'll ask my questions then, if any-- if it spurs anybody else. I-- well, first, I just wanted to touch on this out-of-state shipment.

HOBERT RUPE: Yeah.

J. CAVANAUGH: Can you talk a little bit more about that?

HOBERT RUPE: The example I'll give, there's-- and I'm not making this up, there's a company called Premier Midwest, which is a beer wholesaler in both Iowa and Nebraska.

J. CAVANAUGH: Oh, I'm sorry. I'm talking about the-- it's on-- it's in the Section 10 section about the retail outside of Nebraska selling--

HOBERT RUPE: Oh, the retailers outside--

J. CAVANAUGH: Yeah, the retailer. Sorry.

HOBERT RUPE: OK. That's wine.com.

J. CAVANAUGH: OK.

HOBERT RUPE: You've got some online retailers, if you look at our direct shipping, our S1 license does not mandate that they be the original manufacturer. So you can have-- so we would allow-- and there's a bill that came in front of the, the Legislature 15 years ago, 10 or 15 years ago, where you had some of these large-scale people that wanted to get a license to sell directly to [INAUDIBLE] consumers. And so those would be-- they're not-- and so they're generally retailers in other states. And one of the requirements is that they maintain their retail license in the other state. If their retail license in the other state is canceled, this one goes away. It's linked to it. And one of the issues is, if I'm a retailer, almost all the brands I'm selling are already in the state through other purposes. And so they're being-- and so it's sort of a confusion on the original source issue. You know, the person who has to register the brand is the original source as close as you can get. So it's either the manufacturer or it's the frontline importer like, like some out-of-state, out-of-country wines is something the importer would register those. In this case here, these items are acquired through the retailers here, so it's already been listed. So that's just trying

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to keep them-- because it then-- it was getting confusing, we're seeing the same brands being listed.

J. CAVANAUGH: Is there any concern about if their brand-- if, if their selling brand is not listed, though, that hasn't been registered?

HOBERT RUPE: If it's not listed, then we would have to do that. We'll double check that.

J. CAVANAUGH: And we're not going to be losing that authority to do that by this change?

HOBERT RUPE: No.

J. CAVANAUGH: OK. Thank you for that clarification. On the, the \$30 part-- so the original you said it was \$20-- so we charge for the initial registration.

HOBERT RUPE: Right now.

J. CAVANAUGH: And the, the new section is also not to exceed \$30.

HOBERT RUPE: Yep.

J. CAVANAUGH: Is-- I know I saw there's a lot of comments and I don't know if anyone's going to testify after-- is the concern how-- that it's set at \$30 is a concern that there's a renewal cost at all? What's the--

HOBERT RUPE: Well, I think their, their concerns are those, those renewal costs. You know, any, any costs they don't like. The Commission has been very clear, I mean, as I said, when we did the original rules, it was \$10 and \$10, you know, and so to just being, being fair. And so we had to raise it to \$20 at least the first year because we knew the second-- the first-- you know, there would be no renewal money for the first renewals going on right now because that's sort of what it cost to run the system right now based upon the numbers. If more brands get coming up, those numbers will probably go down, hypothetic, you know, so. So the authority is up to 30, we don't plan on being anywhere near that on this renewal. Right now, most internal discussions on renewals are probably somewhere in the \$5 to \$10 range, if that. And then we might then reassess the initial one, too.

J. CAVANAUGH: Oh, OK. So the initial one would go down as you're going through the renewals.

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HOBERT RUPE: Yeah.

J. CAVANAUGH: Can you just tell us how many brands we're talking about that have been--

HOBERT RUPE: 39,000.

J. CAVANAUGH: 39,000. What was the original thought estimate?

HOBERT RUPE: I think it was pretty close to that. There's still some brands out there. The, the brand registration law went into effect July 1. We were pretty clear to the industry that we were going to be-- the first 6 months was the carrot phase of enforcement, basically, trying to build the database because we were building it from scratch. And after the first of the year, the sticks would start coming out. And so the form emails after the first changed a lot more and we got more compliance again. There's still some out there, but we got the vast majority of it we think, we think registered. And this is very similar to other states. Like I said, I think Missouri might have, like, 44,000, so.

J. CAVANAUGH: And refresh my recollection on somebody-- you said small places have the sample tap. I'm thinking of, like, Vis Major in my district. I don't think Lindsey's here, but they don't sell offsite. They sell growlers and things like that. Would they have to register the growlers but not the taps?

HOBERT RUPE: No. What they would do is-- generally, what they'll probably do because, because they're selling it in their main line stuff, you know, that there's some every time. You know, their main brands, we'd register. What the experimental enticed house tap primarily does is for rotators. So, you know, they're not going to sell the-- out of, out of the-- out of anywhere else in the tap handle. And right now it might be a heavy double bock, it might be an Irish ale come spring, it might be a lighter beer. And so instead of having to, to file all those different ones every time the beer changed, it's just in there as one of their experimental taps.

J. CAVANAUGH: Oh, OK.

HOBERT RUPE: Rotating taps.

J. CAVANAUGH: Gotcha.

HOBERT RUPE: So, so the Commission had been trying to work with the industry on, on as much as we can on that type of issue.

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J. CAVANAUGH: Thanks for the clarification. Let me see if there are any other questions. Oh, it looks like Senator DeKay has a question.

DeKAY: Yeah, just to make it clear to me. So it would go into the experimental tap if it was just a seasonal beer?

HOBERT RUPE: Yeah, if the seasonal beer is just being sold. Now if the seasonal beer is being sold for further distribution, they probably would have to. But with the seasonal beer they're selling out of their own internal tap, it's-- they wouldn't have to register it.

DeKAY: Thank you.

J. CAVANAUGH: Any further questions from the committee? No? All right. Thank you, Mr. Rupe.

HOBERT RUPE: Thank you very much.

J. CAVANAUGH: Any other proponents for LB478? Proponents? Anyone in opposition to LB478? Anyone? Welcome, Ms. Silke.

VANESSA SILKE: Thank you. Good afternoon, members of the General Affairs Committee. My name is Vanessa Silke, V-a-n-e-s-s-a S-i-l-k-e. I'm the attorney and registered lobbyist for the Nebraska Craft Brewers Guild. I appreciate your time and attention. I know this is a very technical bill with a lot of what was described as, as cleanups and that's typical for the Commission. And thank you for Senator Holdcroft for working with the Commission to send that in. There is one part of this bill that the Nebraska Craft Brewers Guild, they have over 70 members, they have been opposed to this, and they also participated through me and directly with the Commission during rulemaking on last year after the passage of LB376. Actually the year before in 2023, which is the bill that Hobie referenced with regard to brand registration. Now, there may have been some references or assumptions on the fiscal note, but the plain language of the statute that was passed is a one-time fee when you go to register a brand. And on the back side of this, I understand the Commission and, and Hobie's insistence that, you know, if there's not a stick, what have you. You know, we have carrots and sticks in the Legislature. If there's not a stick a year later to cull your brand list as a producer for beers that you're no longer distributing or, or selling, then no one's going to go in and clean it up, then you end up with this problem that Hobie described. But on the other hand, there's other ways to encourage people and set that deadline, whereby if you're a small producer, so anybody under 20,000 barrels a year for beer, if you're under 100,000

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gallons for liquor, which is very small by comparison to any other state, it's very, very small, but anybody that qualifies under that. I discussed with Hobie Rupe late last week that, perhaps, there's a carve out where every year you've got to go in and cull your list by a certain date. You've got to attest that you're a small producer if you don't want to pay the fee. But if you don't do it by that certain date, then you owe those fees. And so that gives small producers the out and it also gives them a timely way to comply with what the Commission's goals are, which is to make sure that we're only working with those active brands. I've only got a quick little bit left, so I hope someone will ask me questions if we need it, because I have been so involved in the drafting and then rulemaking associated with this. The other item that Hobie brought up was tap handles for rotating beers that are only served on premise. Those we understood that they're just like any other mainline beer. You register them once. But the changes in Section 10 of LB478 would require you to re-up them just like any other standard beer that you continue to sell. Again, we're appreciative of that flexibility under the current statute before LB478, but we want to have that continued flexibility so that we don't have this regulatory overbearance on truly small producers. I don't speak for any large producers. But with that, I'm happy to answer any questions anybody has. Senator--

J. CAVANAUGH: Thank you, Ms. Silke. I will check to see if there's any questions. Looks like Senator DeKay has a question.

DeKAY: Thank you, Vice Chair. You said a small producer was how many barrels?

VANESSA SILKE: In Nebraska, a craft beer licensee is limited to 20,000 barrels per year of total production. Otherwise, they go up to a manufacturing license. By comparison, a producer like Budweiser would definitely be far and away above that level. For micro distilleries, it would be 100,000 gallons. Again, very, very small amount of production relative to other states.

DeKAY: How many, how many producers are in that category?

VANESSA SILKE: In Nebraska for micro distilleries, it's maybe a dozen at this point. That's an emerging market. And then for craft beer, around 70 or so licensees, there are some that are being acquired and moved through, but roughly 70. We'd like that growth to continue in Nebraska. We don't see this as defeating the bill. I mean, the easiest way to fix it is take out Section 10. But we understand the Commission's goals and what they want to do. So that's why I'm here to

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offer these alternative means so that all of these fees don't hit these small owners.

J. CAVANAUGH: Any other questions? Senator Clouse.

CLOUSE: Yes, thank you, Senator. So was that option discussed with the Liquor Commission doing the carve out.

VANESSA SILKE: I discussed it with Hobie. He was willing to at least continue to listen. Obviously, he's got to confer with the commissioners, got to confer with Senator Holdcroft on any changes, but our goal is before it gets kicked out of committee, that we've made those tweaks so that there isn't a fight on the floor. There isn't anything later we can say that this has been resolved, which is our goal.

CLOUSE: Thank you.

VANESSA SILKE: And to the Commission's credit, the commissioners were willing to work with us on rulemaking when they made the realization that this was annual only for the last bill. So we do appreciate that and hope that continues.

J. CAVANAUGH: Any other questions from the committee? All right, I've got one then.

VANESSA SILKE: Yeah.

J. CAVANAUGH: Well, first, I just want to make sure, was that your only issue or did you want to touch on any other parts of the bill?

VANESSA SILKE: No, that was literally it for the Nebraska Craft Brewers Guild. They didn't have comments or issues with the remainder.

J. CAVANAUGH: OK. And so your suggestion was partly about the culling of the list, but there's also the cost associated. And you heard Mr. Rupe say that they do need to capture some funding for maintenance. Is there an opposition to having continued skin in the game of funding the operation or is there a suggestion about that?

VANESSA SILKE: What we heard from the commissioners when we testified in rulemaking was, oh, gosh, we literally had no idea or intent that this was going to impact small business owners so much. The lion's share of these fees that would go for that purpose come from what everyone would expect our large producers from all over the country. And relative to other states, what they're proposing for the baseline

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for those producers didn't register any opposition whatsoever. And so if they don't have a problem paying to run our computer system, that's great. If there's a way to show, again, small producers across the board, not just Nebraska, because then we have a constitutional issue, if it's truly small producers, they attest to it and they meet a deadline, then they don't pay the fee, that's not going to kill, from what I understand, the fiscal note that is associated with running this and the justification to have the re-up fees.

J. CAVANAUGH: OK. I think I'm with you on that. I think-- at least I think I understand what you're saying is what I'm saying.

VANESSA SILKE: Yeah.

J. CAVANAUGH: And I was just, as you were talking about it, I was wondering, do you think that there's room for something, like, if you're qualified as a craft brewer or micro distiller in Nebraska, you maybe would only have to renew every 5 years or is that another-- like instead of an annual renewal, a list?

VANESSA SILKE: That might give people some flexibility. I'd have to talk to the members. I think the biggest thing is these-- even if they seem nominal, those fees add up. They add up for inflation, they add up for competition, they add up for everything. We just don't want to see the state of Nebraska adding to that burden. So I could certainly address that with them. I think-- we don't have any opposition to helping the Commission cull a list so that it is current. We just want to get out of the fees as long as we've got that window.

VANESSA SILKE: Yeah. And then Mr. Rupe said it was 39,000, whatever, I think skews or whatever have been registered. Do you have any idea of what number of that are made up of craft brewers and micro distillers?

VANESSA SILKE: I do not and I don't believe their system breaks it down. The last time I checked, and they may have improved it since then, you had to run it by licensee and then, like, do a manual comparison. They may have updated it since then, but I know that's part of this ongoing update legislation is if it's not in there, then they can't pay for the system upgrades. So we want to be as helpful as possible so that this information they're collecting online is useful. I work with licensees for all manner of applications before the Commission and that new system, lots of promise, but still things that need to be worked out so that it's readily useful. So we don't want to get in the way of that.

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J. CAVANAUGH: All right. Any other questions from the committee? Seeing none, thank you, Ms. Silke.

VANESSA SILKE: Thank you. Appreciate it.

J. CAVANAUGH: Any other opponents for LB478? Seeing none, anyone in the neutral capacity on LB478?

JUSTIN BRADY: Senator Cavanaugh and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Liquor Wholesalers Association in a neutral capacity. And just to touch on a few things Director Rupe had brought up, it's what some conversations that the liquor wholesalers have had with the Commission, the wholesaler-to-wholesaler provision in here Mr. Rupe made reference to, there being some sort of connection, whether it was a brother to a sister or parent company to a subsidiary. We just would like to work with the Commission. Mr. Rupe thinks that can probably be handled by rule and reg, but I want to bring it to your attention that there'd be some sort of connection between that out-of-state wholesaler and the in-state wholesaler that they're shipping into, because that was the idea that he gave the reference of premium brands. One of my members is Republic National Distributing that would like to do the same. And so just know I want to bring those, nothing against the bill or how it's drafted but want to know that working with the Commission or may coming back to you all. The other one Mr. Rupe touched on was that out-of-state retailers, our-- as long as that product sold in Nebraska, we completely understand what the Commission is trying to do. It comes to those certain products that aren't currently sold in Nebraska, whether that's a certain type of whiskey or scotch or Yuengling beer. I mean, at some point you're going to want to know how that's coming into the state of Nebraska and make sure from your standpoint, it's regulated and the taxes are paid. Obviously, from our standpoint, we at least want to know who the people are out there that are bringing that in as well. Renewal fees, they have no problem with the renewal fees. They operate in multiple other states and obviously the renewal fees are there. From a wholesaler standpoint, there's not much that they pay. I mean, it's the manufacturers that are paying them. And so, in essence, the people supplying us. And auction houses, just the piece there, as it was explained, you know, you kind of have two different sides of auction house. You have, you know, a relative passes away and has a collection of alcohol that you want to sell at their estate sale, fully understand. Let's do that. Or you may also have a retail establishment that goes out of business and they got to sell their product. A unique item in the Nebraska statutes are liquor

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and wine can be sold on credit for up to 30 days. So not-- I'll pick on Senator Quick. He has a restaurant bar in Grand Island and it ends up going out of business. But we sold him liquor on credit for 30 days. We would at least like the opportunity to retrieve that product back because we haven't been paid before it goes out to auction. And, again, having that-- those discussions with the Commission, they have said, we understand that, but just want to point those issues out. Hopefully, they all get resolved on the Commission side, but didn't want to not take this opportunity and have one of you say, well, where were you, Justin, when we were talking about this, so? And with that, I'll try to answer any questions.

J. CAVANAUGH: Thank you, Mr. Brady, I will see. Are there any questions from the committee? Do you have one? No. Oh, seeing none, thank you.

JUSTIN BRADY: Thank you.

J. CAVANAUGH: Anyone else in the neutral capacity? Seeing none, I'll make Senator Holdcroft to close. And while he's coming, I see that there were 15 opponents, no proponents, no neutral submissions.

HOLDCROFT: Yes, and I think I went through the 15 opponents that were sent in and they're, they're almost all about Section 10, the renewable fee. So we will-- you know, I think we're very close on this bill. I think we can probably get it out of committee fairly quickly and we'll work to, to make that happen. And I'm happy to answer any further questions.

J. CAVANAUGH: Thank you, Chair Holdcroft. Any questions? Seeing none, that will close the hearing on LB478 and I don't know what's next. Next will be LB33 and I'll turn it back over to Chair Holdcroft.

HOLDCROFT: Thank you, Vice Chair. Senator Hunt, whenever you're ready.

HUNT: Thank you, Chairman Holdcroft and members of the General Affairs Committee. I'm Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I'm here to present LB33, a bill that would remove nonalcoholic beer from regulation under the Nebraska Liquor Control Act. The state of Nebraska categorizes beer by its ingredients rather than alcohol content labeling nonalcoholic beer as, quote, near beer, unquote, and requiring that it be subject to the state's three-tier system. That is, any business wishing to sell nonalcoholic beer must purchase it through a distributor. They cannot buy it directly from the companies who produce the product, often small businesses themselves, which

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severely limits the products distributors are willing to carry and, thus, those businesses that are wishing to offer nonalcoholic options can access and sell it to customers. LB33 changes the current statutory definition of near beer, which is beer containing less than one-half of 1% of alcohol by volume to be called nonalcoholic beer and exempts nonalcoholic beer from the act. The federal Food and Drug Administration defines nonalcoholic beer as a malt beverage that contains less than 0.5% alcohol by volume. And the Alcohol and Tobacco Tax and Trade Bureau defines beer as a fermented beverage containing 0.5% alcohol by volume or more for tax treatment. LB33 simply recognizes that same federal standard in Nebraska statute. Just across the border in Iowa, they also define nonalcoholic beer as less than 0.5% alcohol by volume, just as proposed in this bill. Nebraska is one of only seven states that regulate nonalcoholic beer the same as regular beer. I brought this bill at the request of Dry Spokes, a small business founded by two amazing women who I got to know because they were actually my neighbors across the hall from me in my apartment building that I lived in when I got elected. And they have a son who's about the same age as my kid. And so we kind of got to know each other and I got to see them grow their business over the years and now have identified a problem that's preventing them from growing their business further. Their business is, as far as I know, the only nonalcoholic bar in the state and perhaps the first to really come across this issue with the outdated definition in our statute as they seek to provide a bar experience for nondrinkers and they don't sell or carry or serve any alcohol at all. Because of the way the act currently defines near beer, Dry Spokes, the only nonalcoholic bar in the state is required to obtain a liquor license solely for nonalcoholic beer. This process is costly and time consuming for them, and there could be other people who are going through the same thing in Nebraska who I haven't heard from, and there will surely be more in the future as more and more adults are choosing to reduce their alcohol use or consumption or abstain altogether. I've been a retailer in my district for about 20 years and we sell, particularly around the holidays, nonalcoholic cocktails. And these are premade. They're premixed. I'm not, like, bartending for people and mixing them up. You just buy them out of the cooler. There's negronis, there's Manhattans, there's types of vodka, there's nonalcoholic wine, and a lot of them do taste really close to the real thing. Because I do drink alcohol and, you know, I like negronis and I think-- they're called phony negronis-- I think they taste great, too. So a business like mine can sell products like that and they sell products like that. But to sell nonalcoholic beer, you have to go through the liquor license process. So I also think that that's creating kind of an unfair standard for

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businesses and retailers as well. You know, actually when Dry Spokes started, they actually did a couple of pop-ups in my shop and so I got to know them through that too. And now that they have their own brick-and-mortar space and an actual bar where they can serve people every day, you know, I think we all just want to kind of help them grow and help other businesses that want to get into the same space. So I'm really glad they brought this to my attention. And I'm sorry that they have to kind of serve as the test case here in Nebraska. But I also think that as a state in Nebraska, we should do more to destigmatize healthy, safe choices and access to nonalcoholic alternatives. I think that if something isn't, you know, alcohol according to the federal definition, then we shouldn't regulate it like alcohol. Our current system that requires retailers to go through a distributor is gatekeeping. I think it's a level of overreach at this point, and it's driving out potential businesses and consumers who want to have these options when they go out. Dry Spokes has also shared with me that current statute is unnecessarily restrictive on where they're allowed to sell nonalcoholic beer. They'll probably speak to this in more detail when they come up here. But their business originated by offering canned, nonalcoholic cocktails like I sell at my store and other drinks for athletes at bike races, at the finish line, and other athletic events like that. And under current act requirements, in order to offer nonalcoholic beers along with their other selections, they would have to pay for multiple fees and licenses and permits that are prohibitive for a small business. I expect today that we might hear some opposition that's really well intended and I totally get where they're coming from about safety concerns. And what I will say is that there are 43 other states that regulate nonalcoholic beer the same way that this bill is proposing to do. And I would say that this bill actually provides for more safety for people in Nebraska, because the more people that have access to a nonalcoholic alternative when they go out, the less likely they are to overdo it. Maybe they're at a business event or a party and they know they're going to have to drive in a couple of hours. Maybe if there were more nonalcoholic alternatives and they could still feel like they were having a fun, festive drink, they would feel empowered to make better choices. The World Health Organization, backed by the U.S. Surgeon General, also recently released a study stating that there is no safe level of alcohol consumption that's safe for our health and that alcohol is a high-risk carcinogen. And we've seen in this country that moderation is on the rise even before the Surgeon General issued this warning. And this is just an article that I pulled today from a study released last week that says nearly half of Americans, 49%, that's about half, say they plan to drink less in 2025. That's up from

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41% in 2024, up from 39% in 2023. And the highest group that's saying this is adults 18 to 28. So there is a demand for this kind of thing. There's a lot of studies that show that people are drinking less alcohol. There's a lot of studies like one published in JAMA Pediatrics that found no evidence that zero-proof beverages have led kids to drink more. I know this is a concern that some people have, that if nonalcoholic cocktails or beverages are available to kids, that it will lead them into a culture of drinking or something like that. But according to a 2023 research publication, the average age of their first drink for adolescents age 12 to 17 has decreased. And reports of drinking at all has decreased. So, you know, my goal here is to remove the unnecessary barriers to business, to have nonalcoholic options available in more places, to align Nebraska statute with federal law that defines nonalcoholic beer as a beverage with less than 0.5% alcohol by volume. In the fiscal note, the Liquor Control Commission stated that there are currently 100 near beers registered and they estimate 20 new ones per year. And that 100 is just those that are registered under the current owner system. So that points to a growing number of options that are being unnecessarily regulated. And I would be happy to answer any questions. I know there will be some testifiers, too.

HOLDCROFT: Thank you, Senator Hunt. Are there any questions from the committee? Yes, Senator DeKay.

DeKAY: Thank you, Chairman Holdcroft. Thank you, Senator Hunt. You state in first section that it's less than one-half of 1%. Is there any spirits or wine or beer out there that they can say with 100% certainty that there isn't any alcohol in those or not?

HUNT: I-- everyday foods like bananas, oranges, apples, grapes, breads, children's medicines contain very trace amounts of alcohol. And so I would say we already consume a lot of things that don't have 0%. I mean, an orange isn't 0% alcohol so it's hard to answer your question. I-- what I'm taking the spirit of your question is, is that you want to reduce the alcohol as much as possible. And that's why I think that this standard, which is backed by the federal government and 47 other states, including all of our neighboring states, is probably an OK definition because it works for them.

DeKAY: All right. Thank you.

HUNT: Sure.

HOLDCROFT: Senator Andersen.

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ANDERSEN: Thank you, Chairman. Senator Hunt, I got a question about Dry Spokes. Do they have a liquor license?

HUNT: Yes. Yes? Yes, they do.

ANDERSEN: OK.

HUNT: And they, they have to have one to sell nonalcoholic beer. That's why. They don't sell alcohol at all.

ANDERSEN: So then if this is the [INAUDIBLE] is changed, then they would no longer need a liquor license. Is that what you are saying?

HUNT: That's, that's correct. And they can certainly speak to that, too, since it's their business, you know, when they come up.

ANDERSEN: So I'm looking at the, at the, at the micro level of this outside of the Dry Spokes's example. Then how would this be marketed? I'm real big into truth in advertising and everything else. So, I mean, would it be considered a, a, a pop or a bottled water or, I mean, if you take it out of the alcohol section at Hy-Vee, for example-- not picking on them, just as an example-- you know, what, what is your vision through this change of how you would present nonalcoholic beer?

HUNT: Well, in terms of marketing, I mean, it likely still would be carried in the alcohol section at a store the same way nonalcoholic cocktails are there, nonalcoholic wine is there. Nonalcoholic beer would be there, too. There's already nonalcoholic beers on the market. There's many, many. And you can find them at Hy-Vee now. What this does-- you know, I don't care if you call it soda, juice, I don't know. What's important is that in statute, through this bill, we're calling it nonalcoholic beer. Right now in statute, it's near beer, which is kind of an outdated term of art. So we would be matching the federal standard, which calls it nonalcoholic.

