

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2179
(Senators Espegard, J. Lee)
(Representative Potter)

AN ACT to amend and reenact section 5-01-17 of the North Dakota Century Code, relating to domestic winery wine sales and special events; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

5-01-17. Domestic winery license.

1. The state tax commissioner may issue a domestic winery license to the owner or operator of a winery located within this state to produce wine. ~~A majority of the~~ The percentage of ingredients by volume, excluding water, of wine produced by a domestic winery, which must be grown and produced in this state must be at least ten percent in the second year of licensure, twenty percent in the third year of licensure, thirty percent in the fourth year of licensure, forty percent in the fifth year of licensure, and fifty-one percent in the sixth and subsequent years of licensure. Domestic wineries may be granted an exemption from the ~~majority~~ ingredient utilization requirement whenever the state tax commissioner determines, upon the commissioner's own motion or at the request of a domestic winery, that weather conditions, pest infestations, plant disease epidemics, or other natural causes have reduced the quantity or quality of produce grown in this state to an extent that renders compliance with the ~~majority~~ ingredient utilization requirement infeasible. The exemption is effective for one year unless the state tax commissioner issues a new exemption. A domestic winery may purchase, at wholesale or retail, brandy for use of on-premises fortification. A domestic winery license may be issued and renewed for an annual fee of one hundred dollars, which is in lieu of all other license fees required by this title.
2. ~~Before a domestic winery sells any wine, the licensee must register with the state tax commissioner, without a fee, the labels for each type or brand of wine produced.~~ A domestic winery may sell, on the winery premises, wine produced by that winery at on-sale or off-sale, in retail lots, and not for resale, in total quantities not in excess of ~~ten~~ twenty-five thousand gallons [94625 liters] in a calendar year; glassware; wine literature and accessories; cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on-sale and off-sale may be made on Sundays between twelve noon and twelve midnight. The state tax commissioner may issue special events permits for not more than ~~five~~ twenty days per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at a designated trade show, convention, festival, or a similar event approved by the state tax commissioner. The domestic winery may sell its wine to a liquor wholesaler licensed in this state and may sell or deliver its wine to persons outside the state pursuant to the laws of the place of the sale or delivery. A domestic winery may not engage in any wholesaling activities. All sales and delivery of wines to any other retail licensed premises in this state may be made only through a wholesale liquor license. A domestic winery may obtain a domestic winery license and a retailer license allowing the on-premises sale of alcoholic beverages at a restaurant owned by the licensee and located on property contiguous to the winery.

3. A domestic winery shall pay to the state the wholesaler taxes and the sales taxes on all wines sold at retail by the licensee as set forth in sections 5-03-07 and 57-39.2-03.2.
4. A domestic winery shall report quarterly or annually to the state tax commissioner the total quantity of wine sold by type and the amount of taxes due to the state in the manner and on the forms prescribed by the state tax commissioner.
5. Except as otherwise specified in this section, all provisions of this title govern the production, sale, possession, and consumption of wine produced by a domestic winery.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2179 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 68 Nays 19 Absent 7

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at ___ o'clock _____ M.

Secretary of State