

HOUSE BILL NO. 1340
with Senate Amendments
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Introduced by

Representatives Ruby, Kasper, Kempenich

Senators Fischer, J. Lee, Warner

1 A BILL for an Act to amend and reenact section 5-01-17 of the North Dakota Century Code,
2 relating to sales by a winery.

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 state tax commissioner may issue a domestic winery license to the owner or
8 operator of a winery located within this state to produce wine. The percentage of
9 ingredients by volume, excluding water, of wine produced by a domestic winery which
10 must be grown and produced in this state must be at least ten percent in the second
11 year of licensure, twenty percent in the third year of licensure, thirty percent in the
12 fourth year of licensure, forty percent in the fifth year of licensure, and fifty-one percent
13 in the sixth and subsequent years of licensure. Domestic wineries may be granted an
14 exemption from the ingredient utilization requirement whenever the state tax
15 commissioner determines, upon the commissioner's own motion or at the request of a
16 domestic winery, that weather conditions, pest infestations, plant disease epidemics,
17 or other natural causes have reduced the quantity or quality of produce grown in this
18 state to an extent that renders compliance with the ingredient utilization requirement
19 infeasible. The exemption is effective for one year unless the state tax commissioner
20 issues a new exemption. A domestic winery may purchase, at wholesale or retail,
21 brandy for use of onpremises fortification. A domestic winery license may be issued
22 and renewed for an annual fee of one hundred dollars, which is in lieu of all other
23 license fees required by this title.

- 1 2. A domestic winery may sell wine produced by that winery to end consumers at on sale
2 or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to
3 persons inside or outside of the state in a manner consistent with the laws of the place
4 of the sale or delivery in total quantities not in excess of twenty-five thousand gallons
5 [94625 liters] in a calendar year; glassware; wine literature and accessories; and
6 cheese, cheese spreads, and other snack food items. A licensee may dispense free
7 samples of the wines offered for sale. Subject to local ordinance, sales at on sale and
8 off sale may be made on Sundays between twelve noon and twelve midnight. The
9 state tax commissioner may issue special events permits for not more than twenty
10 days per calendar year to a domestic winery allowing the winery, subject to local
11 ordinance, to give free samples of its wine and to sell its wine by the glass or in closed
12 containers, at a designated trade show, convention, festival, or a similar event
13 approved by the state tax commissioner. A domestic winery may ~~not engage in any~~
14 ~~wholesaling activities. All sales and deliveries of wines to any other retail licensed~~
15 ~~premises in this state may be made only through a licensed North Dakota liquor~~
16 ~~wholesaler~~ sell to a wholesaler or directly to a retail licensee. For any month in which a
17 domestic winery has made sales to a North Dakota wholesaler, that domestic winery
18 shall file a report with the state tax commissioner no later than the last day of each
19 calendar month reporting sales made during the preceding calendar month. When the
20 last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due
21 date is the first working day thereafter.
- 22 3. A domestic winery may obtain a domestic winery license and a retailer license allowing
23 the onpremises sales of alcoholic beverages at a restaurant owned by the licensee
24 and located on property contiguous to the winery.
- 25 4. A domestic winery is subject to section 5-03-06 and shall report and pay annually to
26 the state tax commissioner the wholesaler taxes due on all wines sold by the licensee
27 at retail and direct to retail, including all wines shipped directly to consumers as set
28 forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due
29 January fifteenth of the year following the year sales were made. When the fifteenth of
30 January falls on a Saturday, Sunday, or legal holiday, the due date is the first working
31 day thereafter. The report must provide such detail and be in a format as prescribed by

- 1 the state tax commissioner. The state tax commissioner may require that the report be
- 2 submitted in an electronic format approved by the state tax commissioner.