ANDERSEN: Thank you.

HOLDCROFT: Any other-- yes, Senator Quick.

QUICK: Yeah, thank you, Chair. And thank you, Senator Hunt, for bringing the bill. My question is, and you talked about it a little bit, but like the nonalcoholic like margarita mix or margaritas, they're, they're not considered-- you, you don't have to have a liquor license?

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HUNT: That's correct.

QUICK: So those can be sold, but near beer has to be-- you have to have a liquor license.

HUNT: Correct.

QUICK: OK. All right. Thank you.

HOLDCROFT: Senator Clouse.

CLOUSE: Yes, thank you, Senator. I wish you would have had the numbers on cough, cough syrup because I've been drinking it like water and I don't know if I'm inebriated or not. That would be kind of an interesting number to see what that percentage of alcohol in cough syrup is. And, and I'm going to be looking that up to see how that correlates. So thank you for sharing that point.

HOLDCROFT: Any other questions from the committee? Will you be here for close?

HUNT: I think so, yeah, I-- yep. Yes.

HOLDCROFT: OK. Thank you.

HUNT: Thanks.

HOLDCROFT: Our first proponent, please. Anyone speaking for this bill? Welcome.

Mi-Ya MATA: Hello, Senators. My name is Mi-Ya Mata. That's M-i-Y-a M-a-t-a. I am one-half of the owner of Dry Spokes. So thank you for your time. And thank you, Senator Hunt, for, for giving me the opportunity to speak with you directly. So like Senator Hunt said, it is a-- an issue that came to my attention when I started my business. I stopped drinking of my own choice 5 years ago because I found stuff on the market that was really good. And I was like, I personally don't need alcohol in my life, and I liked what was coming on the market at the time. And then I came back to Nebraska from being overseas and, and I wanted to start my business to bring it to the people who are health conscious. That is typically where the nonalcoholic beer market started was with the health-- the healthiest people in the country was going to races, any type of physical event like, like a Spartan race or something. What I found out was I could not do that because I had to get a SDL. I had to get a special designated liquor license just to introduce healthy people to a healthy alternative. If you go to these

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racers, they typically have beer there. And getting to know the customers that I have gotten to know from the bicycling community, the health community, the recovery community, all members of the community with different religious backgrounds and medical needs, the question is always posed, why do I have to have alcohol here to celebrate? Why do I have to have alcohol to acknowledge my accomplishments? And I was like, you know, I really don't know because I myself enjoy nonalcoholic beer, wine, spirits. And that's kind of where it kind of led me down the path. So I had to launch using nonalcoholic spirits as a mechanism to introduce people to the potential of what nonalcoholic can offer. It can offer you an adult experience, and you don't have the downsides of alcohol. You don't worry about a, a hangover. You don't have to worry about the negative long-term effects that could happen with what is recently becoming online with, with the changes. So with that, I also want to specifically talk about an incident where this statute actually directly impacted my business when the Liquor Commission switched over to the not being able to buy beer on credit anymore. Because we were considered a nonalcoholic retailer, our account got categorized incorrectly with the distributors and we actually had to pay-- potentially pay a fine or shut down our business for a week because our account was not categorized properly. So with that, I was like this, this isn't right. Like, I've operated this long with having to work with a liquor license, but, honestly, do I really need to? You know, the whole intention of nonalcoholic beer is to give a good alternative to alcohol. It is there to give you the adult experience without the negative side effects. Yeah, so that's pretty much all I think I have to say. Any questions?

HOLDCROFT: Thank you. Are there questions for this testifier from the committee? Senator Clouse.

CLOUSE: Thank you, Senator. I always have questions. Without numbers, are you seeing your business grow?

Mi-Ya MATA: I am. Yeah, we are going into our third year so, actually, our second birthday is tomorrow from opening our brick and mortar. So it's kind of been an interesting experience seeing the population come in and be so appreciative of the options that we provide.

CLOUSE: OK. Thank you.

Mi-Ya MATA: Um-hum.

HOLDCROFT: Senator Quick.

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QUICK: Yeah, thank you, Chairman. And thank you for being here. How long did it take you to resolve your issue with that, with that [INAUDIBLE]?

Mi-Ya MATA: It took a little while. My, my business partner and my, my wife was calling the Liquor Commission to be, like, hey, can, can you guys, like, look at what, what the intent is and what the actual impact was? Unfortunately, we were found guilty of violating because of our account designation, which we had no control over. That was unbeknownst to us that that's how we were categorized. So, yep.

HOLDCROFT: Any other questions from the committee? Yes, Senator DeKay.

DeKAY: Thank you. As I asked Senator Hunt, are there any adult beverages out there that are 100% alcohol free? I've always-- nothing against beer, I like beer, but I'd like to have a 100% free red beer at some point in my life.

Mi-Ya MATA: Yeah, there is. So if you look at the process for how nonalcoholic beer is made, there's, there's a lot of different proprietary ways of doing it but there is arrested fermentation that prevents the alcohol from actually completely producing. And when you talk about the beer sector-- if you're talking about the liquor sector or the nonalcoholic spirits sector, there is the removal of alcohol that can go up to half that percent. But then there's also these other ones that are called blended, if you will. So if you think of like a, a really strong tea or an essential oil mad scientist blending this stuff together and it has nothing to do with alcohol, coming up with a flavor profile that for the person that wants to have that flavor profile experience that they can have that in a mixed beverage. And then there's also nonalcoholic spirits that don't replicate alcohol flavor at all. And that is just to make things more interesting for the person that's trying to get a good beverage.

DeKAY: So when you say blended, are those the only other additives added to near beer or whatever or what all, what all additives go into producing that?

Mi-Ya MATA: I couldn't tell you off the top of my head. I'd have to read the labels and talk to the brands themselves. But the beers themselves, they are, for the most part, the same ingredients as a beer.

DeKAY: Standard ingredients for brewing regular beer.

Mi-Ya MATA: Might-- yep, yep.

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DeKAY: All right. Thank you.

Mi-Ya MATA: Um-hum.

HOLDCROFT: Any other questions from the committee? Thank you, Ms. Mata.

Mi-Ya MATA: Thank you.

HOLDCROFT: Next proponent. Anyone else speaking in favor of the bill?

BILL SHUFELT: Hi, Senators and members of the committee. Thank you so much for having us today. We appreciate your attention on this matter. I'm immensely excited to be here and for the citizens of Nebraska for this opportunity. I think it's game changing. My name is Bill Shufelt, the cofounder and CEO of Athletic Brewing Company. I'm also here as the chairman of the Adult Non-Alcoholic Beverage Association. We represent over 120 small businesses, both in the U.S. and further abroad. It's all nonalcoholic beer, wine, and spirits. And so a quick background, I know I have limited time, I have more detailed written testimony or written background. Right now, Nebraska is one of six states in the, in the country that has more restrictive alcohol laws as Senator Hunt pointed out where it is an incredibly hard market to break into. Nebraskans are probably missing out on 90% of the nonalcoholic innovation because the bar is so high, the marketing hurdles are so high, and you have to get on the distributor trucks to get into the state. In that, in that, Nebraska has the sixth highest rate of binge drinking in the U.S. as reported in 2023, drunk driving does increase 20% from '23 to '24. And we estimate that all-- like, the costs of alcohol in the state cost the state about \$174 million last year. As a-- so I think there is a great argument for enhanced economic activity for all three tiers in the industry. Athletic Brewing across the country, regardless of laws, goes to market on beer trucks. And so you have consumers getting more options, retailers having more full exciting shelves. I, I guess I should have actually said Athletic is the number one brand family and nonalcoholic beer in the country. Even though we're a small business competing against the biggest of the big global brewers. And there's a bunch, Heineken, Molson Coors, Diageo. And that's because this is a really vibrant, exciting category. It's been the fastest-growing category in beer for 5-plus years for all those great health trends everyone talked about. And we're not here to bring back prohibition. We're here to add options and make moderation accessible for those who can't-- like, for the 50% of people who don't really drink, there really aren't options at bars and restaurants, so competition is good for everyone. It makes

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the retailer shelves better, more volume on the distributors' trucks, more revenue for the state. I do think I should touch on in Nebraska one particularly tough thing, if you're a recovering alcoholic and you want to go buy nonalcoholic beer, you've got to walk into a wine and spirits store. Like, earlier today, I was in Hy-Vee, you can't buy the beer in the regular part of the grocery store. You have to cross over and walk by about 90 feet of alcohol to get to nonalcoholic beer, which is a very different at-risk environment than most other states for recovering alcoholics. Also, just touching on the [INAUDIBLE] just really quickly, we don't have a-- so, like, candy cigarettes was the gateway hypothesis. It was selling candy to minors to have them graduate into the cigarette product. We don't have products we want them to graduate into. Beer has a bitter taste that's a turnoff for kids. We don't market to under 21. Answering the marketing question from earlier, the TTB--

HOLDCROFT: Thank you. You're going to need to wrap it up.

BILL SHUFELT: Sorry about that. I was just going to say the TTB--

HOLDCROFT: Just a couple more sentences.

BILL SHUFELT: --regulates marketing of nonalcoholic beer nationally anyway, so that's taken care of.

HOLDCROFT: Thank you. I need you to spell your name for the transcribers. Will you, please?

BILL SHUFELT: Oh, sorry about that. Bill, B-i-l-l, Shufelt, S-h-u-f-e-l-t.

HOLDCROFT: OK. Thank you. Are there questions from the committee? Yes, Senator Quick.

QUICK: Yeah, thank you, Chairman. So how do-- like, in other states when they have their, like, nonalcoholic beers or liquors displayed in their stores, where are, where are they in correlation to--

BILL SHUFELT: So where beer is sold, it's usually appended to the end as a separate nonalcoholic beer section. But the great thing here, nonalcoholic beer can be sold anywhere. It's a great growth area for the industry. Most people drink nonalcoholic beer 5 nights a week as a health-- or any night of the week as a healthy alternative. It could be your local pizza spot, it could be a coffee shop, it could be other stores. And it's more opportunity for distributors, for retailers to

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sell these healthy products. But right now in Nebraska, it's really limited to where it can be sold.

QUICK: OK. Thank you.

HOLDCROFT: Yes, sir. Senator Rountree.

ROUNTREE: Thank you, Chairman. Yes, sir. You mentioned recovering nonalcoholics, you gave the example of passing through all of this to get to the near beer, but have you had a lot of interaction and contact with them as far as being able to come to the establishments that do sell the nonalcoholic, just a place to come and relax and what have they thought about in that particular instance?

BILL SHUFELT: Yeah, absolutely, Senator, thank you for the question. And I'm a perfect embodiment of this.

ROUNTREE: OK.

BILL SHUFELT: I'm a recovering alcoholic, I stopped drinking over 11 years ago, and I'm probably drinking more beer than ever, more social than ever, feel more welcome at bars and restaurants across the country than I ever have. And I actually should have said, we're probably uniquely positioned at Athletic Brewing as the biggest brand in the country to comment on this on the consumers and recovering alcoholics and kids, because we have the best first party data in that industry. We have hundreds of thousands of consumers on our emails. We get hundreds of thousands of emails a year. And we haven't heard any concerns about children drinking our products and complaints about that. But then also, we have tens of thousands, if not hundreds of thousands of emails, some of which I've appended to this letter here that we've helped people who've been trying to stop drinking for 20 years adjust, reacclimate to society, have special moments with their colleagues, their friends. And I had another 60-page document of testimonials. It was too long, but I, I pulled up with relative ease, honestly. So this is a very healthy, positive category, welcoming people back into the industry. And as volumes in the alcohol industry go down and the independent bars and restaurants struggle, this is a really positive way to drive revenue and welcome full groups of people back in.

ROUNTREE: Thank you so much. Appreciate it.

BILL SHUFELT: Thank you.

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HOLDCROFT: Any other questions from the committee? Thank you very much, sir.

BILL SHUFELT: Thank you so much.

HOLDCROFT: Next proponent. Anyone else to speak? Welcome.

PAUL OETTINGER: Thank you, Senator Holdcroft and the committee. My name is Paul Oettinger, P-a-u-l O-e-t-t-i-n-g-e-r, and I'm a co-owner of a craft brewery in North Platte, Nebraska, named Pals Brewing Company. We've been lucky enough in the last year to be able to acquire some of the previous gentleman's product from Athletic. And there's a real demand for these nonalcoholic products, even though we'd, of course, love to sell more beer than we make. Also selling products that people want makes us successful as well. And one of the problems that we have as a small craft brewery is we actually don't have the equipment to be able to safely put out nonalcoholic products in the market because nonalcoholic beer is very-- it's very welcoming to contaminating microorganisms. And there's a real, there's a real challenge for us to do that. So being able to bring in products from people who have invested in the equipment to be able to make those products available to us here in Nebraska is great for our customers and it's great for us. So eliminating this from the classification of near beer would be a big help for us to be able to bring more of these products in from other states, less regulation and, of course, more competition to be able to hopefully buy it cheaper. Some of these items are, are not cheap. They're very similar in price to alcoholic beer. That's really all I had to say. If there's any other questions, I can answer them.

HOLDCROFT: Are there any questions from the committee? Senator DeKay.

DeKAY: Thank you. Thank you for being here today. Quick question. Nonalcoholic beer still has a very small percentage of alcohol in it, so I'm told. What's the difference between nonalcoholic beer and near beer then?

PAUL OETTINGER: My understanding, and I'm not an expert on that category, but my understanding is that nonalcoholic beer would be less than 0.5%. And I don't remember what the, what the definition of near beer is. I think it's 0.5 to 3.2. Is that-- what's that? 0.5.

DeKAY: OK.

HOLDCROFT: Any other questions from the committee? All right. Thank you, sir. Appreciate it.

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PAUL OETTINGER: Thank you.

HOLDCROFT: Next proponent speaking in favor of the bill. Seeing no others, then we'll go to our first opponent speaking against the bill.

CHRIS WAGNER: Good afternoon, Chairman Holdcroft and members of the General Affairs Committee. My name is Chris Wagner, C-h-r-i-s W-a-g-n-e-r, and I'm here representing Project Extra Mile, a network of community partnerships working in Nebraska to prevent and reduce alcohol-related harms. We want to express our opposition to LB33. I understand the, the, the purpose of the bill as described by Senator Hunt. However, we, we are worried about the unintended consequences of introducing this piece of legislation. The state of Nebraska introduce-- continues to experience tragedies involving underage, underage youth who lose their lives due to alcohol. As a consequence, the state needs this committee to prioritize defeating legislation that will contribute to these tragedies. LB33 would introduce our youngest and most impressionable to the taste of alcohol through nonalcoholic products like near beer. These products look, smell, and taste like beer, therefore, they may be a gateway to wanting to try the real thing before the legal age of 21 and, thus, increasing the harms our state is already experiencing. In the materials I provided to you, you can read the transcript of, of this committee's hearing back in 1989. So actually, as a state, we decided to do this to deregulate near beer. It, it lasted a year and then they undid that change. In the excerpts of the testimony or of the transcript that I provided, you'll see that police were having to spend time and resources responding to calls involving this product because youth were drinking it at large events and driving down the streets, showing it off to other motorists who then called 911 and the police had to respond. There's also a, a young woman or a young girl, 8-year-old, testifying that a fourth grader in her school was drinking near beer during school lunch. So that's obviously a concern. I'd also point-- like to point out that the Alcohol and Tobacco Tax and Trade Bureau frequently finds noncompliance with alcohol label content, the most common being that the alcohol by volume content did not match the label and was outside of the regulatory tolerances for that. I provided a report that I found, the most recent one from the agency's website indicating that over a third of the malt beverage products sampled had alcohol content in excess of the 0.3 ABV tolerance from what was stated on the label. In its report, it states that on average overproof malt beverage products were nearly 1% ABV above the label amount. This is obviously a concern if we're going to let minors drink lower alcohol content beer and we expect them to know what they're drinking to be in compliance with the law in terms of both minor

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possession and impaired driving, that, you know, we can't have violations and, you know, like beers saying that they're less than a half percent, but they're actually over. That, that puts our youth in jeopardy. And so instead of deregulating near beer, we'd ask the committee to give the Commission the authority to regulate all nonalcoholic products as they requested in 2023. For those reasons we stated, we'd urge the committee to oppose LB33.

HOLDCROFT: Thank you, Mr. Wagner. Are there questions from the committee? Yes, Senator Andersen.

ANDERSEN: Thank you, Chairman. Thank you for being here and testifying. Out of my ignorance, are, are underaged allowed to buy near beer now?

CHRIS WAGNER: I believe they are not. It's defined as near beer. It's defined as a beer. So they are not allowed to purchase that. But if this change were to take place, then they would be able to buy it.

ANDERSEN: So they would be able to buy it if this--

CHRIS WAGNER: If LB33 were to be passed.

ANDERSEN: Thank you.

HOLDCROFT: Any other questions from the committee? Yes, sir. Senator Rountree.

ROUNTREE: Thank you, Chairman Holdcroft. Yes, sir, you are-- as you're reading your testimony, you're talking about for our young people having access to the beer. Currently, do you have any data that shows they've had access to it now and it's caused anything like injuries, car accidents, deaths, and things of that nature, hospitalizations?

CHRIS WAGNER: Perfect question. I, I want to make sure I clarify. I'm not implying necessarily that near beer is going to lead to these problems. I'm saying it's going to lead to youth trying it and saying, hey, you know, that's not so bad. I'd be interested in trying the real thing before they're of age. I like that, it was a good question.

ROUNTREE: There was a tragic accident in Sarpy County a few years back where four young teenagers, I think a lot of us are aware of that situation. If it had been near beer drinking, there might not have been an accident. I think I hypothesize, but I'm just looking at if we do this and, you know, the access, would that have maybe lowered the alcohol level and maybe prevented that situation?

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CHRIS WAGNER: Well, I think we, we certainly could get into hypotheticals. What I would say is if you look at the behavioral survey data that our schools do for our students, it's anonymously, they'll ask the students what kind of substances they're using. If you compare alcohol to any other substance, so the 2023 data shows that our eighth graders, 25% of our eighth graders, have had alcohol at some point during their lives, 7% are currently drinking alcohol every month, and 1% are binge drinking. That's, that's eighth graders. Do I think near beer is the solution to that problem? I don't. I don't. And I think those numbers will increase if we have near beer and kids that may not be drinking, and there's a high perception. Also, if you look at that data, the perception that everybody's doing it is much higher than it actually is, you know, in terms of what students report. So I think if you have students perceiving that everybody's doing it and they may not be necessarily comfortable drinking it, but I'll try this near beer. And what we're saying is we're concerned that that will lead to consumption of actual alcohol.

ROUNTREE: All right. Thanks so much.

CHRIS WAGNER: Yes.

HOLDCROFT: Yes, Senator Storm.

STORM: Thank you, Chair. Thank you. So on the packaging on these beers, and I should have asked the proponent about this, but I didn't, does it look just like a beer can?

CHRIS WAGNER: Yeah, I mean, in, in my opinion, yes. I'm-- that's, I guess, only my opinion, not--

STORM: So you could-- theoretically, we could have a 15-year-old kid or a 13-year-old kid driving down the road with a near beer can and just-- it'll look like a beer can.

CHRIS WAGNER: Exactly. And that's--

STORM: So when law enforcement pulls them over, there's-- it's going to be a tremendous amount of confusion here would--

CHRIS WAGNER: It's a burden on law enforcement. And that was the reason-- if you look at the transcript that the city of Omaha, in particular, was the testifier that we highlighted, that that was their main concern is that officers were obviously-- and I can know off the top of my head, the city of Omaha is, like, 100 officers short currently. You know, they're understaffed. And if they have to spend

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their time responding to calls that don't end up actually being calls because the Legislature, the Legislature has changed the law, it's just frustrating for them and, and it wastes their resources. So, yeah, and when we look at energy drinks and some of the alcohol content that's mod-- is modeled after those, so the cans side by side look almost identical. One contains alcohol and one does not. So, obviously, it's, it is a concern of ours.

STORM: So does it have the word "beer" on the can?

CHRIS WAGNER: That I don't know, Senator. You'd have to ask the--

STORM: So I can see confusion maybe, concern. OK. Thank you.

HOLDCROFT: Any other questions from the committee? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair. Thanks for being here, Mr. Wagner. Sorry, I stepped out for a minute, but you were just having this conversation with Senator Storm about this potential for confusion. Do you have to be over 21 to buy near beer currently?

CHRIS WAGNER: Yes.

J. CAVANAUGH: OK. And do you have to be over 21 to consume it?

CHRIS WAGNER: I don't know. Yes.

J. CAVANAUGH: For the record, we're getting a nod of yes from Mr. Rupe. So-- well, I guess, the gist of the scenario you guys were talking about that would still fall under law enforcement enforcing it, though, maybe frivolous, would still be enforcing a crime, I guess, is what you're saying there on for the confusion under the current situation. And I-- again, I apologize as I stepped out. We heard a lot of folks come up and talk about just the, the virtue, the value that the nonalcoholic drinks bring. Do you agree that they're giving people something that they can feel comfortable consuming rather than alcoholic beverages has [INAUDIBLE]?

CHRIS WAGNER: Absolutely. We have so many problems with, you know, binge drinking in our state. I'm not, I'm not saying that it's without merit. I'm just saying we're very concerned with the unintended consequences of, of youth being able to purchase this product and it, and it leading to increased underage drinking.

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J. CAVANAUGH: So your, your only concern is about how it affects the potential for increased youth consumption. You do agree that there is a, a value as it pertains to decreased adult consumption.

CHRIS WAGNER: Among the adult, adult population.

J. CAVANAUGH: OK.

CHRIS WAGNER: Another-- I don't-- if you'll allow me to--

J. CAVANAUGH: No, yeah, go for it.

CHRIS WAGNER: --since you were gone. One, one issue that I also raised, and it's in your packet, so it's the TTB. They do a sampling of, of just to make sure that the content matches what's on the label. They found that over a third of the last time they did it was-- exceeded the tolerances. And so that's also a concern of ours. Like, if we're asking the youth, you know, like obviously you can't be a minor in possession, you can't be driving behind the wheel, but if, if this near-- or if this nonalcoholic beer or near beer contains actually more than it, than it says on the label, that's, that's a potential issue for those youth as well.

J. CAVANAUGH: Thank you.

CHRIS WAGNER: Yep.

HOLDCROFT: Any other questions from the committee? Yes, Senator DeKay.

DeKAY: Thank you. Just piggybacking off of some of the questions asked. So with this, you can purchase it, can you consume it in a public setting or do you-- or is it restricted to venues such as bars, restaurants to be able to drink it publicly, you know, without being under the scrutiny of drinking in public?

CHRIS WAGNER: My understanding, and you'll-- I don't know if the-- if Hobie is going to come up and speak, but he could, you know, speak to the specifics of that. But my understanding this would be-- it's being deregulated, it could be consumed anywhere, wouldn't necessarily have to be a licensed premise.

DeKAY: All right.

HOLDCROFT: OK. Any other questions from the committee?

CLOUSE: I have one.

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HOLDCROFT: Yes, Senator Clouse.

CLOUSE: So-- and thank you, Senator Holdcroft. So I'm, I'm sitting here thinking where do you draw the line? Because we've heard from a legitimate business for an adult and, and anything can-- you know, if you put anything out there, somebody is going to find a way to break the rules or do the wrong things with a, a product that has a perfectly good use. So how would you draw that, that line if you could?

CHRIS WAGNER: Well, you're asking me, I, I think we already it, the line drawn and we shouldn't change it.

CLOUSE: OK.

CHRIS WAGNER: I, I, I also heard that the business did receive a license, so they're able to operate. So I think that if they can do that, then they should do that. And I also heard the senator-- Senator Hunt mention that, you know, obviously you can already purchase this product in our state at a variety of, of locations. So I think there's the ability to do it as, as it is. We have a lot of problems. And while this could be part of the solution, I, I don't think it's, it's a silver bullet and I'm very concerned about the impact it will have on our youth.

CLOUSE: Thank you.

HOLDCROFT: Any other questions from the committee? All right. Thank you, Mr. Wagner. Appreciate it.

CHRIS WAGNER: Thank you.

HOLDCROFT: Next opponent speaking against the bill. Opponent. Oh, sure, go ahead, please.

