

HOUSE BILL NO. 1426

Introduced by

Representatives R. Kelsch, Mahoney, Poolman

Senators Heitkamp, W. Stenehjem

1 A BILL for an Act to create and enact a new section to chapter 5-01 of the North Dakota
2 Century Code, relating to business agreements between a beer brewer and wholesaler.

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

4 **SECTION 1.** A new section to chapter 5-01 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Permitted interests in wholesale business.**

- 7 1. Notwithstanding any other provision of this title, a brewer may financially assist a
8 proposed purchaser in acquiring ownership of a beer wholesaler's business by
9 participation in a limited partnership arrangement in which the brewer is a limited
10 partner and the proposed purchaser is the general partner. The limited partnership
11 arrangement may not exist for more than ten years from the date of its creation or
12 be extended or renewed by means of a transfer of full ownership to a brewer
13 followed by the creation of a new limited partnership, or by any other means. If
14 after the creation of a limited partnership under this subsection a brewer acquires
15 title to a beer wholesaler that was the subject of the limited partnership, the brewer
16 shall divest itself of the beer wholesaler within one hundred eighty days, and the
17 beer wholesaler is ineligible for limited partnership financing for twenty years after
18 that date.
- 19 2. Notwithstanding any other provision of this title, a brewer that is a limited partner
20 may financially assist a proposed purchaser in acquiring ownership of a beer
21 wholesaler's business by making a business loan to either or both the general
22 partner or the wholesaler and may take as security the inventory and assets of the
23 beer wholesaler. A financial agreement authorized by this subsection may not be
24 in effect for more than ten years from the date of its creation or be directly or

1 indirectly extended or renewed by means of a transfer of full ownership to a brewer
2 followed by the creation of a new limited partnership, or by any other means. If the
3 wholesaler defaults on the loan or requests in writing that the brewer acquire title to
4 the business or assets and the brewer subsequently acquires legal or equitable
5 title to the assets of the business, the brewer may operate the business for a
6 period not to exceed one hundred eighty days and only for the purpose of
7 facilitating an orderly transfer of the beer wholesaler to an owner not affiliated with
8 a brewer.