

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2284

Introduced by

Senators Klein, G. Lee, Sorvaag, Wardner

Representative M. Johnson

1 A BILL for an Act to amend and reenact section 5-01-17 of the North Dakota Century Code,
2 relating to domestic winery ingredient utilization requirements and special events.

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

4 **SECTION 1. AMENDMENT.** Section 5-01-17 of the North Dakota Century Code is amended
5 and reenacted as follows:

6 **5-01-17. Domestic winery license.**

7 1. The tax commissioner may issue a domestic winery license to the owner or operator of
8 a winery located within this state to produce wine. The percentage of ingredients by
9 volume, excluding water, of wine produced by a domestic winery which must be grown
10 and produced in this state must be at least ten percent in the second year of licensure,
11 twenty percent in the third year of licensure, thirty percent in the fourth year of
12 licensure, forty percent in the fifth year of licensure, and fifty-one percent in the sixth
13 and subsequent years of licensure. Domestic wineries may be granted an exemption
14 from the ingredient utilization requirement whenever the state tax commissioner
15 determines, upon the commissioner's own motion after consultation with the
16 agriculture commissioner, or at the request of a domestic winery, that a shortage of
17 produce grown in this state exists for a particular crop rendering a winery unable to
18 meet its production needs, or production problems, weather conditions, pest
19 infestations, plant disease epidemics, or other natural causes have reduced the
20 quantity or quality of produce grown in this state to an extent that renders compliance
21 with the ingredient utilization requirement infeasible. The exemption is effective for one
22 year unless the tax commissioner issues a new exemption. The exemption applies to
23 the use of out-of-state produce, juice, and finished wine approved by the agriculture
24 commissioner. A domestic winery may purchase, at wholesale or retail, brandy for use

1 of onpremises fortification. A domestic winery license may be issued and renewed for
2 an annual fee of one hundred dollars, which is in lieu of all other license fees required
3 by this title.

4 2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail
5 lots, and not for resale, and may sell or direct ship its wine to persons inside or outside
6 of the state in a manner consistent with the laws of the place of the sale or delivery in
7 total quantities not in excess of twenty-five thousand gallons [94635 liters] in a
8 calendar year; glassware; wine literature and accessories; and cheese, cheese
9 spreads, and other snack food items. A licensee may dispense free samples of the
10 wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be
11 made on Sundays between twelve noon and twelve midnight. The tax commissioner
12 may issue special events permits for not more than ~~twenty~~thirty events per calendar
13 year to a domestic winery allowing the winery, subject to local ordinance, to give free
14 samples of its wine and to sell its wine by the glass or in closed containers, at off-
15 premises events. To participate in a pride of Dakota event sponsored by the
16 department of agriculture, a domestic winery shall obtain a special events permit.
17 Participation by a domestic winery in a pride of Dakota event sponsored by the
18 department of agriculture does not count against the ~~twenty~~thirty special events
19 limitation. A domestic winery may not engage in any wholesaling activities. All sales
20 and deliveries of wines to any other retail licensed premises in this state may be made
21 only through a licensed North Dakota liquor wholesaler. For any month in which a
22 domestic winery has made sales to a North Dakota wholesaler, that domestic winery
23 shall file a report with the tax commissioner no later than the last day of each calendar
24 month reporting sales made during the preceding calendar month. When the last day
25 of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the
26 first working day thereafter.

27 3. A domestic winery may obtain a domestic winery license and a retailer license allowing
28 the onpremises sales of alcoholic beverages at a restaurant owned by the licensee
29 and located on property contiguous to the winery.

30 4. A domestic winery is subject to section 5-03-06 and shall report and pay annually to
31 the tax commissioner the wholesaler taxes due on all wines sold by the licensee at

1 retail, including all wines shipped directly to consumers as set forth in sections 5-03-07
2 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the
3 year following the year sales were made. When the fifteenth of January falls on a
4 Saturday, Sunday, or legal holiday, the due date is the first working day thereafter. The
5 report must provide such detail and be in a format as prescribed by the tax
6 commissioner. The tax commissioner may require that the report be submitted in an
7 electronic format approved by the tax commissioner.