ADAM BARNEY: Thank you. Good afternoon, Senators. Adam Barney, A-d-a-m B-a-r-n-e-y, legal counsel for the Associated Beverage Distributors of Nebraska. Thank you for your time this afternoon. Generally speaking, our members agree with the opponents and their stated alcohol policy concerns that were just expressed. I want to be clear, this is not, this is not a bill about consumer choice. This is-- the policy questions that you're being asked to address are should people under the age of 21 be allowed to purchase and drink these products? And how should it be treated within the three-tier system that presently exists? And those are the, those are the policy concerns I want to highlight here for you this afternoon. The franchise laws and the

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three-tier system are the backbone of why you see such a strong and diverse system of alcohol policy in this state. It's why you see a large variety of brands sitting in your stores looking for purchase for consumers. If NA beer is not covered by the franchise laws, you are likely to see serious unintended consequences from that decision. I'm going to talk about three quick examples. First, is potential harm to consumer choice here. Imagine Hy-Vee or Kroger or another major retailer decide to develop and purchase their own nonalcoholic product and decide that is the only nonalcoholic product that they're going to sell in their stores. That cannot happen under our current system. It can under LB33. It would limit consumer choice and would inhibit the ability of our members to sell product to retailers, particularly for our small manufacturers and crafts. Second harm for small producers, retailers under LB33 would be allowed to require NA brands to pay a slotting fee to get shelf space, which is not presently allowed. Again, think to the diversity of products that exist in the beer aisle right now and compare that to the soda aisle as you walk down your local grocery stores. The difference is monumental. This bill could create insurmountable barriers for small producers that are trying to break into the market and for our distributors and members to distribute those products. Third, under LB33, a leading brand in the, in the market who all retailers want to have on their shelves could require Nebraska retailers to purchase products that they don't want or use it as a condition to obtain their popular product or the manufacturer could require exclusivity deals and make the distributor or retailer agree not to purchase other products. Again, it's reducing consumer choice. These are all reasons and policy decisions that support a healthy system for a product that should be regulated. Whatever the committee decides on this policy question of whether allowing minors to drink NA products, that's really the issue before you. It would be a grave mistake to take these products outside a three-tier system generally with help of the system. Overall, this-- again, this is not about consumer choice. And I see my time is up if I could finish briefly?

HOLDCROFT: Two more sentences.

ADAM BARNEY: Thank you. Consumers want to order this to their home, places, manufacturers can get an S1 license and they can ship it to them. Don't look at this as a consumer choice issue. It's-- those are lauded goals. We appreciate those goals and those concerns have been addressed. Those are already being addressed. Thank you.

HOLDCROFT: All right. Thank you. Are there any questions from the committee? Well, thank you, Mr. Barney. Appreciate it.

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ADAM BARNEY: Thank you.

HOLDCROFT: Next opponent. Anyone speaking against the bill? OK, then we'll go to neutral. It's quiet.

HOBERT RUPE: Chair Holdcroft, members of the General Affairs Committee, my name is Hobert Rupe, H-o-b-e-r-t R-u-p-e, currently have the privilege of serving as executive director of the Nebraska Liquor Control Commission. I'm actually in my mode here now because as an undergrad history major, I, I can give you history lessons and I'll try not to go too bad because I know there's some confusion. Near beer. What is it? Is it something new? Is it something that came out when O'Doul's came out? No. Came out during prohibition. Back then, they couldn't even call it near beer because they couldn't use the word "beer" so they called it cereal malt beverage. Although, one of the pundits at the time said whoever called it near beer had very poor sense of depth. And the reason why, and this goes to Senator DeKay, is Nebraska was actually instrumental in one of the law cases challenging the Volstead Act, prohibition passed, passed. People thought, oh, evil spirits and evil wine that's not going to be available, but beer might still be. We had a lot of-- and, remember, Nebraska was the last state that tipped it over the constitutional amendment for prohibition. You had a lot of German and Czech farmers who didn't think it applied to beer and were somewhat shocked with the Volstead Act, which actually enacted the prohibition, came out and said-- and that was where out of that you had a farmer in, in Nebraska who was making his own near beer, beer, like, like 1 or 2% beer, saying, you know, a small beer. It's nonalcoholic. Grown men can't get drunk and this was the theory. And so that's where the one-half of 1% standard came out [INAUDIBLE], so. Be-- alcohol is in a lot of products either as an ingredient or a preservative. Oftentimes, it is there as a nonconsumable one. Like, technically, you're not supposed to drink vanilla extract, but it is 35% alcohol or 70 proof if you want to drink it and suffer the consequences. So near beer, how is it regulated? If you look at the act as currently drafted, it is other than for taxation purposes there is no tax on it, so it is not taxed at the 31 cents a gallon of beer is. It's treated in every other way as beer. So, therefore, it flows through the three-tiered system as discussed by Mr. Barney. That's one reason why Dry Spokes, of which there are actually four dry bars that we're aware of in Nebraska, so she is on the cutting edge of new business models. There are four of them right now so they require a alcohol license and they require an alcohol license just for nonalcoholic beer. The problem with the Commission is saying one reason why we're neutral is, do we, we promote temperance? And so these products do promote temperance. At the same time, it's a lot--

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very confusing. Right now, we not only, only have one wing in the fight, we have a truncated wing in the fight. So we regulate near beer. We do not regulate the gin alternatives or the vodka alternatives or the whiskey alternatives which are available in more and more prevalence. And, really, we don't even operate all the beer now. Most traditional alcoholic beer-- hope I can finish on this sentence here.

HOLDCROFT: Two more sentences

HOBERT RUPE: Two more sentences. Nonalcoholic beer is you have beer and then you strip the alcohol out of it and that requires fermentation. That's one reason why the definition has fermentation in it. A lot of your new beer-like substance, like the seltzers and such, don't-- aren't requiring their effervescence or fermentation, they're adding in CO2 or other things. So, you know, I mean, shocking enough there is a nonalcoholic version of White Claw. Not sure the market-- pretty sure I'm not in the market for that but there is that kind of product out there.

HOLDCROFT: Thank you, Mr. Rupe. Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair. Thanks for being here, Mr. Rupe. I mean, first off, isn't that just regular seltzer?

HOBERT RUPE: It would be, but they'd be flavored or something, but it's being marketed as White Claw, is sold as White Claw. So that's what's amazing about a lot of these products. Sometimes they try to use brand ID, so if you're a White Claw drinker-- why, I don't know-- but if you're a White Claw drinker and you want to-- and you're the DD that night, you could still have your White Claw, but you-- it's nonalcoholic. That's why traditionally non-- a lot of nonalcoholic beers are also sold by beer makers. Heineken Zero. With that cart-- when that commercial came out with the guy sitting there and thought he's been busted for drinking illegally and he points to it and the, the cop points up to the no parking sign instead, so he goes, oh, that's funny. I go, yeah, but he would be technically violating the law, a Class III misdemeanor in Nebraska because he's drinking it in public.

J. CAVANAUGH: Well-- so that was kind of getting to my other question. We had, I think, testimony from at least Senator Hunt or if not others, 43 states--

HOBERT RUPE: Yes.

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J. CAVANAUGH: --don't regulate this near beer or whatever, nonalcoholic, the way that we do. We've heard problems with regulating it that way. But if 43 other states do it, how do they solve those problems?

HOBERT RUPE: You know, you know, the, the fear always was is that this would be a gateway drug. You know, I'm not sure it is. I can tell you one of the fears that we heard back in the day was, oh, somebody is going to take a can of O'Doul's, empty it out and pour dad's Budweiser into it and then walk down the street with it. The next time that will happen, the first time it's happened in 21 years I've been doing this. But I have to say, it's not because they do taste like beers and that's to their credit and detriment. They've gotten very, very good. Athletic Brewing Company, for sure, they've got some phenomenal stuff that tastes like a stout. I mean, I mean, it tastes like if you were going to buy a stout. And so there is some of that problems for that. How those other states have looked at it is-- you know, we could-- I could do some more research on how each of the states, the advantage, of course, of the 21st Amendment. We've got 50 different ways of doing things. We're right there, we're one of the seven which does it different. But that's something completely different. Most places, character-- tax beer based on alcohol by volume, where we take-- base it on how the alcohol comes into the economy. You know, we-- all beer is taxed at the same rate if it's from fermentation, all wine through the vinting process. Anything else is distillation is other tax so we're just a little bit different on how we tax things and regulate them as well.

J. CAVANAUGH: Thanks.

HOLDCROFT: Any other questions from the committee? OK. Thank you, Mr. Rupe.

HOBERT RUPE: Thank you.

HOLDCROFT: Any others in the neutral position? Testifying in the neutral? OK. With that, Senator Hunt, as you come back, we had 25 proponents, 2 opponents, and none in the neutral.

HUNT: Thank you, Chairman Holdcroft. And thanks for everybody who came to participate in this hearing today. I also want, want to say hi to Senator Lowe, who introduced a bill like this in the past as well in this committee. I have a couple thoughts in reaction to some conversations in the hearing today, and then I'm happy to take any other questions. Senator Clouse asked a hypothetical, kind of where do

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we draw the line? Where do we draw the line with the amount of alcohol in things? I would propose what this bill proposes, which is why don't we draw the line at nonalcoholic? If it's a nonalcoholic beer, if it's a nonalcoholic wine, spirit, whatever, let's not regulate, like, alcohol just as 47 other states do. And just as the federal government has defined alcoholic and nonalcoholic. That to me would be the line. And I can also share some hypotheticals. I didn't do this in my opening as hypotheticals and, you know, I, I would ask you to just kind of think about common sense when you're thinking about how this could impact kids and youth. And Mr. Rupe talked about that a little bit. The gentleman from Athletic Brewing talked about that a little bit. But nonalcoholic beer is expensive. It is not like buying a soda. And when I was a kid, and I have a teenager now, and they're not out using their money to buy a lot of expensive treats, honestly. And I wasn't either at the time when I was that age, kids can already buy things like phony negronis, like nonalcoholic wine. They can already go to a store and buy nonalcoholic cocktails, things like that. And you know what? They're not, they're not doing that. And if they were to, OK, enjoy your bitter juice box. Like, I mean, that's basically what it is. It's not going to have an effect on them altering their state of mind. It's not going to make them feel drunk or anything. It's just a different type of drink to have. And so I guess that's why I don't really see it as a gateway drug, quote unquote. I have not found research from any other state. And we did look trying to see if there's been kind of a gateway drug effect for youth. We have not found any evidence of that. And I also would argue that just common sense shows that there probably won't be much evidence of that. One thing I would say, I think it was Senator Storm asked the question about, you know, does the can look just like a regular can of beer? It could, it could look a lot like a regular can of beer. But two things, if you look at craft brews, in particular, you go look down a refrigerated aisle at all the different types of craft beers there are, a lot of those look like soda. A lot of those look like all kinds of beverages now, energy drinks, things like that. And they do have alcohol. So one thing I think we have to keep in mind is that nonalcoholic beverages must be clearly labeled as such. It can't say it's beer. It has to be labeled as nonalcoholic, which it is. One other response talking about IDing kids to buy this kind of stuff, once again, right now we don't ID kids to buy nonalcoholic spirits or wine or anything like that. And I don't think there's anywhere that really does that. There was a piece in JAMA Pediatrics, which is a Journal of American Medical-- it's a medical journal, pediatrics, and they surveyed all the states and they found that 39 states don't have any statewide policy that limit the sale of nonalcoholic beverages.

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And the states that do are really inconsistent. So, for example, in Michigan, they restrict the sale of nonalcoholic beverages to 18 and up, but they don't-- of nonalcoholic beer, but they don't restrict the sale of wine and liquor that's nonalcoholic. So there's these really inconsistent enforcement mechanisms. That's just Michigan. Individual retailers can choose to ID if they want to. And also if we pass LB33, if we do advance this bill, local jurisdictions, city councils, village boards are still free to pass their own requirements on age verification if they want to. Finally, you know, if we deregulate this product at the state level-- speaking to the gentleman who testified in opposition about how they tested a lot of types of nonalcoholic beer and they had more alcohol by volume than was advertised. Producers are still subject to federal standards on that stuff, and those come from the FDA and the FAA and the ATT and product manufacturers make errors in every industry, and that's up to the feds to handle. And that's not really our purview in the Legislature, I guess, or it's not what this bill seeks to do. I really love the increasing culture of sobriety that I'm seeing in our society. I like that it's becoming destigmatized to not drink. When I was in my early 20s, you know, I'm not, I'm not the oldest person in the room or anything. I know there's people with much more experience than I have, but, you know, it wasn't that long ago when I was in my 20s and it was kind of dorky not to drink. Like, you could get kind of teased, like if you're out with your friends and you just get a Sprite or you just get, you know, a club soda or something, someone's going to make a little comment. And I see that happening almost never now. Among younger generations, among my generation, it's becoming much more acceptable and less stigmatized to just not consume alcohol. And I think that's really cool and really important. And I love hearing that there are four dry bars now in Nebraska. We have a great one in Omaha. And I think that this is just a commonsense measure that we can take in Nebraska to support people who want to choose sobriety, who are curious about making healthier choices, and also a way to support small businesses that are producing nonalcoholic beer and selling it. So happy to answer any other questions.

HOLDCROFT: Thank you, Senator Hunt. Are there any final questions for Senator Hunt? Yes, Senator Andersen.

ANDERSEN: Thank you, Mr. Chairman. Thank you, Senator Hunt, for being here. We've discussed some significant potential downsides to this action. And I'm a firm believer that just because a Legislature can take action doesn't mean it should take action. So in light of the potential downsides to this, what would you say is the most compelling purpose to actually pass this bill?

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HUNT: I think the most compelling reason to pass the bill is that we are regulating a nonalcoholic product like an alcoholic product, and it's inconsistent. You can already buy cocktails and wine. We don't regulate that and we should put beer in the same category.

ANDERSEN: Even though it does provide some safeguards as it is right now?

HUNT: Say that again.

ANDERSEN: I said even though right now it does provide some safeguards the way it's regulated.

HUNT: I actually disagree that it provides safeguards. So that's just not a premise that I'm really agreeing with.

ANDERSEN: OK.

HOLDCROFT: Any other questions from the committee? Thank you very much, Senator Hunt.

HUNT: Thank you, sir. Thanks, everybody.

HOLDCROFT: That, that closes the hearing on LB33. And now we will move to LB186. OK. Senator Dover, you're on.

DOVER: Thank you. Thank you, Chairman Holdcroft, and good afternoon, committee members. My name is Robert Dover. I represent District 19. R-o-b-e-r-t D-o-v-e-r. Start out by thanking Senator Holdcroft and Senator Cavanaugh for coming out to a previous hearing last session in Norfolk, Nebraska, where they're able to-- and, oh, excuse me, and Senator DeKay, where they were able to see our entertainment district and understand, I think, better what we're, we're suggesting here. I've introduced LB186 to provide cities more control over the common area of designated entertainment districts. So legislation regulating entertainment districts in Nebraska was first passed in 2012. This law was mostly enacted to fit the needs of Lincoln and Omaha in creating attractive and safe common areas in their cities to provide food and drink to patrons. LB186's proposed changes have been requested by smaller cities that are more restricted in available space and funds for entertainment districts. This is due to the fact that the entertainment district will likely be located in a historical downtown or a preexisting area that already has restaurants, bars, and shops. Current statute requires that the common area have limited pedestrian accessibility by use of physical barriers and be closed off to vehicle traffic. LB186 would allow cities to regulate safety measures within

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the common areas of an entertainment district. The city would have to employ reasonable safety measures that include improved lighting, lower traffic speeds, and a prohibition on possession of open containers of alcohol in streets or highways except when crossing at a designated crosswalk. Initially, I left Lincoln and Omaha out because I saw it as a smaller town initiative. Senator Wishart had stated last year that she would like to see Lincoln included because she thought that areas like Havelock, downtown telegraph district, and SouthPointe area would financially benefit from this legislation. Senators from Omaha also said they would like to be included. We are working on an amendment that would include Omaha and Lincoln as well. It also alleviates the need for all entertainment districts' food license holders to be open and provide food service while alcohol is being served. Rather, only one entertainment district food license holder would be required to provide food service. LB186 would allow each city to create an entertainment district that is most suitable for their city and its vision for the district while maintaining safety measures. Cities across our state will be able to customize attractive entertainment districts that boost the local economy. I'll be happy to answer any questions that I can. Thank you.

HOLDCROFT: Are there any questions for Senator Dover? Senator Quick.

QUICK: Thank you, Chairman. Thank you for bringing this bill. So like with-- and maybe-- I don't know if you can answer the question or not, but would it, would it be-- just be like one entertainment district within a community or could there be different areas where you would have to be able to set them up or how does that work?

DOVER: Yeah, it would be whatever the, the city council would, would want to do, obviously, and Lincoln hasn't-- and Senator Wishart had said a year ago, there were multiple places she would see this able to use. So, I mean, I don't know that as towns the size of Norfolk, we have a, a main street that's actually an art center area or, excuse me, art district, and that's First Street through Seventh Street. But we also have an older little area down by the railroad tracks that also would be a really nice, neat little area. So it really depends whatever the city would like to do, so-- but it is not restricted to one.

QUICK: OK. All right. Thank you.

DOVER: Thank you.

HOLDCROFT: Other questions? Yes, Senator DeKay.

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DeKAY: So in the entertainment district, you're considering saying you could walk into one establishment and buy a beverage, walk out and go down the street to another business and purchase it and you can enjoy your beverage as you're just walking around on the streets?

DOVER: Yeah, there's a, there's a number of people that have shops and stuff down there. So they'll go to the city council and they'll apply to have, like, a wine night and they'll invite patrons in and they'll drink wine and shop. And other people, car shows. I mean, just different things going on where it always requires that. But in this area, as long as proper safeguards are in place. They have to-- if they buy a drink, that, that cup has to be labeled to what bar it comes from. So they always know who sold that person that drink. And then, obviously, there's areas that would be-- like you have-- like even Norfolk-- I mean, for somebody, you know, but Norfolk Avenue is like this and if you moved off of the road, there would be large trash containers that, that say you're leaving the district, something painted across the road, no alcoholic drinks beyond this line. And, and whatever the, whatever the city council would say, but that would be-- it would be very evident that you're leaving an area you can't have a drink with you.

HOLDCROFT: Any other questions? Thank you. Will you be here for closing?

DOVER: Yes, I will.

HOLDCROFT: OK.

DOVER: Thank you.

HOLDCROFT: With that, we'll go with our first proponent, anyone who wishes to speak for the bill.

DANIELLE MYERS NOELLE: Good afternoon, Mr. Chairman and members of the committee. My name is Danielle Myers Noelle. That's D-a-n-i-e-l-l-e M-y-e-r-s N-o-e-l-l-e. I'm the city attorney for the city of Norfolk, where I have been since 2017. I'm here today to testify in support of LB186, which seeks to make changes to the existing entertainment district framework within the Nebraska Liquor Control Act. I drafted the first iteration of this bill 2 years ago, LB150, at the request of my elected officials and some downtown stakeholders. In the last 10 years, Norfolk's downtown corridor has seen an uptick in the number of concerts, farmers markets, festivals, and other events that take place between May and October approximately every single year. Many of these

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events involve alcohol using a special designated liquor license and the atmosphere that's been created by these events has led our elected officials to seek a more permanent change to the way pedestrian traffic moves between eating establishments and bars downtown. The original bill was drafted in 2012 for Omaha and Lincoln, and while it has served them well, it, it does not work for first class cities, second class cities, as well as smaller villages. Ultimately, LB186 is about local control and allowing a city's elected officials' staff, police department, and citizens to have more input as to the activity in their downtown corridor. We understand that public safety is key, and that is why the bill forces cities to work with their elected officials and public safety teams to see if this is even a feasible option. And if so, still-- they still have to draft an entertainment district ordinance that would meet their needs. LB186 contemplates using mechanisms such as enhanced lighting, reduced speed limits, and improved signage to slow down traffic and make it clear that pedestrian activity is the primary mode of transport within the entertainment district. LB186 also makes it clear that there is to be no consumption allowed in the streets or even while crossing the streets except at an approved crosswalk. In the last 2 years since LB150, the city of Norfolk has made changes to our downtown to further enhance safety, which would support an entertainment district in my community. We have converted several of our signaled intersections to stop signs following recommendations from traffic signals that, that reflect that we simply don't have the traffic count for light signals. This and other planned investment in our downtown and in our safety infrastructure is why my elected officials would request that we move this bill forward. With that in mind, I'm happy to entertain any questions that you may have.

HOLDCROFT: Thank you. Are there any questions? Senator Rountree.

ROUNTREE: Thank you, Chairman Holdcroft. Yes, ma'am, you stated you drafted this, this legislation maybe a couple of years ago.

DANIELLE MYERS NOELLE: Yes, sir.

ROUNTREE: And what was the status of it, what happened on that and we're back here today?

DANIELLE MYERS NOELLE: I can't-- I cannot speak to, to--

ROUNTREE: OK.

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DANIELLE MYERS NOELLE: --where that went exactly. But if we're back here, you know, it obviously stopped at some point.

ROUNTREE: OK. All right. Thank you so much then.

HOLDCROFT: Any other questions from the committee? Yes, Senator Quick.

QUICK: Yes, thank you, Chairman Holdcroft. My question would be like, so if a city, like they have an entertainment district, can they actually close off the streets so that they could, you know, allow just pedestrians to, to walk in that area then as well?

DANIELLE MYERS NOELLE: So, so the goal of, of this change of LB150, now LB186, is to allow cities to have an entertainment district without having to do that. So currently when it talks about a commons area, it is defined as something that's close to vehicular traffic, that just doesn't work for our, our downtown community, that would really paralyze some of our businesses. And so what this contemplates is letting a city meet their local needs and putting other safety measures in place in order to slow down traffic to create more safety so that they're not forced to shut, to shut down traffic while the entertainment district is in effect.

QUICK: OK. So, so it's already in place where they can close down the streets to--

DANIELLE MYERS NOELLE: Yes.

QUICK: OK.

DANIELLE MYERS NOELLE: Yes. And that's on an event basis. And it, and it-- actually, for our community, it gets to be really difficult in terms of when you're, when you're closing down something, maybe that event starts at five and you have businesses downtown that operate till five, it creates a lot of functional issues in terms of, of parking and, and things like that. So that's why it kind of limits the amount of those events that we can do. Whereas, what would be allowed for here would be-- it would be within a defined parameter laid out in the ordinance. And so those safety measures would be in, would be in effect so that you wouldn't have, you wouldn't have to, you know, close down events every other weekend in the summer, for example.

QUICK: All right. Thank you.

HOLDCROFT: Other questions? Senator DeKay.

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DeKAY: Thank you. Why wouldn't it work as well in, say, a class one city as it would in a second class city? You said, you said it just doesn't work out and you thought it would work out better in a city like Norfolk rather than a larger city.

DANIELLE MYERS NOELLE: Oh, sorry, if I misspoke. What I, what I intended to say was that how this entertainment bill statute exists currently, it doesn't work for first class cities, second class cities, and villages as far as the conversations that I've had. Because a lot of the cities where this entertainment district would be, would be located is in a spot where there is vehicular traffic, and it's not economically feasible to close down traffic every time the entertainment district would want to be utilized.

DeKAY: Within a district like that, what happens if you have established businesses that are opposed to the open area for alcohol on the streets? How do you deal with those businesses?

DANIELLE MYERS NOELLE: And, and that's a good question. We've, we've, you know, looked at and addressed that as well. They wouldn't, they wouldn't be licensees. So people would not be able to carry-- they would not be able to just freely carry alcohol in there, they could keep people out from carrying alcohol in there. And I would imagine if they were really opposed to it, they would do what many of our other opponents do and they would show up at the city council meeting and they would probably speak against the ordinance. Because at the end of the day this-- in order to adopt this, if a city wants to adopt this, it has to go before elected officials. It has to go before a council. It has to be voted on as an ordinance, passed on three readings. And so that does require some, you know, citizen input that allows for that. So if, if more people don't want it than do want it, then I, I can't imagine that something like this would be feasible for that municipality.

