

HOUSE BILL NO. 1449

Introduced by

Representatives Mock, Boschee, Louser, Wagner, Warrey

Senators Kessel, Larsen, Meyer

1 A BILL for an Act to amend and reenact subsection 2 of section 5-01-14, subsection 2 of section
2 5-01-17, section 5-01-19, and subsection 3 of section 5-01-21 of the North Dakota Century
3 Code, relating to event permits for microbrew pubs, domestic wineries, domestic distilleries, and
4 brewer taproom licensees, and the domestic farm product requirement for domestic distilleries.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Subsection 2 of section 5-01-14 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 2. The tax commissioner may issue a special an event permit for not more than forty
9 day events per calendar year to a microbrew licensee ~~which allows~~ allowing the
10 licensee, subject to local ordinance, to give free samples of beer manufactured by the
11 licensee, sell beer manufactured by the glass or in closed containers, or dispense beer
12 manufactured by the licensee, ~~at a designated trade show, convention, festival,~~
13 ~~fundraiser, or other related special event hosted by a nonprofit organization unaffiliated~~
14 ~~with the licensee, or a similar event approved by the tax commissioner. This~~
15 ~~subsection is subject to local ordinances~~ off-premises events.

16 **SECTION 2. AMENDMENT.** Subsection 2 of section 5-01-17 of the North Dakota Century
17 Code is amended and reenacted as follows:

18 2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail
19 lots, and not for resale, and may sell or direct ship its wine to persons inside or outside
20 of the state in a manner consistent with the laws of the place of the sale or delivery in
21 total quantities not in excess of twenty-five thousand gallons [94635 liters] in a
22 calendar year; glassware; wine literature and accessories; and cheese, cheese
23 spreads, and other snack food items. A licensee may dispense free samples of the
24 wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be

1 made on Sundays between eight a.m. and twelve midnight. The tax commissioner
2 may issue ~~special events permits~~an event permit for not more than forty events per
3 calendar year to a domestic winery allowing the winery, subject to local ordinance, to
4 give free samples of its wine and to sell its wine by the glass or in closed containers, at
5 off-premises events. A domestic winery may not engage in any wholesaling activities.
6 All sales and deliveries of wines to any other retail licensed premises in this state may
7 be made only through a licensed North Dakota liquor wholesaler. For any month in
8 which a domestic winery has made sales to a North Dakota wholesaler, that domestic
9 winery shall file a report with the tax commissioner no later than the last day of each
10 calendar month reporting sales made during the preceding calendar month. When the
11 last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due
12 date is the first working day thereafter.

13 **SECTION 3. AMENDMENT.** Section 5-01-19 of the North Dakota Century Code is amended
14 and reenacted as follows:

15 **5-01-19. Domestic distillery.**

- 16 1. The tax commissioner may issue a domestic distillery license to the owner or operator
17 of a distillery that is located within this state ~~which uses a majority of North Dakota~~
18 ~~farm products to manufacture and sell spirits produced on the premises.~~ A domestic
19 distillery license may be issued and renewed for an annual fee of one hundred dollars.
20 This fee is in lieu of all other license fees required by this title. The tax commissioner
21 may not issue the domestic distillery license until the applicant has established that the
22 applicant has applied for and obtained the necessary federal registrations and permits,
23 as required under the Internal Revenue Code of 1986 [26 U.S.C. 5001 et seq.] and the
24 federal Alcohol Administration Act [27 U.S.C. 203], for the operation of a distilled spirits
25 plant.
- 26 2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in
27 retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or
28 outside the state in a manner consistent with the laws of the place of the sale or
29 delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters]
30 in a calendar year. Direct sales within this state are limited to two and thirty-eight
31 hundredths gallons [9 liters] or less per month per person for personal use and not for

1 resale. The packaging must conform with the labeling requirements in section 5-01-16.
2 A licensee may dispense free samples of the spirits offered for sale. Subject to local
3 ordinance, sales at on sale and off sale may be made on Sundays between eight a.m.
4 and twelve midnight. A domestic distillery may hold events inside and outside its
5 premises, but only on contiguous property under common ownership, allowing free
6 samples of its spirits and to sell its spirits by the glass or in closed containers. The tax
7 commissioner may issue event permits for not more than forty ~~event days~~ events per
8 calendar year to a domestic distillery allowing the domestic distillery, subject to local
9 ordinance, to give free samples of its product and to sell its product by the glass or in
10 closed containers, at off-premises events. A domestic distillery may not engage in any
11 wholesaling activities. Except as provided by section 5-01-19.1, all sales and
12 deliveries of spirits to any other retail licensed premises in this state may be made only
13 through a licensed North Dakota liquor wholesaler. However, a domestic distillery may
14 sell distilled spirits to a domestic winery if the distilled spirits were produced from
15 products provided to the domestic distillery by the domestic winery. No later than the
16 last business day of a calendar month, a farm distillery that has made sales to a North
17 Dakota wholesaler during the preceding calendar month shall file a report with the tax
18 commissioner reporting those sales.

- 19 3. A domestic distillery may obtain a domestic distillery license and a retailer license
20 allowing the onpremises sale of alcoholic beverages at a restaurant owned by the
21 licensee and located on property contiguous to the domestic distillery. A domestic
22 distillery also may own or operate a winery.
- 23 4. A domestic distillery is subject to section 5-03-06 and shall report and pay annually to
24 the tax commissioner the wholesaler taxes due on all spirits sold by the licensee at
25 retail or to a retail licensee, including all spirits shipped directly to consumers as set
26 forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due
27 January fifteenth of the year following the year sales were made. The report must
28 provide the detail and be in a format as prescribed by the tax commissioner. The tax
29 commissioner may require that the report be submitted in an electronic format
30 approved by the tax commissioner.

1 **SECTION 4. AMENDMENT.** Subsection 3 of section 5-01-21 of the North Dakota Century
2 Code is amended and reenacted as follows:

3 3. The tax commissioner may issue ~~special~~ event permits for not more than forty
4 ~~day~~events per calendar year to a brewer taproom licensee allowing the licensee,
5 subject to local ordinance, to give free samples of its beer, sell its beer by the glass or
6 in closed containers, or dispense beer manufactured by the licensee, ~~at a designated~~
7 ~~trade show, convention, festival, fundraiser or other related special event hosted by a~~
8 ~~nonprofit organization unaffiliated with the brewer taproom licensee, or a similar event~~
9 ~~approved by the tax commissioner~~off-premises events.