

**HOUSE BILL NO. 1463**

Introduced by

Representative Winrich

1 A BILL for an Act to create and enact a new chapter to title 5 of the North Dakota Century  
2 Code, relating to the purchase of alcohol for personal use, the duties of the state treasurer, and  
3 collection of taxes; and to provide a penalty.

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

5 **SECTION 1.** A new chapter to title 5 of the North Dakota Century Code is created and  
6 enacted as follows:

7 **Out-of-state shipments allowed.** Notwithstanding any other law or rule any person  
8 licensed in another state as an alcoholic beverage manufacturer, producer, supplier, importer,  
9 wholesaler, distributor, or retailer who obtains an out-of-state shipper's license may ship up to  
10 twenty-four individual containers per month of any alcoholic beverage directly to a resident of  
11 this state, who is at least twenty-one years of age, for the resident's personal use and not for  
12 resale.

13 **Out-of-state shipper's license - Requirements.** Before sending any shipment to a  
14 resident of this state, the out-of-state shipper must obtain from the state treasurer an  
15 out-of-state shipper's license by filing an application with and as prescribed by the state  
16 treasurer; paying a one hundred dollar registration fee; providing the state treasurer with a copy  
17 of the shipper's current alcoholic beverage license issued in another state; and any other  
18 information required by the state treasurer.

19 **Duties of shipper.** An out-of-state shipper licensee may not ship more than twenty-four  
20 individual containers of any alcoholic beverage per month directly to any person in this state.

21 1. If any manufacturer ships more than one hundred cases of any particular liquor,  
22 beer, or wine in one calendar year directly to consumers in this state, the shipper  
23 shall attempt to locate a wholesaler in this state to handle the product. If no

1           adequate wholesaler can be found, the shipper shall notify the state treasurer, and  
2           the shipper is not required to use a wholesaler.

3           2. An out-of-state shipper licensee shall ensure that all containers of alcoholic  
4           beverages shipped directly to a resident in this state are conspicuously labeled  
5           with the words "**SIGNATURE OF PERSON AGE TWENTY-ONE OR OLDER**  
6           **REQUIRED FOR DELIVERY**".

7           3. An out-of-state shipper licensee shall report annually to the state treasurer the total  
8           of alcoholic beverages by type shipped into the state the preceding calendar year  
9           in the manner and on the forms prescribed by the state treasurer.

10          4. An out-of-state shipper licensee shall pay to the state all sales taxes and wholesale  
11          alcohol beverage taxes due from sales to residents of this state in the preceding  
12          calendar year in the manner prescribed by law. The amount of these taxes are to  
13          be calculated as if the sale were in this state at the location where delivery is  
14          made.

15          5. Upon request, an out-of-state shipper licensee shall permit the state treasurer to  
16          audit the out-of-state shipper's records.

17          6. An out-of-state shipper licensee shall file with the secretary of state an agent for  
18          the service of process and is deemed to have consented to the jurisdiction of any  
19          state or local agency and the courts of this state concerning enforcement of this  
20          chapter and any related laws, rules, or regulations.

21          **License renewal.** The out-of-state shipper may renew its license annually with the  
22          state treasurer by paying a twenty-five dollar renewal fee and providing the state treasurer a  
23          copy of its current alcoholic beverage license issued in another state.

24          **Reciprocal enforcement.** Upon notification by authorities in another state that imposes  
25          a reciprocal enforcement policy, a licensee proved to be making illegal direct shipments to  
26          consumers in that state is subject to action by the state treasurer. These actions may include a  
27          fine and a suspension or revocation of any alcoholic beverage license.

28          **Penalty.** A person who willfully violates this chapter is guilty of a class B felony. This  
29          section does not apply to a producer of alcoholic beverages holding a basic permit from the  
30          bureau of alcohol, tobacco and firearms. Upon determination by the state treasurer that a

1 holder of a federal basic permit from the bureau has made an illegal shipment to consumers in  
2 this state, the state treasurer shall notify the bureau by certified mail.

3 **SECTION 2. CONTINGENT EXEMPTION.** If Senate Bill No. 2216 is approved by the  
4 fifty-sixth legislative assembly and becomes effective, a new section to the chapter created in  
5 section 1 of this Act is created and enacted as follows:

6 **Exemption from prohibition.** Section 1 of Senate Bill No. 2216 (1999) does not apply  
7 to a person licensed under and acting in accordance with this chapter.