DeKAY: Last-- probably the last question. When it comes to vehicles on the street, how do you limit the vehicles on the street where those events are taking place? Do you block them off or--

DANIELLE MYERS NOELLE: So when, when there's events, when there is an event and that-- an event as it exists today, that there's usually a special designate-- there's a special permit for that, and that is when the area is closed and that's when you have barriers and things like that. Under this, it wouldn't be so much as blocking off the street as it would making sure that if, if you're walking down a, down a street abutting-- if you're walking down a sidewalk abutting a

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street and there's vehicular traffic moving, you have safety measures in place. You, you have reduced speed limits, you have really good lighting. You have clearly defined crosswalks, things like that, things that the city of Norfolk has really invested heavily in because we, we really value our downtown space and, and the safety of pedestrians is already important. I think if you would put this entertainment district in effect, understanding that there would be alcohol existing, you know, on the sidewalks that are adjacent to streets with vehicular traffic, there, there would be a, a demand on the public safety teams on, on, you know, the police department, on the city council to put parameters into the ordinance that would-- you know, basically we just have to do our best to keep it as safe as we can.

DeKAY: OK. Thank you.

HOLDCROFT: Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair. And thanks for being here, Ms. Myers Noelle. How do you pronounce your last name?

DANIELLE MYERS NOELLE: Myers Noelle.

J. CAVANAUGH: Noelle. I wrote it down. It looks like Noel how I wrote it.

DANIELLE MYERS NOELLE: Every-- everybody says that. That's OK, Senator.

J. CAVANAUGH: Yeah, OK. Well, thanks for being here. And I think to answer Senator Rountree's question, this bill has been brought before, but it just didn't make it. I-- you know, I think it maybe made it out of committee and didn't make it anywhere on the floor, if I remember. But we did have a hearing up in Norfolk and got to see-- is it Nebraska Avenue?

DANIELLE MYERS NOELLE: Norfolk Avenue.

J. CAVANAUGH: Norfolk Avenue.

DANIELLE MYERS NOELLE: Yes.

J. CAVANAUGH: Sorry. A beautiful street. And the bill would just create the structure where Norfolk would have the option to create this district on, say, Norfolk Avenue. It wouldn't require you to do that, right?

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DANIELLE MYERS NOELLE: Absolutely. That's correct.

J. CAVANAUGH: And then it puts in minimum standards that you have to meet. But you could, of course, do more than that if that was what was appropriate for you. Right?

DANIELLE MYERS NOELLE: Correct.

J. CAVANAUGH: And, I guess, my one question then is if you-- Norfolk would do this and say it doesn't work the way you hope, how hard would it be to undo it so you stop having the district?

DANIELLE MYERS NOELLE: And, and that's something that, that we've, we've talked about as well. So, I mean, it would be created by an, an ordinance, and those, you know, if we needed to amend it to, to add additional-- maybe we need to reduce the speed limit even further or maybe there needs to be, you know, lighting within 3 feet instead of 5, you know, I'm, I'm kind of-- I'm guessing here, we would, we would amend that. If it was clear to our elected officials, if it was clear to our public safety team, if it was clear to-- you know, if, if everybody had a conversation around maybe there was an incident or, you know, if there was enough of a concern, I would imagine that they would just-- they would get rid of it. They, they would do an ordinance to remove the entertainment district entirely because it's going to be within a clearly defined boundary that's laid out in the original. If, if there's a glaring safety concern that comes about, I, I, I don't-- I mean, I think the general consensus is that we would just move forward with, with removing it from our city.

J. CAVANAUGH: So Norfolk would be able to-- if we passed this Norfolk would be able to create a district themselves and then decide to eliminate the district themselves without any further action from us.

DANIELLE MYERS NOELLE: Yes. Correct.

J. CAVANAUGH: Thank you.

HOLDCROFT: Senator-- no. Any other questions from the committee? OK. Thank you very much.

DANIELLE MYERS NOELLE: Thank you.

HOLDCROFT: Next proponent. Go ahead.

CHRISTY ABRAHAM: Hello, Senator Holdcroft and members of the General Affairs Committee. My name is Christy Abraham, C-h-r-i-s-t-y

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A-b-r-a-h-a-m. I'm here representing the League of Nebraska Municipalities. And I first want to thank Senator Dover for introducing this bill. As he mentioned, this is the second time that this issue has come before your committee. LB150 was introduced a couple of years ago. And you're right, Senator Cavanaugh, it didn't advance from this committee, but that did cause us to all go up to Norfolk in 2023 and have this wonderful-- I'm sorry, I'm blanking on a word-- I'm going to say tour of Norfolk and saw the beautiful, vibrant downtown that Norfolk has. It's very walkable. It has lots of shops and restaurants and bars. And I think it really helped us visualize what an entertainment district might look like in a city of the first class or second class or village. As many of you probably know, when the entertainment district bill originally came into being in 20-- I believe it was 2012, it was sort of geared toward Lincoln, and Lincoln sort of knew what they wanted. And so the bill was sort of drafted with the rail yard in mind. And if you've been to the rail yard, you sort of understand what that looks like. There's barriers and folks are carrying their cups around in that designated area. For smaller communities, as many of you know, your downtown looks different. It's maybe linear. It's several blocks. You have a lovely downtown. It's maybe historic. And those are the types of things I think smaller communities are looking for to designate as their entertainment district. So it just looks a little bit different in smaller communities. And I think what Senator Dover and the city attorney of Norfolk have done a really great job explaining to you is this bill gives municipalities the flexibility to create that district for them, there are safety provisions in mind. There are provisions, Senator Cavanaugh, to, to just answer your question, it's page 2, line 7: The local governing body may, at any time, revoke the designation if it finds that there is a threat to health, safety, or welfare. So definitely there are provisions to revoke this designation if it isn't working out for a community. And, also, as you heard for the city council or the village board to make changes to their ordinance to make sure that it is working for them. So I see that I have my light turning yellow, but I really encourage you to advance this bill to General File, and I'm happy to answer any questions you might have.

HOLDCROFT: Thank you. Senator DeKay.

DeKAY: Thank you. Thank you for being here. Is there any data that shows how much revenue to individual businesses or to the city of Norfolk, how, how much that's increased or like the rail yard has to Lincoln?

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CHRISTY ABRAHAM: That is a great question. And I'm sorry, Senator DeKay, I don't have that information. I see my good friend and lobbyist from the city of Lincoln is here. I might be able to get that information for you. And if I can, I'd be happy to share it with you.

DeKAY: OK. Appreciate it.

HOLDCROFT: Any other questions from the committee? Thank you very much.

CHRISTY ABRAHAM: Thank you.

HOLDCROFT: Next proponent.

JOSH EICKMEIER: Good afternoon, Chairman and committee members. My name is Josh Eickmeier, J-o-s-h E-i-c-k-m-e-i-e-r. I wear a couple hats. Today I am here in my role as a mayor of Seward. I had to dust off my other hat, which is the former legal counsel to the General Affairs Committee when this original bill was passed into law. Christy did a great job giving you some of the history. She stole most of my speech. But with that said, I can repeat some of it for you now. Basically, it was like she said, they were developing the rail yard and the developers wanted to create a concept similar to what was done in Kansas City with the power and light district. And you have a commons area with surrounded-- at least on some sides, not all sides-- with licensees, bars, restaurants. And, and that was the, the idea. It worked because there was nothing there yet. So there is a certain give and take with the policymakers and say, OK, well, we need to-- and by policymakers, including like Hobie Rupe and Liquor Control Commission, say, OK, we need to control the access points, you need to have some kind of a barrier, you have some kind of this, that, and the other. And they could agree to all that because nothing had been built yet. And so they had the advantage that other communities that have come wanting to do something similar since then have run up against, which is they already have the infrastructure, they have the downtown. As Christy mentioned, a lot of communities, it's one street with retail on both sides, and that's where the area they would like to designate as an entertainment district. But you have a square peg and a round hole and you're trying to make these things fit after the fact. Seward does not have any immediate plans to do something like this. I'm here in support of this bill because it's important that we be flexible with these types of opportunities that can benefit downtowns. Every community is trying to support the local businesses. They want their downtown to be vibrant. We have a 4th of July celebration in Seward, but we also have 364 other days that we would like people to shop in

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our community. And so this is an opportunity for a lot of other communities. And like as I mentioned, square peg, round hole. That's literally our issue, is we have a courthouse square and so we have retail on all four sides of that square. So our challenges are going to be a little bit different. So we wouldn't necessarily be able to utilize it in its current form if this were to pass. We probably would harass you in the future with some alteration if it were something that we could, could utilize in supporting our community as, as everyone's trying to do. So that's a little bit of a history lesson and as well as, as how Seward potentially could benefit as well as other communities with something similar. But it needs to be tailored to fit every community's unique needs. So with this dangerous amber light in from me, I will stop.

HOLDCROFT: All right. Thank you. Any questions from the committee? OK. Thank you very much.

JOSH EICKMEIER: Thank you so much for your time.

HOLDCROFT: Next proponent.

JOSH MOENNING: Good afternoon, Chairman Holdcroft, members of the committee. My name is Josh Moenning, J-o-s-h M-o-e-n-n-i-n-g. I'm a recovering local-elected official, former mayor of Norfolk. The other Mayor Josh, if you will, former mayor. My term-- my second term ended in December. I was involved in the original crafting and drive behind this bill. I have to thank and give a lot of credit to our city attorney who you just heard from, Dani Myers Noelle, normally who worked very closely with the League to draft this enhancement of the underlying statute. I, I don't have a lot to add because there's been a lot of good things said about what this is and what it does. But I do want to recap just a little bit of the study hearing that was held in Norfolk on LB150 at the time a couple of years ago. Chairman, you were there, I believe, Senator Cavanaugh. We appreciate your time and effort in doing that. And really that, that hearing was purposed to give everyone a real-life view of what this could be. I also want to note that there were other mayors. This isn't just Norfolk. At that hearing a couple of years ago, you had mayors from Fremont, Columbus, Papillion, representatives from Lincoln as been-- as has been stated, who are all in support of this idea, this change, I think slight change to the underlying statute to allow an entertainment district to be accessible to smaller communities. So three reasons I think this is an economic development and quality of life measure. I would note that in the discussions of this in Norfolk, it wasn't just restaurants and bars in the downtown district pushing for this. It was retail

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locations. And we have a good deal of retail in our downtown district. And those business owners felt like this would enhance foot traffic and, and they would participate in this open container district and it would help their business. I think it enhances the intent of the underlying statute. As has been discussed, smaller communities have-- the infrastructure and the nature of their downtown districts is different than what might-- what you might find in larger cities. And this makes the, the statute more accessible to all communities in our state. Thirdly, I think this is a local control measure, as has been discussed. This has to go through the, the processes of local approval through city councils. We had our, our police division research this and help, help draft ideas in terms of the controls that, that could regulate these types of districts. And so-- and, and if there are found to be challenges, things can be altered, things can be changed. So for those three reasons, I think this is a good idea whose time has come. And I'd urge your, your passage of LB186.

HOLDCROFT: Thank you. Any questions from the committee? Thank you for your test-- oh, Senator DeKay.

DeKAY: All right. Thank you. Thank you for being here, ex-Mayor, of Norfolk.

JOSH MOENNING: Thank you, sir.

DeKAY: I asked a question earlier and saw you taking some notes on what-- did you have any business models to show how much additional revenue that would generate for the city of Norfolk?

JOSH MOENNING: Yeah, we don't have numbers right now, but there was some talk about how does this compare with, with special events in which barriers are needed? There are several special events throughout the year in Norfolk's downtown district. And those events all bring in a, a significant amount of new revenue, people coming in from around the region to attend the event, and then they also shop in the district. Whereas, there's 3 or 4 of those events throughout the warm weather months right now, the idea behind this is you would create an atmosphere in which those, those physical barriers wouldn't need to be put in place each time that you're doing something like this. And I'm glad you asked the question. I think this also gets to-- a lot of times we talked about getting rid of, rid of regulatory barriers and, and red tape. I think this does that and, and it gives cities the control to do so and the ability to manage it and maintain it how they wish.

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DeKAY: Thank you.

HOLDCROFT: Any other questions from the committee? Thank you very much, sir.

JOSH MOENNING: Thank you.

HOLDCROFT: Next proponent.

ANGIE STENGER: Good afternoon, Chairman and committee members. Thank you for having us today. My name is Angie Stenger, A-n-g-i-e S-t-e-n-g-e-r, and I'm the executive director of Growing Together Northeast Nebraska, which is the Aksarben Workforce Initiative in-- based in Norfolk working on northeast Nebraska. Our goal is to be proactive in attracting new residents and young people to stay in our community. And one of the things that they are always looking to do is be involved in activities. And I feel that, that is what we're talking about today, things that will help us keep young people in our community. Over the past few years, we've seen the River Point Creative District come to life in downtown Norfolk and it is fabulous. I know some of you came and toured and we always will welcome any of you to come back and see what can happen in such a thoughtful transformation of a town. So the growth of this district has brought new restaurants and boutiques and shops and bars and it's a very dynamic atmosphere that we are hearing from young people that they are excited to be there. We have now 75 Wayne State students living in downtown Norfolk and goals to bring more young people living and working there. So this progress is all meant to attract them to want to stay in Norfolk. And the strong collaboration that we've had over the past few years between business owners, our city leadership, as you've heard, and community supporters is exactly the type of thing that together, if the enhanced entertainment district was created or was passed, we could really strengthen our ability to host additional activities and in our city and attract more people. Importantly, the young people that we are working so hard to convince to stay in northeast Nebraska, hopefully in Norfolk. I appreciate your time and thank you for your support. Questions?

HOLDCROFT: Thank you. Any questions from the committee? OK.

ANGIE STENGER: Thank you.

HOLDCROFT: Thank you. Next proponent. Welcome.

TRACI JEFFREY: Good afternoon, Chairman Holdcroft and members of the committee. My name is Traci Jeffrey, T-r-a-c-i J-e-f-f-r-e-y, director

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of Visit Norfolk. I also appear today on behalf of Nebraska Travel Association to testify in support of LB186. We appreciate Senator Dover introducing this bill and Senator Raybould for cosponsoring this legislation which will help improve entertainment districts. Since 2012, entertainment districts in big cities and small have attracted tourists, driven economic growth, and enhance the vibrancy of our communities. As tourism director, my main focus is to make the Norfolk area a dynamic and welcoming destination. Norfolk's River Point District has created an energetic and appealing atmosphere that has drawn visitors looking for unique experiences. Currently, the River Point District is not an official entertainment district. We found that the LB186 would create flexibility needed to make entertainment districts viable in smaller communities like Norfolk. The legislation would allow vendors in the entertainment district to partner together. A restaurant or food vendor in the area may choose not to serve liquor. On the other hand, a liquor establishment or vendor may choose not to serve food. LB186 makes it clear so long as food is available for one holder of an entertainment district license, another license holder is allowed to serve liquor. This sensible change and other flexibility added to-- for smaller communities like Norfolk will make entertainment districts possible. For this reason, we urge you to advance LB186.

HOLDCROFT: Thank you. Any questions from the committee? Thank you very much. Next proponent. Anyone else wishing to speak in favor of the bill? Next, we'll go to opponents. Any opponents? Neutral test--

HOBERT RUPE: Opponent.

HOLDCROFT: Opponent. Very good.

HOBERT RUPE: I was going to let [INAUDIBLE] go first. Good afternoon, Chairman. My name is Hobie Rupe, H-o-b-i-e R-u-p-e, executive director of the Nebraska Liquor Control Commission. And we're coming in opposition as drafted. An earlier bill like this, we were somewhat neutral. Just a little history. We were instrumental back then, the one part about being around for so long, I was in those conversations where we created the original entertainment districts and the idea of motor vehicle access was one of the big sticking points. So if you read the existing act, it's, it's a-- and you can have some roadways in it, but it's when it's active as an entertainment district, the vehicular traffic ceases. That would be actually in Lincoln, people don't realize that Canopy district-- Canopy Street is part of their district. And you drive down there during the day a lot of times but events when they activate the license for things, they close down

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traffic to it. The illustrious mayor of Seward was correct, is that, you know, the entertainment district was somewhat based on what was going on down in the power and light district. But also during those conversations was how Bourbon Street did their district. And Bourbon Street, you'll note, is you can drive down there during the day, but in the, the late afternoons, they have the pneumatic barricades that come up there and stop vehicular traffic. Unfortunately, we're all aware of the tragedy that's-- that recently happened where there was a failure of those things and someone was able to get a motor vehicle into those locations. So as drafted, we think that the-- it just says reasonable, doesn't describe what reasonable is for traffic things. So my commissioners, when they read this bill, they said we want-- that needs to be bumped up for us to even go back to neutral and so they wanted me to come in, in opposition to it. Because, unfortunately, the only option the Commission then has is once the city sets up the district, if the Commission believes that health, safety, and welfare is at risk, we don't issue the, the entertainment district licenses. And so then it's a license-- it's a district without any access by the licensees. So the concern of the Commission sort of has is that given the recent events, that that is just a little not filled out enough. And that's where the concerns are, because one of the principal concerns we have to look at is public health, safety, and welfare. It's one of the guiding lights the Commission uses and we think cars and alcohol without very solid safe grounds spelled out is not a good combination. With that, I'd be happy to answer any questions.

HOLDCROFT: Any questions from the committee? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair. Thank you for being here, Mr. Rupe. Just for clarification, before you were Hobert Rupe and now you're Hobie.

HOBERT RUPE: I'm sorry. I-- everybody has been calling me Hobie. The name is Hobert, but most people just say Hobie. Most people don't even think I have a last name sometimes, even my friends.

J. CAVANAUGH: I'm, I'm victim, fall victim myself. So just to clarify, so is the Commission's position that there should be no option to have it as open with no traffic or you just think we need to more clearly define what, what needs to happen if [INAUDIBLE]?

HOBERT RUPE: Well, my directions were as drafted to oppose it. If, if there was to be changes, I would take it by the three commissioners.

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J. CAVANAUGH: OK. So maybe we should have a conversation with Senator Dover and then come back and visit with you?

HOBERT RUPE: That perhaps might be a conversation that might be needing to happen. I mean, because the Commission has been-- historically, has been very proactive in helping these. I mean, we've-- we try to make these things work. Beatrice has an indoor entertainment district that we worked with them very closely to make sure that it worked. There's been some other cities, but the, you know, the cars and, and people crossing the street with alcohol.

J. CAVANAUGH: Right. Well, the big distinction, though, here is to allow cars to continue to go through while it's a district.

HOBERT RUPE: Exactly.

J. CAVANAUGH: And I guess my question is, is the, is the Commission going to have a problem with any version of that? Is it even worth working on that?

HOBERT RUPE: I'm not sure on that. I, I, I, I mean the Commission, I, I don't want to say that there is no chance we would work on that one there. But, I mean, if you read the bill as drafted, it just says reasonable acc-- points. It, you know, doesn't have a requirement maybe for speed strips in there to maintain it. You can have a 25-mile speed limit all you want. I live in a neighborhood which has a 25-mile speed limit, and I'm about the only person who goes 25. So there are concerns about that.

J. CAVANAUGH: OK.

HOBERT RUPE: So I, I, I, I can't say we would not be-- we would-- if changes were to occur, we wouldn't be in opposition. But the Commission had very much concerns and wanted me to address those.

J. CAVANAUGH: OK. Thank you.

HOLDCROFT: Any other questions from the committee? Thank you, Mr. Rupe.

HOBERT RUPE: Thank you.

HOLDCROFT: Next opponent. Anyone else? Any neutral testimony? OK. As Senator Dover comes back up to do his closing, we had two proponents, one opponent, and one neutral input.

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DOVER: OK. I can appreciate Director Rupe's comments. When I talked to him earlier, he testified in the, in the neutral, and I asked him, what are you going to do? And he's going to testify in opposition. And I, and I asked why, and he said, well, because of New Orleans. Well, if we are start adjusting our laws to terroristic things like somebody's terrorist driving a car through a crowd of people then we're not safe anywhere, I don't think. And, actually, they did have what I would consider-- they had barricades up. Right? And they were able to drive down the sidewalk. So I really don't think-- I mean, we would-- I, I-- trust me, whatever we would do that they would be happy with, they-- something they probably would get around with that smashing a car through. So I think, I think while-- you know, that's, I guess, just in comparison, I don't know that I would necessarily agree with it. We have, we have-- I wish someone could be there in Norfolk. We have stop signs on every intersection. We are like some of you live in smaller towns where you go and you stop and you go. I mean, you can-- I wish you could see there, there's no cars speeding over. You don't need speed bumps because everyone's going really slow and we have diagnoal parking where people are backing out. And to be quite truthful, I think, [INAUDIBLE] brought up before that, our area is basically bars and restaurants. I mean, that's, that's what's there. So people are getting, you know, a drink in one bar. They have a couple drinks there and they want to the next bar or they go to the restaurants and the, the lounge, they have a drink there. That's what they do. Right? And so that's why-- I mean, I'm going to go a little [INAUDIBLE] and I'll come back here, but Norfolk, you know, not that, that many years ago had empty storefronts. I mean, there were just empty windows. You know what I mean? And there wasn't just one. And through the creative district, which is one of the best things that I've-- I mean, for what it did for Norfolk, I mean, I know the people behind me can attest to that. It's unbelievable what it's done. And now Norfolk is thriving. I mean, it is, it, it is buzzing. And I'll be quite truthful, the people I talked to across the state are saying what's going on in Norfolk, it's like they got lightning in a bottle. Right? And I was recently-- I don't go, I don't go out anymore too much at all at night. I just-- you know, I don't. But Mayor Moenning behind me had a retirement so I went out to his retirement event at the district-- what was it? The district event center. And we were there. And then we went down to another bar and had a drink and another bar had a drink so we're walking-- so here is the thing is, I can-- I mean, you can paint any kind of picture. And that's why I wish you all could see the picture of what it actually looks like up there. But there's people walking from-- I mean, they go and have a drink here, they go right next door and have a drink, they walk across the

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street and have a drink and they walk down here and have a drink and they walk across here and have a meal and they go down here and have a drink. I mean, when I was there that night, I, I hadn't been out, I don't know, probably 10 years or so that late in Norfolk, there was not, there was not a parking spot to be found on Norfolk Avenue. I mean, it was buzzing. That is what we want in all of our communities across the state. We want to anchor that. And here's the thing is, this goes way beyond what we're simply talking about here, because who do we want to stay in our, in our towns? Who are we losing in our towns? We're losing the kids. Right or wrong, they want to go some place that's cool. Right? And I'll tell you right now, Norfolk's cool and we need to do whatever we can. And I'm not in any way asking for something to be-- if I thought this-- someone was going to be injured because of this or, or increase the risk of, of injury, I wouldn't be here right now. There is no difference in someone walking across the street after-- from one bar to another bar or having a drink in their hand, and it allows other stores to be open and sell, and, and sell. I mean, it's difficult in towns like Norfolk and other communities to, to have a thriving downtown. There was a time where people used to go downtown, but they just stopped. And now we have everybody coming back downtown. And this is just one way to attract really more people, more business and things like that. I mean, Senator Wishart just spent a weekend up there. I just was happy to talk to Senator Dungan on the floor here the other day. He went up for New Year's Eve. He went up with his wife for New Year's Eve to Nor-- I mean, I'm just saying it, Norfolk, Nebraska. OK? We never thought someone from Lincoln or Omaha would drive 2 hours to visit our town and have a good time and he did. And, and guess who was there this weekend? Lee Will. Lee Will went up, Lee Will went up to Norfolk, stayed at Norfolk Lodge & Suites with his in-laws to have a good time. I mean, we have magic going on. And there's times that we need to look, is there something else we can do? I mean, this, again, is local control. We-- I mean, I'll guarantee you, just like you hear, just like the city council, they're not going to do anything that they think is unsafe to the people. They're going to-- and, trust me, they will have multiple listening sessions. And, I'll tell you, if there's enough people that don't want this, they won't do it. But I think it's important we give the communities another tool in the toolbox for economic growth. And so I think I'll close on that. But I would, I would ask-- you know, there's always going to be differing opinions on things, but I would ask for the support of, of the committee here to, to support this bill so we can give at least another tool for cities-- for towns and cities and vill-- I mean, I'm seeing the little villages around Norfolk starting to grow, too. I mean, it's just fantastic what they're doing. This

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would be another little special thing we could do. So, I tell you, Nebraska towns and, and even-- I, I think even certain areas in Lincoln and Omaha could benefit from this. So I would just ask you all to support the bill, get it out of committee, and let's go to a vote on the floor. Thank you.

HOLDCROFT: OK. Any questions for Senator Dover? Yes, Senator DeKay.

DeKAY: Thank you. On the grounds I might incriminate myself, I can remember when downtown Norfolk, Norfolk Avenue was the hub of the town, where every business in town was there. That's where you went when you went to Norfolk. And then it went through a phase where those downtown businesses expanded to the outer perimeters and there was a lot of empty buildings. I guess my question is, and maybe I should ask the ex-mayor this, and you might know too, Senator Dover, those buildings that sat vacant for as long as they have, they've been-- a lot of them have been renovated. And I don't know if they're 90% capacity, what percent capacity they are, but they've been renovated into lofts and everything else for people to even live in that area. So it is-- you are right, there-- this has energized downtown Norfolk and it has done that in a lot of other cities, too, so.

DOVER: Yeah, we're trying to-- and thank you for that question-- we're trying to create like the Old Market. We're looking at having something like the Orpheum, like a theater where people can go to-- go out, have dinner, go to the show, come back out, go to a lounge, have a drink, go to a bar. We have green lights, and they can see them better, but there's a green light so that there's live entertainment there. There's a band playing. And so if you see a bar with a green light, and you go there if you want to see some live music. I mean, it's happening. And we just need something like this to just increase the activity and help keep the kids there. We're, we're getting downtown housing through Wayne State College. There was a, there was a study that was done. I mean, housing studies are usually done for what, to get grants, right? Well, the most interesting thing happened in a biological aspect, and it said when two young people meet in a town and they fall in love and they get married, they have kids and they don't move. And so, again, the retention I think that we're getting of our youth and the people that are staying in Norfolk is just fantastic. We have a, a little-- we have an area on Norfolk and 1st Street. It's right on the edge of the entertainment district. It's huge. We're going to be working on trying to get a, a residence there for UNMC or it's actually for the university for traveling nurses, etcetera. And we have this wonderful-- it's like a golden, once-in-a-many-lifetime opportunity. And we want to anchor that with

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housing so we can keep our vibrant downtown going so we can have people that are living, whether it's, like you said, the lofts, apartments nearby and things like that, walk downtown and have a thriving community that we have. So, again, I would just-- if there's any other questions?

HOLDCROFT: Any other questions from the committee? OK. Thank you very much, Senator Dover.

DOVER: I sincere-- sincerely appreciate your support. Thank you.

HOLDCROFT: OK, that closes our hearing on LB186. We will now open on LB178.

ANDREW SHELBURN: [INAUDIBLE]

HOLDCROFT: No problem. I think he did talk to me this morning about that.

ANDREW SHELBURN: He told me he [INAUDIBLE].

HOLDCROFT: OK. OK, you're on.

ANDREW SHELBURN: Good afternoon, Chairman Holdcroft and General Affairs Committee. My name is Andrew Shelburn, A-n-d-r-e-w S-h-e-l-b-u-r-n. I'm the legislative aide for Senator Stan Clouse, representing District 37. Unfortunately, he's not able to open today, so I have to do it on his behalf. LB178 is a bill that would require the Nebraska Liquor Control Commission to create, administer, and track a mandatory server training. So basically anybody who-- let's see here-- would sell, mix, serve alcoholic drinks or provide security to establishments that do sell would have to go through this training. I distributed a letter to the committee that the Liquor Control Commission also sent out this last year, part of the policy initiatives. This was the first one listed because an increase in service to minors and overly intoxicated individuals. And so they found that this would be a way to prevent this by adding additional training on the front end of, you know, you getting a job at one of these establishments. You go through a quick course to be able to spot fake IDs, how to spot minors, how to spot someone who's too intoxicated to be served alcohol legally. And then upon completion of this course, the trainee will provide a certificate of completion to their employers. They will have 90 days within start of employment at the establishment or if they're already employed, if this bill is passed, it would be 90 days from January 1 of 2026. I, I understand there's a small fiscal note on this, it would require two new FTEs for

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the Liquor Control Commission. That's just to, you know, establish and help track the certificates. And there would be a fee attached to doing these courses. The statute that we have written says no greater than \$30 per course. I yield the rest of the time to the chair and open for questions.

HOLDCROFT: OK. Thank you. Typically, we do not ask questions of staff unless they are technical in nature. Are there any technical questions for the LA? OK. Thank you very much. Will you be here for closing?

ANDREW SHELBURN: My understanding is staff typically doesn't close, but I can if you would like.

HOLDCROFT: Oh, yeah, well, stick around. Our first proponent.

HOBERT RUPE: Good afternoon. My name's Hobert Rupe, H-o-b-e-r-t R-u-p-e, commonly referred to as Hobie. I serve as executive director of the Liquor Control Commission. I'll give you a brief history on server training courses as they exist. Years ago, there was a bill which was going to have full dram shop liability for Nebraska bars. Nebraska is a state that does not have dram shop liability laws. As part of that, there's was a second bill which required us to certify training courses which met certain minimum criteria. So that's the existing statute right now. And, of course, only in the legislative process can one-half of the package pass and the other half doesn't. The dram shop legislation did not, and it would have had a safe harbor provision if you had successfully taken one of the courses. All right. So the Commission has these courses which we certify. How we use them currently is very reactive. So the courts have said that we may place reasonable conditions upon a liquor licensee for a violation. So if someone were to fail, say, a compliance check and sell to a minor, not only are they looking at a suspension which they can pay off with a fine, we often will then make them have all their people take server training courses. The Commission believes that's it for sort of a reactive stance and that a better proactive stance would be to require those trainings before hand. The people who would be having to do it, not everybody, the musician isn't going to have to have it, the, the DJ is not going to have to have it. Bartenders, waitstaff, security people, because security people are often people who are checking the IDs. And, more importantly, there are three violations that really cause the most health and safety concerns in Nebraska. Minor access. Unless you know how to look at an, an ID or you track it appropriately, you know it's a problem. Second one is overconsumption, over intoxication. People often drink more than they should. Our existing rule sort of shifts that burden over to a responsible bar

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owner to recognize those signs and to intervene. And the third is confrontation. You know, there's ways to de-escalate situations. Often with alcohol, you lose your inhibitions and people are far more likely to react in a non-- in a way they would not do so sober. So, therefore, that's one reason why security is because-- although they may not be serving the alcohol, they're the ones doing it. OK. Do you notice this bill does not maintain-- make them take our course. There are private vendors out there. The Commission is developing its own online course that we can use because the theory is that we should-- we want to give it the best course because some of them aren't as good as they should be. Because right now all there is, is the minimum four for what they have to cover, not how, not how they cover or anything like that. That would not change. People could still take one of the private sector ones. So we're not competing with them, we'll just give them an online option for the state. That's on the theory that if we're going to make it mandatory, should have an option available.

HOLDCROFT: Your time is up.

HOBERT RUPE: My time is up. So I will then ask any-- answer any questions.

HOLDCROFT: Is there any questions for Mr. Rupe? Yes, sir. Senator Storm.

STORM: Yes, thank you, Chair. Thank you. So are, are you talking everybody would have to be trained that serves alcohol?

HOBERT RUPE: Yes.

STORM: OK. What if you're talking about a church festival? At my church and where I'm at, we have a, we have, we have a center festival every year.

HOBERT RUPE: Center festival, yeah.

STORM: Yeah.

HOBERT RUPE: I, I, I think we could probably work on that. I'd have to have to go back and look and see whether there's an exception for a-- volunteers. But, generally, you would want the person managing it to have taken one of these courses, you know, the person overseeing it and train, and train. We'd be happy to work on that there.

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STORM: Whether it's-- you know, you have like the Wilber Czech Festival and you have a lot of festivals in the state that would be really impacted by this.

HOBERT RUPE: We have-- those, those are, are very-- you know, for some states-- some cities-- for instance, Lincoln has a requirement that everybody has to take it. They, they have a city ordinance where you have to take one-- they, they can take theirs. It's part of a food handler's permit. But they have a way for volunteers-- for volunteers' training. And part of the reason why there are bodies in the fiscal note was we would offer that training. The Commission would offer that, and probably offer it without a cost to, to independent or volunteer staff to take the training course.

STORM: I got one more question. So you want them to take your training at a cost--

HOBERT RUPE: A training-- a certified training course.

STORM: --at a cost of \$30 per worker?

HOBERT RUPE: Yeah. Right now, that's-- they, they, they could take them now and there's already-- so the, the certified ones. All our state one would be, would be as a option that they could take. So they could still take tips, they could still take ServSafe, whatever, whatever, whatever they would like to do. We just think that we should have an option if we're going to have a mandated state one. We used to have an option, we worked with the university. They have gotten away from that course, they went a different way. So we try to have that because I, I-- you know, you hate to tell somebody they have to do something without making them at least take a government option if, if they have to do it, so.

STORM: What if-- what about-- let me throw this by you-- what about letting the establishment come up with their own training course and then training your staff and then documenting that and then you can look at the documentation?

HOBERT RUPE: Well, if they want to have a training course, they can submit it overnight.

STORM: And do that?

HOBERT RUPE: They can. Oftentimes, we reject them because they don't go far enough, they just take just what they're doing and don't go beyond.

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STORM: So can they look at what you do? Is, is that course available?

HOBERT RUPE: Most of the courses are available. Yeah.

STORM: So then someone could look at your course and they could craft their own around that and save the \$30 expense for every one of their employees?

HOBERT RUPE: One of, one of the ones we denied was Walmart's--

STORM: Right.

HOBERT RUPE: --because they have a nationwide standard and everything is the same. And our requirement is you have to address some specific Nebraska laws which are different. And they said, well, we can't change it because we're Walmart. We said, well, then you're not getting approved because that's what the statute says. So, so long as they meet the requirements of the statute and cover it minimally, it can be approved. So, I mean, a lot of-- Bosselman's, for instance, has their own training program that's approved.

STORM: Yeah. OK. Thank you.

HOLDCROFT: Any other questions from the committee? Senator DeKay.

DeKAY: Thank you. Thank you, Mr. Rupe. Is there any cases where the local establishment would either be grandfathered or grandmothers into without having to take the training?

HOBERT RUPE: I don't think so.

DeKAY: Because I understand where you're-- where everybody is coming from with this bill inside cities like Lincoln and Omaha. Where I live, rural Nebraska, I'm rural, our closest bar to me is population one. So--

HOBERT RUPE: I know that bar.

DeKAY: --so with that, how do we handle rural Nebraska, where you might have somebody coming in and just relieving a bartender for an hour or so where they're open from nine in the morning till 11:00 at night?

HOBERT RUPE: That's one reason why the Commission is making sure that there would be an option that we're developing, because we're going to develop our own system anyway, our training just as an option.

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Because, you know, we, we see that the floor is not good enough but it's going to be online so that, you know, someone, you know, who's, you know, someone if they have Internet access could take our course. So they're not going to come in and find somebody and it's going to be accessible. I mean, it's-- you know, as I said, the Commission doesn't want to try to come down with a mandate without making sure that there are plenty of options to make it easier to comply for people. At the same time, you know, I can tell you we've had multiple cases where the guy who went in and was covering for the guy's dinner shift is the one who failed the compliance check and got a 25-day suspension on his license and was facing a Class I misdemeanor because that's-- remember, you fail a compliance check, you're also facing a potential Class I misdemeanor. And there are at least three cases of that last year where it was the volunteer guy covering for somebody so they could go home or do something else. And they had no idea they had a 15-year-old go in with a learner's permit and didn't ID her at all. She was 98 pounds and five foot one and looked like she was 14. And she successfully bought from the guy who was covering the shift. So if you're going to come volunteer to cover, 30 bucks isn't that-- up to \$30 I don't think is that onerous of a thing for health, safety, and welfare.

DeKAY: OK. Thank you.

HOLDCROFT: Senator Andersen.

ANDERSEN: Thank you, Chair. What is the periodicity of the certification? Is it a one-time certification?

HOBERT RUPE: It'd be every 3 years.

ANDERSEN: OK. So 30 bucks every 3 years.

HOBERT RUPE: Um-hum.

ANDERSEN: OK.

HOLDCROFT: Any other questions?

HOBERT RUPE: Only because laws change a lot. And we-- and most of the industry-- most of the history behind it is that unless you continue to retrain, people lose the ability to [INAUDIBLE].

ANDERSEN: And if you have-- once you get the certification, it travels with the employee. Right?

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HOBERT RUPE: Yes, it does. That is, that is one thing we wanted to make sure this bill would do. So if you got a job, you can then work in three different bars because that's your certification.

ANDERSEN: Thank you.

HOLDCROFT: Any other questions? Thank you, Mr. "Hobart" Rupe.

HOBERT RUPE: Thank you very much.

HOLDCROFT: Next proponent.

LANETTE RICHARDS: Good afternoon, members of the General Affairs Committee. I-- my name is Lanette Richards, L-a-n-e-t-t-e R-i-c-h-a-r-d-s, and I come to you from Scottsbluff. We traveled quite a ways. And I'm speaking on behalf, behalf of Monument Prevention Coalition, of which I am executive director. And as such, we feel this is very beneficial to do a, a training. To give you a little idea, even though we're in Scottsbluff, and I know the rural part to it, we do, we do provide an in-person training and we have since about 2012. And this is a 3 hour, 3- to 4-hour class, and this is a certified training. And so I'm here on behalf of our organization as proponent for LB178. As I mentioned, Monument Prevention Coalition has provided an in-person training. And this is voluntary, it's always been voluntary training for all businesses that-- for their employees. There is no cost to this, as we provide this. We do receive grant funds and that's what we use those grant funds for. And this is very beneficial and we have-- we kind of see it in our alcohol compliance checks. I-- as Monument Prevention Coalition, we coordinate the alcohol compliance checks with all of the law enforcement agencies in Scotts Bluff County. And so we do this as combined effort at a minimum of twice a year. In all the years, this started in 1999, I think we started doing the alcohol compliance checks. And we-- those that have served, we run usually an average of 3 to 5% noncompliance rate. Our highest was 9% following COVID, when a lot of things came out. I see my yellow light, so I better hurry up here. But, anyway, we have seen the benefit. Now we run anywhere 3 to 5% noncompliant. We have-- our last checks were done in November and it was 1% out of 85 licenses that we did go to. So, again, I guess-- I support-- we as a organization support LB178 and I thank you for the time to voice our opinions on the western part of the state and I'm happy to answer any questions, Senator.

HOLDCROFT: Thank you very much. Any questions from-- Senator Roundtree.

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ROUNTREE: Thank you, Chairman Holdcroft. Yes, ma'am, thank you so much for your testimony today. And so this last compliance check you just ran at 1% of noncompliance. So is that 1% noncompliance, is that you have servers that have not taken training or you have gone in, like, the previous one talked about the young lady that went in and was able to buy alcohol and should not have been served?

LANETTE RICHARDS: Yes, it's been-- I have been with Monument Prevention since 2003. We have never had a person sell that had had the training. None of them ever had the training. And that's why our law enforcement are very much in support of something like that, because they think that's our success and they would continue. In fact, we felt so beneficial, we started working with the county on doing a mandatory alcohol server training in their ordinances. So this may help us out a lot. But ours-- like I said, ours is in, in person, it's very beneficial because there's a lot of stuff in talking on those.

ROUNTREE: Thank you so much.

HOLDCROFT: Any other questions from the committee? Are you staying the night?

LANETTE RICHARDS: Yes, we have things going on tomorrow and then on Wednesday afternoon, evening.

HOLDCROFT: OK.

LANETTE RICHARDS: We, we came yesterday.

HOLDCROFT: Well, thank you for coming.

LANETTE RICHARDS: Thank you.

HOLDCROFT: Next proponent.

CHRIS WAGNER: Good afternoon, thanks for having me. Chris Wagner, C-h-r-i-s W-a-g-n-e-r, with Project Extra Mile Coalition here in support of LB178. Requiring mandatory, mandatory server training of all employees of a liquor license establishment is a commonsense step to protect the business, patrons, and surrounding community. All employees engaged in the service, sale, and mixture of alcohol drinks as well as those providing security, ought to be familiar with the Nebraska Liquor Control Act and the responsibilities of both the business and the employees. Mr. Rupe explained how it, it currently works with training. Typically, it will be a part of the penalty if a,

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a business is found guilty of a violation, it has the potential to decrease over service of patrons, sell to minors, and many of the harms associated with illegal sales, including, but not limited to, impaired driving. It's not an exaggeration to say that this bill will save lives. 11% of businesses sold alcohol to minors during compliance checks by local and state law enforcement in Omaha last year. When we started as an organization, it was over 40% noncompliance. So through regular enforcement of those, it's really gotten that down. But certainly having a required training on the front end will get those numbers even lower, which is the absolute goal. Impaired driving continues to be a problem in our state. There was a recent World-Herald article saying that the State Patrol has seen a 135% increase in the DUI arrests. You know, many of those could have, could have come from businesses that oversold. I, I can think of a, of a bill that Senator Holdcroft recently introduced that we supported with regard to unborn children and, and motor vehicle homicide. And that was a case in which the business had sold to the, to the individual and they went on to kill those two women and, and the unborn child. So it definitely will save lives. Mandatory training on all-- on the front end will make it easier for employees to identify and refuse the sale of alcohol to visibly intoxicated patrons and keep our roads safer. These aren't just numbers, they're mothers, fathers, grandparents, siblings, and children. In the end, mandatory training will benefit businesses by reducing their violations of the law and the penalties that they would be subject to as a result of those violations. So we'd ask that you support this bill.

HOLDCROFT: Thank you, Mr. Wagner. Any questions from the committee? Yes, Senator DeKay.

DeKAY: Thank you. So how do you know if they're compliant or, or your bartenders, do they carry a card like a driver's license or something to show that they've taken that training and when they took it and when it expires?

CHRIS WAGNER: I believe, according to the bill that you have before you, they are required to submit the paperwork, have the paperwork on site, and submit it within 90 days of employment.

DeKAY: OK.

HOLDCROFT: Any other questions? Thank you, sir. Appreciate it.

CHRIS WAGNER: All right. Thank you.

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HOLDCROFT: Any other proponents? Proponents? Anyone testifying in the opposition? Opponents?

JOHN MURANTE: Good afternoon, Mr. Chairman, members of the committee. My name is John Murante, J-o-h-n M-u-r-a-n-t-e, and I am here today on behalf of the Nebraska Licensed Beverage Association, the Nebraska Grocery Industry Association, the Nebraska Hospitality Association, the Nebraska Retail Federation, and the Nebraska Petroleum Marketers and Convenience Store Association in opposition to LB178, which would establish statewide mandatory server training of employees of liquor licensees. To be clear, the entities I represent strongly support worker training programs, and many require their staff to certify employees via one of the several Liquor Control Commission training courses. Many licensees have also developed their own training programs, which address issues employees face, which might be specific to their location or internal systems. Lincoln and Lancaster County has mandated server training, and all employees handling alcohol must be certified via a training program developed by the county. The cost of the program is high and includes maintenance and recent restructuring of the web-based training system, employee tracing, and permit renewal tracking. Implementing such a program statewide would come with the same increased costs. These costs would be borne by all the retailers with alcohol service. But like all new mandates and fee increases would disproportionately hurt small businesses. Only 17 states have statewide mandatory server training. In some states like Nebraska, server training is voluntary but highly recommended by the state, and the Liquor Control Commission takes participation into consideration when reviewing violations. By many metrics, server training participation in Nebraska is similar to states where training is mandatory, but our businesses aren't saddled with the higher costs. This is not a new issue. Mandatory server training has come before the state before and has repeatedly been rejected. Employers know the law and they make sure their employees do as well. More costs and more government will never solve every issue surrounding alcohol service. We're happy to work with Senator Clouse and the Liquor Control Commission moving forward on more innovative solutions that won't saddle our local businesses with more cost and regulation. Again, we ask the committee members to oppose LB178. And with that, I'd be happy to answer any questions that you may have.

HOLDCROFT: Any questions from the committee?

QUICK: I have one.

HOLDCROFT: Senator Quick.

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QUICK: Yeah, thank you, Chairman Holdcroft. One of my questions would be, so if, if someone serves someone under age presently, who's actually held accountable? Is it the person that serves or is the, the retailer or whoever owns the facility? Who's, who's held accountable?

JOHN MURANTE: Sure. So we, we don't have, as Mr. Rupe stated, we don't have a, a dram shop law in the state of Nebraska. However, I would suggest that licensed-- licensees under Mr. Rupe's agency know very well that, that it is their obligation to ensure that their employees-- it, it, it's not just the right thing to do, but at the same time, if something were to happen after the fact, after an individual leaves their establishment, it does open up the potential for, for liability. So both it's the right thing to do to make sure that our employees are trained. But on the other, there's no immunity. There-- we might, might not have a dram shop law, but there's not immunity from lawsuits either. So we have a-- we're incentivized to make sure that our employees know what they're doing and are only serving folks who are legally entitled to, to be served.

HOLDCROFT: Any other questions from the committee? Senator Andersen.

ANDERSEN: Thank you, Chairman. Mr. Murante, thank you for being here. Did you say that there's already a training program within Lancaster County?

JOHN MURANTE: Yes.

ANDERSEN: Do you know does that training suffice or is there, is there-- equivocal to the training as proposed in this bill?

JOHN MURANTE: I believe that the Lancaster County regulation would be consistent with what's before you here. I haven't actually read what Lancaster County has adopted, but I believe what LB178 is proposing would be consistent with what Lancaster County is doing.

ANDERSEN: OK. So in Lancaster County, this would not be duplicative, this would not be an additional burden or requirement?

JOHN MURANTE: Well, it would be duplicative because it's not like there's a carve out for it. Whether the, whether the, whether the folks who take the, the Lancaster County program as it currently exists, whether that complies with what the Liquor Control Commission would come up with. I, I don't know that off the top of my head just because I'm not, I'm not from Lancaster County and don't-- not familiar with what their program looks like.

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ANDERSEN: Thank you.

HOLDCROFT: Any other questions? Thank you, Mr. Murante.

JOHN MURANTE: Thank you.

HOLDCROFT: Good to see you.

JOHN MURANTE: Always good to see you.

HOLDCROFT: Any other opponents? We're talking opponents? Go ahead.

BRANDI BURKETT: Hi, my name is Brandi Burkett, B-r-a-n-d-i B-u-r-k-e-t-t. Hi. I'm, I'm a long-time volunteer with the Nebraska Czechs of Wilber and the Wilber Czech Festival. We're celebrating our 64th year this year, and it's one of the largest in the state. It is, it's already tough for us to get volunteers just to even volunteer just for a couple hours throughout the whole entire weekend. To require volunteers to take a training and pay for it would be a burden on our festival and probably many others in the state. We already do our own due diligence by putting on different color wristbands each day. One that-- there's two colors each day, one that designates a minor, one that, one that designates people of age to, to drink. So that way they-- the bartenders can tell based off the color whether they can serve them alcohol or not. We also have plenty of Saline County deputies that help out the state as well state troopers throughout, throughout the whole entire festival. Now, I kind of wanted to kind of take on a neutral aspect, but I, I am not opposed to restaurants being trained as someone who, who was assaulted over this last summer by someone who was overserved at a bar. However, to ask volunteers at a festival is absurd due to time and cost. Some volunteers we get-- come very last minute and are going, and are we going to ask a famous basketball coach that comes in from out of state to take a training too? Could it just be a few of us that take the class and then train everyone else that does volunteer? But I would suggest that if you guys do ten-- do pass this, I would ask all senators to please take the training and volunteer at every festival in your district. Thank you.

HOLDCROFT: Thank you. Any questions from the committee? Thank you very much.

BRANDI BURKETT: Thank you.

HOLDCROFT: Next opponent. Anyone test-- testifying against the bill? Neutral? Neutral, neutral testimony? OK. As Mr. Sheldon [SIC] waives

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his closing, there were four proponents, one opponent, and no neutral. With that, we'll close our hearing on LB7-- LB178 and open on LB113. Senator Quick, you're on.

QUICK: All right. Thank you, Chairman Holdcroft and members of the General Affairs Committee. I'm Dan Quick. My name is spelled D-a-n Q-u-i-c-k, and I represent District 35 in Grand Island. And I'm here today to introduce LB113 and really for two reasons. First, this matters to my district. The current statutory limitation on locations has impacted Grand Island directly. Second, this bill is an important step in growing Nebraska's micro distillery and craft brewer-- beverage industry. The bill allows craft brewers and micro distilleries to expand their locations across the state from 5 to 10 locations and increase self-distribution limits for micro distilleries, only allowing a holder of micro distilleries to license to distribute up to 5,000 gallons of its own product per year to retail licensees located in Nebraska. Nebraska has a rich agricultural tradition and the craft beverage industry is a natural extension of that tradition. Much like Nebraska's farm wineries have been doing for the last 20 years, local breweries and distilleries are using Nebraska-grown ingredients to create high-quality products that contribute to the state's economy. By allowing these businesses to expand, we are getting, getting our statutes out of the way of small businesses' growth, allowing local investment, and promoting job creation. Opponents may argue that the current limits within the three-tier system is necessary to ensure tax collection and market fairness. But in Nebraska, micro distilleries already comply with state excise tax regulations by filing and paying taxes monthly. The correlation with farm wineries is an important-- is important. Farm wineries have self- distributed at higher amounts, at much higher amounts than we are discussing today. And they have been doing this for years without disrupting the market, providing that self-distribution can exist alongside traditional wholesalers. LB113 is a commonsense approach to modernizing Nebraska's liquor laws while ensuring that our state's craft beverage producers can, can grow, thrive, and continue to contribute to our communities. I'd like to thank the committee to advance this bill-- or I'd like to thank the committee and I'd like you to advance this committee-- or this bill out of committee. And I'm happy to answer any questions. And there will be others behind me that will be able to answer some of your questions better than I.

HOLDCROFT: Thank you, Senator Quick. Any questions from the committee? OK. Will you be here for closing?

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QUICK: I will be.

HOLDCROFT: I assume so.

QUICK: Yes, I will.

HOLDCROFT: First proponent. Welcome.

BARRY FOX: Thank you. Good afternoon, Chairman Holdcroft and members of the General Affairs Committee. My name is Barry Fox, B-a-r-r-y F-o-x. Thank you for the opportunity to testify today in support of LB113. As the owner of Sideshow Spirits, which is a licensed micro distillery, I'm speaking in support of this bill as it provides much-needed flexibility to craft distilleries in our state. Increasing the self-distribution limit from 500 gallons to 5,000 gallons helps us market our products and grow our brands to the point where traditional distribution becomes viable. If we are not able to self-distribute our new products or distribute current products to new markets, we cannot grow. The current system makes it difficult for small producers to establish themselves in the market, as wholesalers are often hesitant to represent small brands with limited volume. Once we have a product that is in demand, we know we can get distributors to move it. But having self-distribution up to that point helps drive demand. As Senator Quick mentioned earlier, Nebraska farm wineries are allowed to produce up to 50,000 gallons of wine annually and self-distribute if they produce under 30,000 gallons. In order to ensure Nebraska-wide benefits to this system, farm wineries must also use at least 60% of Nebraska agricultural products in their production. At Sideshow Spirits, we far exceed that standard, as nearly all of our products are made with Nebraskan-grown corn, wheat, and rye. Our largest volume bourbon is made using 100% Nebraska corn. Despite the similarly strong connection to Nebraska agriculture, micro distilleries have significantly fewer distribution privileges compared to farm wineries. This bill helps level the playing field by allowing us to self-distribute a reasonable amount of product directly to retailers. The concern that self-distribution could disrupt the, the existing alcohol market is frankly overblown. According to the Nebraska Liquor Control Commission's gallonage report, Nebraska distilleries currently account for only 0.03% of total spirits sales through self-distribution. With the changes proposed in this bill, if every single Nebraska distillery-- micro distillery were to reach the proposed 5,000 gallon self-distribution cap, that would amount to only 1.53% of all spirits sales in the state, meaning distributors would still be distributing 98.5% of all spirits sold in Nebraska. 500 gallons and 5,000 gallons sound like big numbers, but 500 gallons is

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just 4 days of production, less than 1 week per year. Alternatively, with 5,000 gallons of self-distribution, we could distribute up to 25% of our production while still having 15,000 gallons that would need to be distributed via traditional three-tier system. The changes proposed in this bill retain the three-tier system, but still allow Nebraska businesses to grow and market the products we make and we appreciate your support.

HOLDCROFT: Thank you, Mr. Fox. Questions from the committee? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair. Thanks for being here, Mr. Fox, and thanks for the work you do.

BARRY FOX: You bet.

J. CAVANAUGH: You didn't talk about the tasting room part, does that only apply in this bill, does it only apply to beer?

BARRY FOX: It, it-- so I'm actually an owner of both Kinkaider Brewing Company and Sideshow Spirits and it pertains to both. My partner Cody will speak to the, to the locations.

J. CAVANAUGH: Gotcha. That was what I was curious about. All right, well, so then I'll just talk about this part. So you did-- I like the, the math here-- 500 gallons is 4 days--

BARRY FOX: Yeah.

J. CAVANAUGH: --of active work. Presumably, there's some passive work, I assume.

BARRY FOX: It's all active, but yes.

J. CAVANAUGH: Well, you said your, your distilled spirits maybe are-- some of them are aged for more than 4 days.

BARRY FOX: They are, and that's a big part of this. And that's one of the things that's different is, you know, our products take years to get to market. You know, unlike, you know, on our beer side, our average is, is somewhere around 2.5 weeks for a product to go from start until it goes into the market. We have significant investment. We're predicting what a spirit is going to taste like 2, 3, 4, 5 years down, down the road and, and so we have a significant investment in that. It's difficult to start a micro distillery.

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J. CAVANAUGH: And so the 500, I'm guessing or maybe you tell us, are you guys at your 500?

BARRY FOX: We are. We, we did our best to meter through that in 2024. We maxed out with 8 cases on December 5. So we were-- we went-- we spent almost a month unable to distribute our products.

J. CAVANAUGH: And did you have anybody call you and say, hey, we could use a case and--

BARRY FOX: Yeah, our-- I don't have those numbers in front of me, but our January numbers would represent what the, the amount of product that was held out right at the, at the peak of the year before we're going into, you know, Christmas, and one of the, one of the bigger sales time of the year. So we had-- there was a significant amount of product we were unable to distribute in December.

J. CAVANAUGH: And for the-- if you do self-distribution, you can contract distribution through a, a regular liquor distributor?

BARRY FOX: We're, we're able to, as law is today, we're able to only self-distribute up to 500 gallons. Once you get beyond that, those products all have to go through distribution. We, we do use both channels today. We try to keep those products distinct for several reasons. So there is, there is options. There's a real challenge, though, in regards to who you're going to get to distribute your product. So our-- we use a distribution network that, basically, we use a beer distributor, a traditional beer distributor to distribute our product. They don't have knowledge in our high-end spirits. You know, our bourbons, our whiskeys. They're used to selling cases or pallets of beer, you know, not bottles or, you know, a case of 5 or 6 bottles.

J. CAVANAUGH: OK, thanks.

BARRY FOX: You bet.

HOLDCROFT: All right. Senator DeKay.

DeKAY: Thank you. How many micro distilleries are there in the state?

BARRY FOX: So I think unique distillers-- I think there's, I think there's 15, maybe, unique distilleries. 2 or 3 of those are not currently producing, though. I think there's 15 licenses.

DeKAY: How many different types of products do they produce?

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BARRY FOX: I can't, I can't speak to all of those. But I can tell you just within, within our portfolio, there's probably 18 to 20 just within ours.

DeKAY: So you're talking, gin, vodka, [INAUDIBLE]?

BARRY FOX: Yeah, vodka, different, different-- so we have vodka, rum. We have flavored peach whiskey, jalapeno whiskey. We have different bourbons, different mash bills of whiskey, all of those with the intention to try and, and understand what the consumer is looking for.

DeKAY: All right. Thank you.

HOLDCROFT: Any other questions from the committee? Thank you very much, Mr. Fox.

BARRY FOX: Thank you.

HOLDCROFT: Next proponent.

CODY SCHMICK: Good afternoon, Senator Holdcroft and the members of the General Affairs Committee. My name is Cody Schmick, C-o-d-y S-c-h-m-i-c-k. Thank you to Senator Quick for sponsoring this bill. Thank you for allowing me to testify today in support of LB113. As a co-owner of Kinkaid Brewing Company, which operates both craft brewery and micro distillery licenses, I can personally attest to the need for this bill's provisions allowing an increase in the number of licensed premises from five to ten. Our business is at the current limit of five locations, yet I receive calls monthly from communities across Nebraska asking us to open a location in their area. Unfortunately, under the current law we cannot expand any further. This restriction not only limits our ability to grow as a business, but also prevents us from investing in new, new communities, creating jobs, and further contributing to Nebraska's economic vitality. The ability to expand to ten locations would provide Nebraska-based breweries and distilleries with the flexibility to grow sustainably while continuing to serve our customers and communities. Many of us have worked hard to build strong brands and develop loyal customer bases, most of which comes from getting folks to come into our locations. The location number change in this bill ensures that we can continue to meet demand and create opportunities for communities across the state. As with self-distribution, some argue that increasing the number of licensed premises undermines the three-tiered system. This is not the case. With our five locations, we can distribute our own beer to those stores, but in almost every other

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instance, we work through a distributor, which we will continue to do. Expanding our ability to reach customers directly at more locations, benefits not just our businesses, but also Nebraska's economy as a whole. LB113 is an essential piece of legislation and promotes the growth of Nebraska craft beverage industry without negatively impacting other sectors. I urge you to support this bill to ensure that Nebraska's homegrown businesses have the opportunity to succeed and flourish. Thank you for your time and consideration and I'll answer any questions you may have.

HOLDCROFT: Thank you. Any questions from the committee? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair. Thanks for being here, Mr. Schmick.

CODY SCHMICK: Yes, sir.

J. CAVANAUGH: OK. So you guys are, you and Mr. Fox are part of Sideshow and Kinkaider--

CODY SCHMICK: Yes, sir.

J. CAVANAUGH: --and do you, you serve both of your products at the tasting rooms?

CODY SCHMICK: We do, yes. So we have some overlap. So, as the law sits today, a distillery license and a brewery license each get five. Well, we have to overlap those to get our spirits and beer to each of those locations. So it's not like we're running ten now. We're basically running five and five spirit, five beer so we can self-distribute to those locations, if that makes sense.

J. CAVANAUGH: Yeah. So that was kind of clarified. So the location in the hay market here--

CODY SCHMICK: Yes, sir.

J. CAVANAUGH: --is a-- I, I remember, I was there recently, it was a Kinkaider location. Is it also Sideshow?

CODY SCHMICK: So we have two, we have two Kinkaider or two licenses in the hay market there, one is under the brand Kinkaider Brewing Company, the other one is our German beer house concept.

J. CAVANAUGH: OK.

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CODY SCHMICK: German-- the German beer house actually runs-- I know it's a little confusing, but it runs another line of beers that are specific for that location that we're brewing a lot of our Broken Bow facility. But, yes, that one also is one of our locations for both the beer and the spirits.

J. CAVANAUGH: So this bill only, if I'm reading it right, only affects the beer number of locations.

CODY SCHMICK: So there should be-- it's on this, I believe it's beer and spirits.

J. CAVANAUGH: OK. Maybe I missed the other part.

CODY SCHMICK: That's OK.

J. CAVANAUGH: OK, that was my question.

CODY SCHMICK: Yes.

J. CAVANAUGH: So you would then both-- be able to serve both at--

CODY SCHMICK: Yes, sir.

J. CAVANAUGH: --if they expand locations?

CODY SCHMICK: Yep. Our goal is-- we have three different brands that we run Sideshow, beer house, and Kinkaider. We'd like to expand those and open more, more locations. This would, this would give us that opportunity.

J. CAVANAUGH: And you kind of touched on it a little bit. Is the self-distribution limit we're talking about here, does that include what you deliver to your tasting rooms or is that separate?

CODY SCHMICK: It's separate. So we get-- at those five licenses, it is self-distribution, but it not-- does not go against the allotment or the limit that we have on, on the 500 gallons of "self-distro" so that's going to another license.

J. CAVANAUGH: So it's currently-- 500 gallons plus whatever it is, then you distribute to those locations.

CODY SCHMICK: Correct.

J. CAVANAUGH: OK.

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CODY SCHMICK: Plus, plus distribution sales.

J. CAVANAUGH: OK.

CODY SCHMICK: Yeah.

J. CAVANAUGH: All right. Gotcha. Thank you.

CODY SCHMICK: Yes, sir. Good questions.

HOLDCROFT: Senator DeKay.

DeKAY: Thank you. With your distribution part of it, is it-- are you moving kegs or do you can-- have cans like Zipline and 12-ounce cans or how does that work?

CODY SCHMICK: Yeah. Yeah, you bet. So we-- the brewery carries both-- two, two sizes of kegs and cases of cans, essentially, is what we, we do. The "self-distro" doesn't define which, which package size they come in so that-- just whatever those gallons are, they all weigh against that. Self-distribution as we go to other licenses, to our own locations, it does not weigh in on that. But we do self-distribute all those products to our own licenses. Yes.

DeKAY: When you tap into a keg or whatever, what's the-- you don't call it that shelf life of it before it starts going flat. How fast do you got to move that?

CODY SCHMICK: So we, we say it's 4 months. I mean, there's some-- it doesn't become a dangerous beverage after that by any means, but for, for optimal freshness, we say around 4 months is the most. Yeah.

DeKAY: Thank you.

HOLDCROFT: Senator Andersen.

ANDERSEN: Thank you, Mr. Chairman. Thank you, Mr. Schmick, for being here

CODY SCHMICK: Yes, sir.

ANDERSEN: I don't have the history. Can you, can you tell me when was the original limitation set? How long ago was that?

CODY SCHMICK: On the taprooms or on the self-distribution?

ANDERSEN: Both.

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CODY SCHMICK: Well, the taprooms, we were just talking about it, the taprooms was, for the beer side, for the brewery side was 2016 was the original five locations. For the distilling side, we caught up in 2023, 2023, I believe, Senator. From the self-distribution piece, those are both fairly recent. The brewery side, which we're not talking about here today, the beer side of self-distribution, we're not putting on our bill here. That was about 2, I think, 2 years ago when we got that in, in 2003 [SIC] and that was a 500 gallon or, I can't remember, sorry, 500 barrels for the beer side. But then for the spirit side was in 2023 and that's when we got that 500 gallons.

ANDERSEN: So is this bill, this bill being brought by, by Senator Quick, is that simply because of an update in the business model or the success of the companies?

CODY SCHMICK: No, we asked for a lot more last time and we just kind of got whittled down to that 500 gallons, which is-- it's just not a sustainable number. So for us to go out and self-distribute on that, that amount, it doesn't make sense to buy a vehicle or hire a person. Right? We got to-- that's why we, we pushed that higher number so that we could have the, the bandwidth to be able to go and hire the people we need to do the right thing, you know, for us. So one of the things that kind of go on on the self-distribution side, as Barry touched on, we're, we're selling high-end whiskey, that's our whole thing. A guy that's normally selling a pallet of, of cheap beer has maybe not the best face to sell a high-end whiskey, so.

ANDERSEN: Sure.

CODY SCHMICK: Yep.

ANDERSEN: So has-- referencing Mr. Fox's testimony, he said that, basically, they bumped up against capacity, they, they have more demand than what they can actually provide. Is that the case for you guys as well?

CODY SCHMICK: So, so me and, and Mr. Fox are business partners.

ANDERSEN: Oh, sorry.

CODY SCHMICK: Yes. No, that's OK, but I can kind of touch on that. So we bumped against that 500-gallon capacity having to shut down what we did because the majority of our stuff is still going through that distribution chain. We had to kind of shut down our, what our premium spirits or our high-end stuff is. That's why we, we bumped up against that 500 limit. We went through distribution on some-- like our canned

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cocktails, some things like that, that were over that limit so we're, we're far over that limit as a company. But we did-- we carved off some products that were specific we, we thought would, would fit in that, that lane but we, we outsold it.

ANDERSEN: Thank you.

CODY SCHMICK: Yes, sir.

HOLDCROFT: Senator DeKay.

DeKAY: Thank you. On your, say, your bourbons, your scotches, and stuff,--

CODY SCHMICK: Yes, sir.

DeKAY: --do you have 500 gallon limit on everything or can you have 500 of each or how is that?

CODY SCHMICK: No, it's everything. So that's one of the reasons, Senator, that we chose not to, to self-distribute our canned cocktails because they're about 8% alcohol where we want to take it and just kind of use that, that, that budget, if you will, of that 500 gallons to just sell our high-end stuff. So it doesn't matter, it's not proof gallons. It's, it's liquid gallons. So it doesn't matter what proof it is. If we did it in canned cocktails, we would eat up that budget way, way quicker. Yeah.

HOLDCROFT: Senator Storm.

STORM: Thank you. Thank you. So we're talking 500 gallons that you distribute out. Is that what I understand?

CODY SCHMICK: Yes, sir, that's the--

STORM: But in, but in your location, you can sell as much as you want?

CODY SCHMICK: Yes, sir. Yep. We are unlimited in our, our locations. We make a big investment to be able to set up our bars and restaurants. We are unlimited on the amount of "self-destro" that we put through those.

STORM: So you're just talking where you can take a truck and drive to some other-- to distributor?

CODY SCHMICK: Yep. We can go directly to the retailer with that 500 gallons. Yes, sir.

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STORM: And I got another question.

CODY SCHMICK: Yes, sir.

STORM: Do you make Blue Mermaid?

CODY SCHMICK: We do. Yeah.

STORM: OK.

CODY SCHMICK: Yeah.

STORM: It's good.

CODY SCHMICK: Oh, thanks, Senator.

STORM: That's all I had.

HOLDCROFT: Any other questions from the committee? Thank you very much, Mr. Schmick.

CODY SCHMICK: Thanks.

HOLDCROFT: Next proponent.

SCOTT STRAIN: Thank you, Senators. My name is Scott Strain, S-c-o-t-t S-t-r-a-i-n. I'm a co-owner of Kros Strain Brewing in La Vista. I'm also speaking on behalf of the Nebraska Travel Association and ask for your support of LB113. Quick background on our company. We're a larger production craft brewery. We just make beer. So I'm just speaking to the taproom aspect. But we have a taproom at our brewery, we have another one downtown in Omaha, and then we're in the early stages of a new taproom in west Omaha. After 7 years in business, we've become one of the largest producers in Nebraska. And in Nebraska, just for reference, craft beer makes up about 4% of the total amount of beer sold in the state. So first I want to emphasize the importance of taprooms. They are critically important for all breweries, even breweries at my scale. Last year, 90% of our beer went through wholesale, so about 10, 10% to our own taprooms. However, that 10% accounted for over half of our profit for the year. So even at my scale being one of the largest brewers, I mean, we really couldn't even continue to operate without our taprooms. Taprooms are also the primary way that we introduce new products to our customers. It's the way we, we, you know, engage with our customers and, and test the market for new products. And out of the nearly 150 beers that we produced last year, we can only sell about 30 through the wholesalers.

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And there's a few reasons for this. One, quite frankly, wholesalers aren't really interested in carrying many of those products. They tend to want to focus on our main beers, the ones that are the easiest to sell. It can be very difficult for us to get specialty beers out to retailers that want to purchase them. Another reason is that a lot of these beers are really expensive, often five to six times more expensive for us. So we take a lower margin on those. Unfortunately, our wholesale partners are not willing to take a lower margin on those. So by the time they add markup-- retail adds markup, these products would be far too expensive on the shelf. So-- and a lot of those beers are actually like our award-winning beers. They're some of our most highly sought-after beers. And the only way we can sell them is in our taproom. So just want to touch too, the, the craft brewer industry has been in a downturn for a few years. We've had ten breweries close over the last few years. So, right now, I mean, we, we would ask that you would be doing everything to help our industry in this downturn. One simple way is allowing us to make the decisions that we need to in order to survive this downturn and hopefully growing into the future. And if that includes a, a large investment and a risky investment-- oh, I see my time is up, but I'll be happy to answer any questions.

HOLDCROFT: Any questions from the committee? Senator Cavanaugh.

J. CAVANAUGH: Thank you. And thanks for being here, Mr. Strain. So you were kind of starting to hit on this. You guys have, it sounds like, two and a third in the works so you're not up against the limit.

SCOTT STRAIN: Right. Yep. Yeah.

J. CAVANAUGH: And can you go back-- I wrote down 10% of your beer went through your taprooms and how much of the-- your margin was that?

SCOTT STRAIN: 10% of the volume, but, yeah, over, over half of our actual profit at the end of the year.

J. CAVANAUGH: OK. And so, I mean, that sounds like a pretty good model.

SCOTT STRAIN: Yeah, the taprooms are where you, you can make money. It's, it's a very, very small margin on the wholesale side. So, I mean, you can imagine I'm doing 90% of that work and making very little money, it just wouldn't even be worth it if we couldn't move product through our taproom and try and make up that loss essentially.

J. CAVANAUGH: But-- well, I guess my question in terms as it pertains to the bill we're talking about, I mean, you're not currently constrained.

SCOTT STRAIN: No, we're not. No, I mean, I mean, my, my viewpoint is that if, if a business owner wants to go put a bunch of money into an expensive new taproom, I mean, that's a big risk. There's no guarantee that's going to succeed. You know, why, why does the government artificially limit that? These are decisions that the business owners should be able to make if, if they want to take that risk and put that money into it.

J. CAVANAUGH: Are you aware of any other micro brewers who are up against their five?

SCOTT STRAIN: There's another one that has pretty close to that number, four, maybe five. I think Zipline is, is close. But, yeah, I think there's just a few of us larger breweries that are around that number.

J. CAVANAUGH: And if we do-- say, we adopt Senator Quick's bill as is going up to ten, would you be looking to go up to ten in the--

SCOTT STRAIN: I don't even-- I don't even honestly know. I will-- I've never really thought about it because it's never been an option. I will say one thing throughout the whole process of opening taprooms, we've had to be extremely selective. We've, we've had plenty of developers and cities even reach out to us and, you know, we usually have to say, well, we're limited to five. I've got to be very selective about where I park those five, you know, because they've got to bring in money. It's a big risk. So it's, it's essentially prevented us from other locations just because I, I want to save my five for where I think they're going to be, you know, best suited.

J. CAVANAUGH: Thank you.

HOLDCROFT: Senator Storm.

STORM: I got a question, too. Thank you. So you said-- who set the limit of 500 gallons? What's, what's the bottom line at?

SCOTT STRAIN: Well-- and I'm not really speaking much on the distilling side because we, we just do beer. But I, I think-- was it 2 years ago they, they passed the 500-gallon limit for the distilling self-distribution.

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STORM: Who is they, I guess?

SCOTT STRAIN: I'm sorry?

STORM: Who's they?

SCOTT STRAIN: That was, that was passed 2 years ago here in the Legislature.

STORM: To the Legislature?

SCOTT STRAIN: Yeah.

STORM: So they set the volume at 500 gallons?

SCOTT STRAIN: Yeah, I, I believe that's correct.

STORM: And that was 2 years ago?

SCOTT STRAIN: Yeah, I think that was 2023, in that session.

STORM: OK. OK.

HOLDCROFT: Senator Andersen.

ANDERSEN: Thank you, Mr. Chairman. Thank you for, for being here, Mr. Strain. So having two, going to the third, but you also mentioned about being very selective in, in how you actually expand and grow your business. One from the cost and the risk side, but also because you have-- you're restricted in the number of opportunities you can look at because of the artificiality of five sites. If you-- if this, if this law went through and you had the ability go up to ten, would that change your long-term projection, the growth of your business, and how you would invest in it?

SCOTT STRAIN: Well, it, it would. I mean, it's, it's something where I can, I can look at a potentially smaller location. And, and now that's a potential option, you know, because I'm not quite as limited. I've got a little more room and flexibility, you know, so maybe I can go to a smaller town that isn't going to bring in as much money. Whereas prior, I want to make sure I, I maximize those five locations.

ANDERSEN: Thank you.

HOLDCROFT: Any other questions? Thank you, Mr.-- oh, Senator Roundtree.

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ROUNTREE: All right. Thank you, Chairman Holdcroft and-- so I appreciate your testimony today. So we're looking at the-- I'm back to the 10% generated for, for some of your profits and then the 90% over there. And you talked about the distributors. You know, they want some of the other beers that-- because I'm looking at your site and looking at all the beers that you have that are out there and looking at what's performing. So in that, we also mentioned earlier, in earlier testimony that December we already bumped up against the distributional limit so couldn't get anything out but now we can see in January. With that coming open in January, are we now going to have a shortage during this year of 2025 for distribution space?

SCOTT STRAIN: Well-- so, again, it's a little confusing. I only, I only make beer. And in the distribution, the self-distribution portion you're kind of referring to, just, just affects those distillers. So I, I didn't run into any of those issues. I, I don't do any self-distribution. We just, we just sell through our taproom and then 90-- the other 90% goes through the wholesale.

ROUNTREE: OK. All right. Very good.

STORM: I have one other question.

HOLDCROFT: Senator Storm.

STORM: So-- thank you-- on, on the regulation side, and maybe you can educate me on this. Are you regulated like the other beer distributors on when your distributing your beer and you're brewing it here and then it goes somewhere? Do you get regulated? Do they track that like they do Bud Light or Coors Light or Miller Lite or anything else? I'm just trying to figure if there's a regulation component to this that, you know,--

SCOTT STRAIN: I mean--

STORM: --through the same standard as the other.

SCOTT STRAIN: From the federal level-- I mean, we're, we're basically the same as a, you know, an Anheuser Busch as far as the, you know, the tracking of the beer, the forms we're required to keep and the excise tax, there's a different excise tax rate for the-- those really large producers. And at the state level, you know, it's, it's fairly similar between the wholesalers and, and the brewers. I mean, we pay the excise tax on the beer that we sell here in the state. We turn in monthly forms to the Liquor Commission, and, and then we also turn in our annual forms from the TTB to the Liquor Commission. And,

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similarly, the wholesalers pay excise tax on the beers that they bring into the state and, and record all that and submit it to the Liquor Commission. So, yeah, it's, it's fairly similar in that aspect.

STORM: So you'd say on the regulation side it's an even-playing field for you and [INAUDIBLE]?

SCOTT STRAIN: I mean as far as I know. I'm, I'm really primarily familiar with my own tier,--

STORM: OK.

SCOTT STRAIN: --but yeah.

STORM: OK. Thank you.

HOLDCROFT: Any other questions from the committee? Thank you, Mr. Strain.

SCOTT STRAIN: Thank you.

HOLDCROFT: Next proponent.

RYAN HANZLICK: Thanks for having me. My name's Ryan Hanzlik, R-y-a-n H-a-n-z-l-i-c-k. Long Dogs Distilling in Arapahoe, Nebraska. To touch on what Senator Storm asked about the 500-gallon limit, when I wrote the bill 2 years ago, we asked for 2,000. And in committee, I don't know how it got whittled down to 500, but it got whittled down to 500. 500, turned out to be a good 2-year trial to show the Liquor Commission we didn't have any compliance issues. We-- 500 is a good number if you want to go [INAUDIBLE]. But that's about it. 500 gallons a year, if you divide it by the month only equals 34 cases a month that you can sell. So if you're trying to get in some, some bigger store, that's not even a pallet. They might take that much. Well, if you're trying to meter it out so you can keep everybody happy all year, you've, you've already met your max for the month. 34 cases a month doesn't, doesn't even come close to justifying buying a truck or a van, paying somebody to put in it. Cody-- they, they work hard to bump up on their limit, make a good show for it. When I saw them at 500, we didn't even try because it didn't justify paying for an extra person. What was I going to do with him the other 6 months of the year? It just-- it's not feasible. So location wise, that's not something that's going to affect us. That's not in our business plan to expand. I think it's a complete travesty that there's a limit on locations because if somebody is willing to put the money out there, invest in a town and it doesn't work, that's their own problem. I

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think, I think what happened with Cody's Grand Island location having to shut down so they can have a license available to open one up in Kearney, that's, that's pretty sad, pretty sad state of affairs. Might have been other reasons for shutting it down too, but bumped up against the limit. OK? Any questions?

HOLDCROFT: Any questions from the committee? Yes, sir. Senator Storm.

STORM: So what, what was the limit before? You said it went from--

RYAN HANZLICK: There was no-- it wasn't allowed.

STORM: Not allowed?

RYAN HANZLICK: No.

STORM: OK.

HOLDCROFT: Any other questions from the committee? Yes, Senator Andersen.

ANDERSEN: Thank you. Just out of curiosity, what, what would be your capacity? I mean, because it's all relative, right? I'm not a brewer. I'm not a distiller.

RYAN HANZLICK: You're talking, you're talking self-distribution capacity or what are you, what are you asking exactly?

ANDERSEN: Sure.

RYAN HANZLICK: Well, we're-- our business model is a lot different than some of these other guys. Our business model caters to out-of-staters that are traveling down the highway past our location. So majority of our stuff is not, is not going to go self-distribution anyways. If I was able to hire-- had the capacity to hire somebody, I could, I could legitimately probably put out 3,000 or 4,000 gallons a year, have somebody, one person in a van making runs around the state dropping it off. You hate to be at that point where you've got a meter it--

ANDERSEN: Sure.

RYAN HANZLICK: --to-- and take the chance to or, you know, run out right before Christmas like they did. It doesn't-- that wouldn't work for anybody's business. I've had retailers that, that ask me specifically, can you provide this stuff we call and ask for every

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single month we want it? Maybe. If I hit my limit, I'm done. Yeah, how does that work? You know, they-- the retailers don't understand. They don't understand this.

ANDERSEN: Sure.

RYAN HANZLICK: I mean, it's not that they don't understand it, they're not, they're not going to accept that as an excuse from me.

ANDERSEN: Yeah.

RYAN HANZLICK: So.

ANDERSEN: Thank you.

RYAN HANZLICK: Yeah.

HOLDCROFT: Any other questions from the committee? Thank you very much, sir.

RYAN HANZLICK: Thank you.

HOLDCROFT: Next proponent.

DEREK KELLER: Thank you, Chairman, Senators. I'm Derek Keller, D-e-r-e-k K-e-l-l-e-r. I'm an Army, Army veteran and owner of Blended Distilling, LLC out of York. I've been running my distillery for almost 2 years now. I make a sugar-based specialty spirit and I keep as much of my product local as I can to include beet sugar from Scottsbluff and local honey from beekeepers around my area. I'm here today in support of LB113 and, more specifically, the distillery self-distribution section. Last year, I produced 610 gallons of my product and I used a distributor to get 40 gallons of that to retail. I've been turned down by distributors right and left as my new-to-the-market product does not move fast enough for the distributors as compared to products like Tito's Vodka or Ole Smoky, which consumers have known those for more than 2 years. Because I'm a new product, building my brand, I was not profitable enough for the distributors that I was using, and they dropped my product. As a result of that, I lost a few stores and then I had to take over some of the other stores where they left me. This last year I self distributed almost 300 gallons in 3 territories alone. Self-distribution was the only way for me to get my product out to the stores who were expecting my stuff. Even whenever I used self-distribution as a backup, the 500 gallon gets used up really fast. This artificially low cap is too low to justify the purchase of

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a delivery vehicle or even hiring a delivery staff person to pick up, you know, the extra work to where I'm stuck in the middle ground of an unworkable number. I don't want to do self-distribution and I'd be excited to work with distribution companies, but I think the law should be written to help all companies' ability to survive, not just distribution companies. If the cap gets moved to 5,000 as proposed in LB113, that gives me the ability to sustain a reasonable business in the event that distribution companies can't do their part. That's only 20% of what we can produce overall. We're not trying to take over or even eliminate distribution companies or even tear down the three-tiered tax system, we just want the ability to survive. There's only 16 distilleries in the state, and we recently lost one who's also veteran owned. That's just a, a sign that restrictions are too tight and the law is an unworkable number. That's all I have. Any questions?

HOLDCROFT: Thank you, sir. Any questions from the committee? Yes, Senator DeKay.

DeKAY: Thank you. Thank you. How many employees do you have helping?

DEREK KELLER: It is just me.

DeKAY: Just you?

DEREK KELLER: Correct.

DeKAY: So if you went to 5,000, how many employees or do you have the equipment to do-- still just do that on your own?

DEREK KELLER: I would be able to hire, mathematically, probably two people, two employees, which then would be able to cover across the state. I can't reach Scottsbluff, Norfolk, North Platte, especially with the way I have it right now. And the distributor I had is looking to drop me it appears, they haven't put an order in for 10 months now.

DeKAY: But just the manufacture part of it, you would still need two employees?

DEREK KELLER: I would be able to do the manufacturing part still most likely. If not, then I would have to hire one person probably to help with that so I'd be up to, you know, two to three employees, which even profit wise, if it's a 5,000-gallon limit, I'm looking at three employees is probably the most that would max out for to be able to pay them affordably. The rest I'd have to try to recoup in the tasting room, which then if we have, you know, ten stores that we can try to

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get put out there to help spread the business, would be able to help with that as well.

DeKAY: Thank you.

HOLDCROFT: Senator Andersen.

ANDERSEN: Yes, sir. So just kind of following up on Senator DeKay's comments. It sounds as though you're being hampered, being constrained right now, that you are struggling to get by and don't have the ability to grow and to move your business forward, but if the limit was lifted that you do have a plan and you could actually grow your business and distribution and all that.

DEREK KELLER: That is correct.

ANDERSEN: Is that accurate?

DEREK KELLER: That is correct.

ANDERSEN: OK. [INAUDIBLE]. Thanks for your service.

HOLDCROFT: Any other questions? Thank you, sir. Appreciate it.

DEREK KELLER: Thank you.

HOLDCROFT: Next proponent.

NICHOLAS RYAN: Good afternoon. My name is Nick-- Nicholas Ryan, N-i-c-h-o-l-a-s, Ryan, R-y-a-n, owner of Prairie Creek Vineyards. I'm here mostly to speak on the self-distribution portion of this bill. Being in the farm winery or Nebraska Farm Winery Act, we are-- have the ability to, to move 30,000 gallons. Having the abil-- the ability to do that has been instrumental in us being able to grow the winery in rural Nebraska where we, we rely on tourism during the summertime. But then people still want our product in the wintertime when they're not traveling quite so much. So it's, it's given us the ability to move, move the wine across the state that way. I think or I, I really feel that the 500 gallons for the distillers is, is just not enough for them to scale up before they would have to go into distribution that way. You'd have to, you'd, you'd have to raise that to easily 5,000, if not 10,000 gallons to, to scale it enough. The margins are, are, are so much better when we're self-distributing ourselves. And if, you know, on, on, on the winery side, if we lost that self-distribution down to the levels that they are, I don't know that we would continue to be, be a winery. So I'm speaking on behalf of-- or,

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you know, how it has helped the wineries and, and how I, I, I think it's-- you know, the last guy who, who was speaking here, I, I was there at that time too where I was the, the one lonely employee and, and now we're, we're up to 25 employees at the winery now. So it is a small business. It, it would-- it's going to hinder the growth of small businesses in the state. And I still like to believe that we're a business friendly state. Any questions?

HOLDCROFT: Any questions? Senator Storm.

STORM: Quick question. Thank you. Where, where are you located at?

NICHOLAS RYAN: Central City, in between Columbus and Grand Island.

STORM: OK. Thanks.

HOLDCROFT: Any other questions? Senator Andersen.

ANDERSEN: Thank you, Chair. Thanks for being here testifying. Any idea what drives the difference in the volume? I mean, wine is 30,000, right?

NICHOLAS RYAN: Uh-huh.

ANDERSEN: Why does this vary, any idea?

NICHOLAS RYAN: Well, I think they were talking about it. I mean, the, the-- they didn't have distribution until 2 years ago and they asked for more, more in that. I think they were asking for 2,000 gallons and it just went down in committee. I, I wasn't a part of that bill. I, I just, I just look at it from a business standpoint of you're not, you're not going to be able to, to scale-- you can't scale at that, at that 500 gallons and--

ANDERSEN: Well, and I would just think the products being similar to each other where it is distilled or it's beer or it's wine or whatever, that you'd have similar scales. That's what I'm-- I just didn't know if there was something that [INAUDIBLE].

NICHOLAS RYAN: You would think, you would think so, yeah. Liquor laws are interesting to say the least.

ANDERSEN: That's funny. Thank you.

HOLDCROFT: Any other questions from the committee? Thank you, sir, for your testimony. Next proponent.

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LOGAN GOVIER: Good afternoon, Senators. My name is Logan Govier, L-o-g-a-n G-o-v-i-e-r, fifth-generation farmer from Broken Bow area. We, we raise corn, soybeans and rye and yellow field peas. And I guess, you know, I'm here as a grower of rye for-- rye whiskey is one of the items that Sideshow Spirits makes. And, and they use our, our rye. And, I guess, we, we like thinking outside the box just a little bit on our farm growing a few other items besides, you know, what seems fairly normal, in our area is corn and soybeans. But, you know, appreciate the small business of, of, you know, Sideshow Spirits so that we, we have different avenues to get rid of some of the crops that we grow on our farm. And it's-- you know, selfishly, it's a benefit to us to be able to raise a diversity of, of crops. So, you know, that's a sure positive light on, on our farm. But we also love supporting our local small businesses. I guess that's, that's about all I have. If you have any questions for me?

HOLDCROFT: Any questions from the committee? Senator Rountree.

ROUNTREE: Thank you, Chairman Holdcroft. So, yeah, as a grower, I'm just looking at Sideshow Spirits, so you support them. What other distilleries or organizations do you support? And if this increase is granted to 5,000, do you have potentials out there that you'd be ready to support?

LOGAN GOVIER: Well, currently Sideshow Spirits is the only one just because, you know, they develop through the same gentleman for Kinkaider Brewing, which is basically a neighbor to our farm. And so that's how I melded into that. But, you know, we would definitely be open to, you know, the expansion of, you know, other distilleries and, and their, their ability to increase their production through the passage of this bill.

ROUNTREE: Thank you.

HOLDCROFT: Any other questions? Senator DeKay.

DeKAY: Just out of curiosity, how much rye does it take to produce a gallon of rye whiskey?

LOGAN GOVIER: I'm not entirely sure, but, you know, we, you know, we, we raise a lot of rye for cover crop purposes, soil health purposes, things like that to sell to local farmers. You know, we get rid of a fair amount more that way. But, you know, we, we're typically somewhere around, I think, 1,500 bushels or thereabouts, gets shipped here to Lincoln to the distillery.

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DeKAY: So I should go ahead and just go ahead and mill my rye for-- put it through the hay grinder, then?

LOGAN GOVIER: Well, you know, if it's standing nice, I'd harvest it and sell it.

HOLDCROFT: Yeah, Senator Andersen.

ANDERSEN: Thank you, sir. Interesting perspective, I really hadn't thought about this whole issue from that lens about how it's not just a one-dimensional issue, it's actually multi-dimensional with the different Nebraska products that go into making Nebraska products. Having said that, you said you support Sideshow, if the limitation was lifted and they're allowed to make more, would you be able to ramp up to be able to support them?

LOGAN GOVIER: Definitely. Yep. We-- right now, you know, we're still majority corn and soybeans of what we raise, we'd like to get into a more diverse rotation and add more acres of, of these other crops. But it's-- you know, it's just a growing market so hard to, hard to justify putting it in when you got it in the bin and there's only so much you can get out.

ANDERSEN: Absolutely. Thank you.

HOLDCROFT: Any other questions? Thank you very much, sir. Appreciate it.

LOGAN GOVIER: Welcome.

HOLDCROFT: Next proponent. OK, we're moving to opponents. Anyone opposed? Welcome back.

CHRIS WAGNER: Thanks. Chris Wagner, C-h-r-i-s W-a-g-n-e-r, with Project Extra Mile. Yeah, I, I mean, clearly a lot of proponents for this bill, right? So I wouldn't be surprised if, if the Legislature does something to help them out. But what, what, I guess, I would ask you rhetorically is, do you think that will be the end of it or do you think they'll come back again and ask again and again and again? When will it end, essentially? They're coming to you for these changes because they-- their business is alcohol. And, obviously, alcohol is a very dangerous product if consumed illegally or excessively. And the reason we have this regulatory system for which I've provided a copy for you, a summary of it, is to delineate those different tiers to protect public health, but also ensure accurate tax collection, so on and so forth. The benefits are all listed right there. That was in

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response to when we had prohibition because of all the problems we had prior to that period due to vertical integration of businesses in this space. And so as you consider, you know, increasing those limits every few years or whatever the case may be, I'm just telling you, we're, we're just getting-- it seems like we're far away, but it just gets us closer to that point in our history when we had all those problems. So what I would just want to close with is that you would likely see increased excessive alcohol consumption, declining tax revenues, loss of innovation and consumer choice, and an increase in regulatory expenses if LB113 is approved and if the Legislature continues down this path. And I'll leave you with that.

HOLDCROFT: Any questions from the committee? Thank you, Mr. Wagner.

CHRIS WAGNER: OK. Thanks.

HOLDCROFT: Next opponent, opponent.

JUSTIN BRADY: Chairman Holdcroft and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Liquor Wholesalers Association opposed to LB113. I want to start with by saying, you know, from the wholesaler standpoint, which there are two wholesalers I represent in the association with Republic National and Southern Glazer, they are not opposed to what craft brewers, micro distillers, and farm wineries do. The issue that they try to balance and struggle with is, in 2005, there was a Supreme Court case, a Granholm case, that says at some point, I don't know where that tipping point is for Nebraska, but at some point, anything we allow the instate people to do, so do the Jack Daniels, so do the Anheuser-Busches, so do the Gallo wines. And at what point then do they come in and bypass companies like I represent who between the two companies employ about 500 employees across the state with their sales force, with their delivery, with their warehouses. So that's, that's the dilemma that we're put in, is at what point do we cross that line that someone bigger comes in and says, we're going to bypass everybody and go directly to the market. And so with that in mind, that's why we come here today to say we oppose LB113. Yeah, LB113. You know, we are part of the discussions in '16, or I was, and in 2020, in 2023, when we came up with these numbers. Where did the numbers come from? Senators, my former partner and elder person that was at our firm forever, always said good public policy is 25 votes and a governor's signature. So, no, I can't come up with some great reason why we had 500 other than that's what it took to get the bill through this committee, through the Legislature, and that just happened a couple of years ago.

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And I'm going to take a step back, Senator Andersen, you brought up a couple of things about if we remove this bill, could they increase their production? I want to make it clear, current law in Nebraska, a micro distillery can produce 100,000 gallons and still be considered a micro distillery. We're talking about in this bill of how much can they self-distribute. So what happened, as I understand what Sideshow is, they distributed all they wanted to their own stores. Then they also have a distributor that they used on some products. They just hit this 500-gallon limit on some of their products that they chose to self-distribute. So I don't want you to leave thinking that they were-- the production was stopped, it was their ability to self-distribute was stopped in December. You know, and I know as far as locations, a little history there, you know, the micro distillers and the craft brewers came and they said we really need more locations. We want to be able to spread our product across the state and market our own things, you know, because as we're new and young-- and may I finish my thought?

HOLDCROFT: Two more sentences.

JUSTIN BRADY: All right. As we're new and young, we want to distribute our beer or distillers across the state. I would say what's happened, unfortunately, as you heard, they didn't do that. They put three in Lincoln, two or three in Omaha, and now they're coming back saying, oh, we need to have more to spread across the state. And so with that, I'll try to answer any questions.

HOLDCROFT: Thank you. Are there any questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. Thanks for being here, Mr. Brady. I'm trying to remember some of the history on this, but I guess first question, so you are opposed to both the expanded taprooms, tap tasting rooms, taprooms and self-distribution?

JUSTIN BRADY: Yes. I, I will say from my client's standpoint on the going from 500 to 5,000, absolutely no. There is, if you do the math, I think there is some room on my client's side to go up some. To your question, Senator Andersen, if I may, was why the different levels? Well, one ounce of a distilled spirit, obviously, is a higher proof than, say, 12 ounces of beer or 6 ounce. So that it's trying to see what would it be in the market as opposed to just looking at it as a gallon is a gallon, if that makes sense. But, yes, I think there is some room on the gallonage, I'd say on the locations, given how they were-- what was said was going to be done and then what actually did

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happen, my client has a tougher time saying let's expand the locations.

J. CAVANAUGH: But what's the problem with the expanded locations?

JUSTIN BRADY: Because each location, remember, they can then self-distribute all they want to that location. So it's not only just if they get 10 locations, that's 10 more locations they can go way above the 500 or even if it was 1,000. And that doesn't count against that 500 or 1,000.

J. CAVANAUGH: But, and this is part where my recollection maybe is unclear, can they sell other people's products at their tasting room locations?

JUSTIN BRADY: I believe they can now. Originally, I think the answer was no.

J. CAVANAUGH: I remember this debate, but I don't remember where it ended.

JUSTIN BRADY: Right.

J. CAVANAUGH: This is my problem.

JUSTIN BRADY: Yes.

J. CAVANAUGH: And maybe somebody else will come up later and will refresh our recollection on this. But I guess-- so here's-- my question, though, is-- you know, I, I understand the business and the, the, the-- I appreciated Mr. Wagner's point about the vertical integration, but it does seem a little silly to say if Sideshow and Kinkaider want to open another room to have them produce the thing, contract with somebody else to come pick it up, deliver it to another one of their tasting rooms, right, isn't that kind of the idea is we're cutting out, literally cutting out the middleman, but it's only for them and for their product. They'd still have to-- if they want to have Bud Light, we'll say, if somebody will come up after this, if they want to have Bud Light that there is a will--

JUSTIN BRADY: That's true.

J. CAVANAUGH: --they'd have to have somebody else bring it in, right?

JUSTIN BRADY: That's true. I guess-- but go back to, kind of, my very quick history I was trying to give. At what point then does the court

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say you too can do that Anheuser-Busch? We will go directly from Saint Louis to a bar, and that was the whole Tied House problem that we had decades ago. And so, I mean, like I said, that's the parameter we're trying to limit. If the Supreme Court would come out ahead of time and tell us where we're, we're comfortable, we'd have a lot better ways to sit around here and talk about it. It's just we can't open that door-- or fairly open that door enough that then all of a sudden everybody else jumps through it.

J. CAVANAUGH: And are you aware of any state that is under the three-tier system that has violated that case in such a way that Anheuser-Busch is engaging in self-distribution?

JUSTIN BRADY: Not since the case in 2005 that included, if I remember right, it was like Michigan and Iowa, Hobie or somebody can correct me if those were the states, but I think it was that their laws had violated that.

J. CAVANAUGH: OK. Thank you.

HOLDCROFT: Any other questions? Senator DeKay.

DeKAY: Just piqued my interest when, when this conversation has taken place, what about an establishment a couple of blocks from here called Miller Time, and how does that play into all of this scenario?

JUSTIN BRADY: Well, again, Mr. Rupe may be testifying behind me and, obviously, I focus more on the distillery side. But as I understand it, they do carry other house products. It's not just Miller Time product. They have Guinness, they have craft brewery, a lot of the craft brewery products, so think of the companies you heard from behind. So they aren't tied directly. But I don't-- I'll be honest, I don't know how they get away with calling themselves Miller Time tied specifically to it.

DeKAY: I mean, I just thought of that. How did you-- and then the other question of how-- back when these debates would take place a couple of years ago or whenever they took place, how did you come up with five locations? What was the--

JUSTIN BRADY: Well, from the distillery standpoint, we followed what happened is the-- first, there was the, the issue of, of the discussion on what the number should be on craft breweries. And through that discussion, it came to five. And I'll be honest, I wasn't as involved in that because, again, I'm on the, the spirit side of things, not on the beer. So then when the distillers came forward and

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asked for, for five locations, I think they were just mirroring what had been previously done. And at that time, my client also said, well, it's tough for us to say if it worked on the craft brewery side, we have to oppose it on the distillery side. And that was all part of those discussions over the last few years.

DeKAY: All right. Thank you.

JUSTIN BRADY: You're welcome.

HOLDCROFT: Senator Andersen.

ANDERSEN: Thank you, Mr. Chairman. I thought it was interesting, your analogy to what-- with the 2005 Granholm case. Whatever is done in the state has to be allowed to be done outside of the state. Is there-- I mean, is this an ac-- is that an academic discussion or is that something that Jack Daniels decided they wanted to go distribute directly? I mean--

JUSTIN BRADY: What I-- our fear is that at some point it will become incentive enough for them to do it. And so with that case, I can go deeper into it, but what it really focused on was the dormant commerce clause that said no state can do something for their citizens, in essence, that they can't do out, unless there's a vested state interest. And I will tell you, like on the farm winery, how they're, they're treated differently than the wineries out of state is including they get a tax break. But I think the-- at least the state could argue, whether they win it or not, the state could argue that they have a vested state interest because there is a requirement that they use a certain percentage of Nebraska products. And that at least gives the Attorney General the argument to say that there's a vested state interest. That same requirement doesn't carry forward on the other two tiers if you-- or the other two if you look at spirits and beer, and I think a lot of them do it because they local source, but the state doesn't have that out there.

ANDERSEN: So out of my ignorance with distributors and everything else, when you take the, the micro breweries, micro distillers, and what is the cost differential-- what is the additional cost of adding a distributor? And as some of these gentlemen have already testified, you know, on their mass distribution, they're barely getting by, like the one guy said, 10%, 50% of his profit for his company. So if you then force them to use distributors, what does that do to the cost of their product?

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JUSTIN BRADY: Well, undoubtedly, it increases it some, Senator. And what that number is, I don't know. I can get that or have them contact you. I'm sure it's based on the volume and everything as well.

ANDERSEN: So do you think it'll come out of their profit-- whatever profit margin they do have, because the customer is only going to pay so much for a drink or beer or whatever? Right? So there is a top end for [INAUDIBLE].

JUSTIN BRADY: There is a top end, what that is, I'm not a market analysis, if you will.

ANDERSEN: Yeah, me neither. Thank you.

JUSTIN BRADY: Yeah. Um-hum.

HOLDCROFT: Any other questions from the committee? Thank you.

JUSTIN BRADY: Thank you.

HOLDCROFT: Next o-- next opponent, please.

ADAM BARNEY: Thank you, Senator. Good afternoon, all again. Adam Barney, A-d-a-m B-a-r-n-e-y, legal counsel to the Associated Beverage Distributors of Nebraska, the beer wholesalers in the state. Some of, some of my anticipated testimony was already reported and addressed here a little bit, but I want to hone in on some things. And history has been talked about, but the context I think is important. So in 2015, when this really hit a head, there was an interim study that was had in front of the General Affairs Committee, and it was a discussion of how does the three-tier system look and what happens with this growing segment of craft brewers? How do we deal with them? Are they manufacturers or are they more retailers operating restaurants? And following that discussion, there was a robust-- before that hearing, there was robust discussion, and everybody was involved. The committee was involved, the Liquor Control Commission, the crafts, the distributors, the taverns, the restaurants. Everybody sat down and said, all right, how do we address this situation? And the compromise and agreement that came into place was that crafts are going to be generally recognized as manufacturers, but there's going to be some flexibility that's given to them to promote their brands by opening up these taprooms. And it was five locations, and I want to note this because it hasn't been said, five locations is one of the highest numbers, craft favorable numbers in the entire country. Now, we're not trying to suggest that prior legislation binds this committee. Obviously, circumstances can change, but there hasn't been a market

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change here. Rather, we have a single craft brewer who's pushing to undermine the industry-wide agreement and double the number of permissible locations. Of all the policy reasons against expanding, and I'm, and as you can tell, I'm, I'm here talking primarily in opposition to the five to ten, of all of those policy reasons against expanding the number of locations that were discussed in 2016, I want to focus-- I was going to talk about three of them, I've got one because I think that it's really not been addressed here yet. And it's the unfair competition that exists against the traditional bars and restaurants. The traditional bars and restaurants, they do have to go through the three-tier system, and there are costs associated with that. There are, there are costs that we as Nebraska have decided are necessary and appropriate in this regulated industry. Craft retail locations, they don't have those costs associated with the three-tier system. They skip the second tier and they can sell, as a result, beer cheaper at a cheaper price, make more money off of it, and they get a competitive advantage over those traditional retailers. And while the intent of allowing five locations was to allow--perhaps promote their product, we've seen a shift from that and it's been discussed. The only craft brewer who is pushing up against this limit has three locations in downtown Lincoln. And while it's unfortunate that a location was closed in Grand Island, had that craft distributor, craft brewer closed one of their two locations within a block of each other in downtown Lincoln or not opened up that second one, they would have been under the cap and could have done the, the, the product. So the, the change here is the intent by the craft brewers, the policy reason is not to have the bill or not--

HOLDCROFT: Your time, your time is up, Mr. Barney

ADAM BARNEY: Thank you.

HOLDCROFT: Any questions from the committee? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair. Thanks for being here, Mr. Barney. I'm, I'm interested in the conversation about the policy reasons why we've allowed the, the tasting rooms and things versus why-- and I-- yeah, I hear you that those other places have different-- but, I mean, every state, some states have a three-tier system, some don't, right?

ADAM BARNEY: Yeah.

J. CAVANAUGH: Some are public systems or whatever you call it, state run. But so I'm-- I guess, I'm not terribly persuaded by what other

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states are doing, I'm trying to figure out what is the right thing to do for us, and so I'm-- I, I don't-- why is more than five wrong?

ADAM BARNEY: I, I think finding the number is what you have to do, right? And when they sat down 10 years ago and talked about this, five is where we ended up. And five, I think, balances the needs of the craft brewers to have those locations and hit the major markets around. Right? I mean, you can get one or two in Omaha, you can get one in Lincoln, you can get one around the Tri-Cities, and one out in western Nebraska. And you, you kind of find that sweet spot to promote your product in each one of those areas of the state. Right? And you leave it there, but it-- and have that benefit while also taking account for, well, we can't have too many. Because too many, and they're getting this competitive advantage, too many-- and one of the other points I was going to talk to-- is allows oversaturation of one company, right, where ultimately you've got maybe the leader-- in 5 years, we're talking the leader here in the craft industry here in Nebraska is sitting at 10 or, under this bill, 20 because Kinkaid and Sideshow is 20, would have 20 permissible locations. All the hot spots to have a taproom to grow big ones to really build your brand are all taken up by one and then it creates additional barriers to entry. So you, you balance the give them the chance to grow with the concerns. And to the previous-- to, to Justin's point-- Mr. Brady's point, Granholm is not academic, Senator Andersen, it's, it's not. And I'll note that I believe it was just last year, the Eighth Circuit Court of Appeals, which is the federal Court of Appeals that oversees Nebraska cases, just passed a decision under Granholm striking down some Iowa laws for violating dormant commerce clause. So it's, it's a growing body of case law right now where you're seeing more and more challenges on Granholm and sitting here today that was, was a hearing of 2 years ago, let alone 10, is now we have an Eighth Circuit Court of Appeals decision that governs our state that is applying Granholm to a neighboring state.

J. CAVANAUGH: Thank you.

HOLDCROFT: Any other questions?

ANDERSEN: I do.

HOLDCROFT: Thank you. Oh, Senator Andersen.

ANDERSEN: Thank you, Mr. Chairman. Thank you for being here for your testimony. I found one of your comments kind of interesting when you, when you said about-- talked about balancing the needs of the craft

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brewers. And I thought to myself, who, who is supposed to balance the needs of the craft brewers? And then I started thinking about it and said where you're talking about having two craft breweries down in the hay market and close to each other, and you talk about market domination, but isn't the checks and balances and all of this the law of supply and demand? Isn't it that if you own the best product out there and people want it, then you should open another one and, and provide more of your product, beer, or whatever it happens to be for that customer? Isn't that really for the balance of what's best for everybody is the law of supply and demand?

ADAM BARNEY: So I would say in a, in a typical industry, I would agree with you, Senator, and that was the policy that existed prior to prohibition in this country. And the results of it for the-- in a system that is built on-- was built on Tied House arrangements, which let's be, let's be realistic with the facts that these craft taprooms are Tied House establishments where Tied House establishments are more apt to encourage overconsumption because there's, there's no independence between the manufacturer and the retailer. That's, that's the system that existed, Senator. And what came in after prohibition when we realized that was also a mistake was that let's find a regulatory system that promotes independence, that promotes responsibility with a product that can be abused if, if, if the right circumstance or the wrong circumstances exist. Let's put the system in place, and we're 100 years in effectively. And the system, I believe, has proven itself to really help and assist a, a healthy market for beer and alcohol.

ANDERSEN: So I'd submit to you that it was only a couple of years ago you couldn't go to New York City and get a large full-sugared pop. Because somebody told me that that's bad for me, so therefore I can't buy it. Right? So I, I, I don't agree with that mentality. I would say that we do live in an atypical environment, especially at Haymarket, Lincoln, being a college town, a large college town. Look at the difference in client base, whether you're talking right now or in July, right, completely different. So if these-- if they found a way to survive and have the ability to grow, I don't know why it's our place to tell them they can't or put prohibition instead of keeping them from growing.

ADAM BARNEY: And, and I would say, Senator, we don't want to stop them from growing either. The system is already built so that they can grow and they can grow responsibly within the system. We want to help them grow. That's our business model, is to help them grow and get more of their product on the shelves. We're not looking to be New York and say

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you can't drink this. We're looking to assist them and do it in a responsible manner.

ANDERSEN: Thank you.

HOLDCROFT: OK. Any other questions from the committee? Thank you, Mr. Barney.

ADAM BARNEY: Thank you.

HOLDCROFT: Next opponent.

HOBERT RUPE: [INAUDIBLE]. Hobert Rupe, H-o-b-e-r-t R-u-p-e, executive director of the Nebraska Liquor Control Commission. We're in opposition as drafted, I guess. The issue there is I think we realize the 500 gallons is probably too small. The beer equivalency of the self-distribution of 250 barrels, the rough drink equivalency, you know, because you're sort of comparing apples and oranges with amount of consumption. It'd probably be close to 1,000. I would look-- we would defer to you on that one there where it needs to be. The Commission just really thought that-- we, we just had this discussion 2 years ago, and now they're trying to go ten times what the amount was. So you've heard the other policy reasons why. I guess I'll-- maybe I'll do a little history so people can understand. Back in-- before the 1980s, Nebraska was a strict three-tiered system. All right? You had manufacturers, which were our shippers, they would ship alcohol into a wholesaler. The wholesaler would sell to a retailer. All right. In fact, first off in the late '80s, it was decided that as a farm winery industry was going nationwide, let's try to create this industry in Nebraska. It was a-- they had rights at all three tiers but limitations, production limits, how much they can self-distribute, and the fact that back then they could not have any other products, they couldn't get an additional license on top of it. In response to that, they have a-- they have the single best tax rate on excise tax. A normal gallon of wine is taxed at 95 cents a gallon, a gallon of beer is taxed at 31 cents a gallon. A gallon in a Nebraska farm winery is taxed at 6 cents a gallon. So if you're wondering why wine is maybe a little bit different than the beer or the craft distilleries, that's why. Because at that point in time, the overall, I guess, philosophy behind those was these are going to be primarily manufacturings, we're trying to build these agricultural manufacturing centers in Nebraska. Conversely, the craft brewer industry started a couple years later, and those were always sort of seen as brewpubs. So primarily as a retail establishment who happen to make some beer on the side, which is one reason why they could have their own additional licenses to

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sell Budweiser, Miller, hard spirits, they didn't produce them. Then even after that, then you have the craft distilleries come out and the craft distilleries was based very closely on the craft brewery license. All right. The issue that's come up now is-- and why, why this, this committee in different iterations has struggled with these issues lately is one of the key differences is a lot of those farm wineries, they're pretty much mostly retail establishments now. I mean, there are wine-- there are events, wedding events, that kind of stuff. Breweries, you've still got the traditional craft brewery or brewpub which might have just their own one location. But as you've heard from some of the other people like Kinkaider, they've got large, decent-sized footprints, not only in Nebraska, but I think they're in multiple states. And they can correct me if I'm wrong on that one there. I have enough trouble regulating the ones in the state without the ones going out of state.

HOLDCROFT: Your time is up, Mr. Rupe,--

HOBERT RUPE: Sorry.

HOLDCROFT: --but I'll let you finish your thought.

HOBERT RUPE: OK. So any of these are a change to the old three-tiered system. And so you have to look at what's the benefit for it. One of the benefits why we went with the five locations was we were trying to be proactive and avoid what I call the Maryland problem. Maryland had the similar situation to us where they could have-- where they have multiple retail venues. Under their law, once they cross the Rubicon, cross over the production limit, they had to divest themselves of those establishments. They would have to sell the things that made them successful because they made too much beer. So the five where it came out, that was sort of the compromise, trying to say, OK. Because if you read the act, even if they become a manufacturer, those five locations they've got currently are grandfathered in, they don't have to divest themselves of that. So that's probably where the five came from in negotiations back then under the theory that we hope some of these breweries get over that production limit and become a true manufacturer. But we didn't want them to cut off, to cut off their nose to spite their face. So with that, I would be happy to answer any questions.

HOLDCROFT: Any questions? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair. Thanks, Mr. Rupe. It seems like it's been so long since we saw you last. So I wanted to-- couple of

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clarifying questions. You heard the conversation. I think you've already hit on it. So these folks who have the self-dis-- or, I mean, the, the taproom, tasting room, whatever, they can now get a separate license to serve other alcohols.

HOBERT RUPE: Yes.

J. CAVANAUGH: OK. And, and just a clarifying point from, I think, Mr. Barney's last or maybe-- I, I apologize if I'm misattributing, but he implied I think that Kinkaidler and Sideshow could get 20 tasting rooms together. But my understanding from their testimony was that they have-- they have five and five and they are--

HOBERT RUPE: Under our interpretation, because they are the same entity,--

J. CAVANAUGH: Yeah.

HOBERT RUPE: --they would be limited. Now if they were two separate entities, then only one of them could possibly get that, but they'd have to completely change their ownership arrangement around. Right now, their ownership is basically the same and they're operating in two different fields. That's one reason, as you heard, Mr. Schmick say, that's one reason they have the five, that they, basically-- they all are relating to both those at the same, the same five locations.

J. CAVANAUGH: Right. So they're the same five locations. So if they were to, say, split those up and want to serve Sideshow at a Kinkaidler only tapping-- taproom, tasting room, whatever-- but anyway-- place, they would have to then go through a distributor and bring it in--

HOBERT RUPE: Yes.

J. CAVANAUGH: --that way, they wouldn't be able to "self-distro" to that. OK.

HOBERT RUPE: Yes.

J. CAVANAUGH: That's better.

HOBERT RUPE: And one of the main reasons why we acknowledge it, it made no sense-- I mean, even government-- where we were able to figure this one out, that didn't make a lot of sense to make somebody sell their beer to themselves. And what they were doing, they were getting multiple Class L licenses, and then not making any beer. They were doing just so they could do a transfer. And then so all of the beer is

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being made at one and then they were just bottling or, or putting it in kegs. And so it made it much cleaner for tax purposes. So that's a reason why we went with the five, too. So, you know, you have a production facility which can take their products to their other facilities. And if they do and cross under the Rubicon, they don't have to then divest.

J. CAVANAUGH: OK. And so then the other part about this is that self-distribution.

HOBERT RUPE: Yes.

J. CAVANAUGH: And you're here as written on that as well?

HOBERT RUPE: As written-- 500-- I always-- we always thought 500 was small. As I said, you know, we try to be consistent as much as we can. And the current self-distribution of craft breweries is 250 barrels. If you do a drink equivalency, that's about 1,000 gallons, not 500.

J. CAVANAUGH: And you might recall the conversation that the intention of this, if I recall, was it's not to just have people self-distribute forever. It's kind of the similar idea of to grow a fan base and then draw the attention of the three-- current three tiers.

HOBERT RUPE: There were, there were two issues that it really brought. The first one was absolutely that, whereas-- let's say, I'm trying to grow my base and I don't want to have to get into a distribution agreement, let's say I'm in "Buzzard Breath," Nebraska, I'll just make it up, and I want to maybe see if Lincoln will carry my [INAUDIBLE] market, maybe I do a deal with-- I sell to a couple of bars down here just to see if, you know, my particular brand of spirits is, is going to fly in Nebraska, comparing-- considering all the, all the, all the, the, the, the competition. The other one was, was a true, really small guy where I'm a brewery and Buzzard Breath you'd go get it, and I'm not sure if it's a real town or not, and I'm making my own beer there and I've got one bar across the street and then I've got the golf course out in the county. And we thought that by the self-distribution amounts, was I could be able to sell to those two and satisfy those two, with which between the three locations is all my small production is taking up, without having to get into a distribution agreement with the wholesaler, move my beer 150 miles and then move my beer back 150 miles. And so for the-- so it was designed twofold. One, to allow the small, very small, localized person to be able to sell it to satisfy their neighborhood and, two, as market testing in other areas.

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J. CAVANAUGH: OK. Thank you.

HOLDCROFT: Any other questions from the committee? I have a couple. How many of these distilleries and breweries are really bumping up against? I know Decatur obviously is, but are there others that are bumping up against the five?

HOBERT RUPE: No. Of the five, the only one who might be, and I'm not sure where they are looking at, it might be Zipline.

HOLDCROFT: OK. And, and then also about the amount, 500 gallons are [INAUDIBLE]?

HOBERT RUPE: I know that-- the only one we know is there is, is Sideshow. However, to echo what was heard earlier, a lot of people that say the 500 just wasn't worth the investment to, to do it. So I, I know that we've heard that from the industry as well is we would have done it, but the 500 just was too small.

HOLDCROFT: Right. So you talked about an entity-- I mean, obviously Kinkaider Sideshow is an, is an entity?

HOBERT RUPE: Yeah, they're a legal entity.

HOLDCROFT: What would it take for them to divest or split to give them-- make them eligible--

HOBERT RUPE: Well--

HOLDCROFT: --for five more locations?

HOBERT RUPE: Well, the problem would be if they would divest, they wouldn't double their numbers. They'd still be stuck at five and five. So they have to decide which, so they, they would have to decide which of their locations do they want to have to go through the wholesalers to certify their own beer. I mean, they, they, they could have more locations, but then they would have to, you know-- so in other words, if they divest and you've got Kinkaider and broken-- and Sideshow as two separate, they're not going to be able to distribute to the same retail location because they're not going to own it wholly in that entity.

HOLDCROFT: OK. Any other questions? Thank you, Mr. Rupe.

HOBERT RUPE: Thank you very much.

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HOLDCROFT: Next opponent. Opponent? Anyone testifying in the neutral?

PAUL OETTINGER: Afternoon again. Paul Oettinger, P-a-u-l O-e-t-t-i-n-g-e-r, and I'm with Pal's Brewing Company in North Platte, Nebraska. Thank you for letting me speak at this committee hearing. I'm testifying in the neutral because I, I do believe that the self-distribution limits for distillers should really be increased in order for that to be a viable business. And I think along with the craft brewery laws that we passed in the past, not to be redundant, these are things that create manufacturing, that create manufacturing jobs, and I think they're a great thing and we should do it to support these businesses and get them off the ground and create a better manufacturing base. But on the flip side of that, with the other parts of this bill where we're asking to increase the number of locations that, that breweries can own up to ten, it gives me a little bit of pause as a small manufacturer, we produced about 752 barrels of beer last year. And the definition of a craft brewery in Nebraska right now is up to 20,000. So it's, it's quite a bit higher scale. And you can imagine if you have a 100-barrel brew system, you can brew beer with about 10% of the labor as I can on my 10-barrel system. So it's a distinct competitive advantage that you can get into if you're a large manufacturer. So that's one advantage. And Senator Andersen had mentioned, you know, if, if the demand is there, why wouldn't we just open the floodgates and let everybody do it? That's exactly what we had back in prohibition, as someone had already mentioned, and it, it, it didn't go so well because everything was a Tied House back then. And so we, we-- my question is, why did we create the carve outs for craft breweries to have their own taprooms to begin with? It was to create an industry, right? That if we didn't do those carve outs, we had what, less than ten breweries at the time we made those carve outs for us to have taprooms. And it was an awesome thing like the craft beer scene in Nebraska is a lot more vibrant than it was, but at what point do we cross over into, well, we're kind of back to the way it was, and now the larger producers are just going to squeeze out the smaller producers anyway. So we're going back kind of to where we won't have as much choice. And, and folks like us, let's face it, none of these breweries are going to open another brewery. They're not going to, they're going to open other taprooms that compete with our restaurant and for the same patrons. I mean, we're not creating jobs here. This is not a job creation bill. This is moving from one company to another, essentially. And, yeah, I mean, in a perfect world, we just-- we would have pure choice, right? Unfortunately, we're in alcohol and that's not the market that we're in. So I, I just question is this the right balance? Wisconsin is a really pro-brewer state. If

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you're a craft brewery, you can only have six locations. That's really on the high end. If you're a manufacturer, you can have two. California, population of 40 million, they're just bumping up to eight locations. So we're two million. So anyway, that, that, that's the only case I wanted to make for the little guy.

J. CAVANAUGH: Thank you, Mr. Oettinger. Let me see if there are any questions. Are there any questions from the committee? Seeing none, well, thanks for being here. Any other in the neutral? You already testified. Anyone else in the neutral capacity? Seeing none, invite Senator Quick to close. And in case he didn't do it, we had three proponents and one opponent submitted online.

QUICK: Thank you, Vice Chair Cavanaugh--

J. CAVANAUGH: Thank you, Senator Quick.

QUICK: --and committee members. I'm asking you to support LB113 and advance it out of committee. These entrepreneurs are the lifeblood and innovation and, and are about economic growth. The expansion of their business model should be encouraged, not deterred. My firm belief is that the market share for distributors will remain unaffected by this expansion. In fact, there is a possibility that distribute-- distributors may even benefit from the growth of the craft beer and micro distiller products industry. We've already witnessed this with the wine industry in Nebraska. The growth of the wine business model did not adversely impact the state's distributors. Instead, it created a relationship that benefited all parties involved. I don't understand why we would hinder the progress of our state's entrepreneurs. We would never impose similar restrictions on any other industry. Imagine if we told farm-- imagine if we told farmers they could grow their products, whether grain or livestock, but must rely solely on a specific company for delivery of-- to the market. Imposing limitations on numbers of farms and limiting, limiting the number-- the amount of products they could deliver possible to their own farms and facilities. I understand that this is a stretch on the comparison. I get that, but I'm hoping it puts it into perspective the constraints we placed on our craft brewer and micro distilled product producers. I acknowledge the existing laws governing the production and distribution of alcohol are important. And they're-- and they are-- and there are reasons and they are there, and they are there for a reason. But to prevent the growth of these businesses is simply wrong. This, this legislation is not designed to harm the distributors in the state. I have a great respect for their industry and their business model, but we shouldn't stand in the way of entrepreneurs, instead we

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should support their endeavors and create an environment where innovation and expansion are not only possible but encouraged. And I was going to try to address some of the things that were brought up. And one of the things, too, for Grand Island, we did lose the location, Kinkaiders had a location there. And I believe they're going to move to, to Kearney. And I do have selfish reasons because I'd like them to come back to Grand Island. So I, I loved their location in, in Grand Island. I know they, they-- I've talked to them already a little bit. And maybe they'd be looking at going out on 281 where there's a lot of growth in Grand Island right now. So a lot of great things happening out there. Let's see-- I made a lot of notes. Sorry. I won't go on, like, forever. I promise. I know Justin Brady had talked about the, the Granholm law. And I'd like to look into see what other states have done as far as number of locations and gallons, but-- to see where, where that's comparable, because my understanding is maybe that, that they, they have more locations, are available for more locations, maybe more, more distribution for their products. I would also say that the business model for the-- I'm, I'm not sure we can condemn their business model right now for the craft brewers and the distillers because they're looking at where they're going to sell most-- the most product they can and, and make the most money for their businesses. So I can see why maybe they have three locations in Grand Island, you know, and one in Broken Bow where they started and then one in, in, in-- well, previously Grand Island and they're moving to Kearney. Grand Island would be another great location. So if we could expand those locations, that would be great. I don't think we limit owners of our current bar system. I don't know if an owner owns ten bars, can he have, can he have them anywhere he wants them? And can he have 10 or 20 bars? I don't-- I guess, I don't know the laws about that. So that's something else I'd like to look at. The markup for the wholesalers is 25 to 30%, so I can understand why it costs, it costs our local entrepreneurs quite a bit more to produce their product based on the number of gallons compared to a big distributor-- a big producer like Budweiser or Coors or somebody like that. So that 25 to 30% markup pushes the prices of their products quite a bit or reduces their profits that they can make. And then I know they talked about they have to divest, but I think that's when they hit 20,000 gallons. And I'm not sure any of these entrepreneurs, and they'd be very fortunate, I guess, if they hit 20,000. But I'm going to guess they're not going to produce that many gallons. So with that, I would just ask you to support this and maybe we can get it out of committee and get this passed into law. So thank you.

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HOLDCROFT: Thank you, Senator Quick. Are there any questions from the committee? OK. Well, that closes the hearing on-- oh, wait a minute, I need-- he already read it? Excellent. So that closes the hearing on LB113 and the hearings for the day. Thank you very much.