

Introduced by

Senators Larsen, Klein, O'Connell

Representatives J. Nelson, Ruby, Streyle

1 A BILL for an Act to create and enact a new section to chapter 5-01 of the North Dakota Century
2 Code, relating to brewer taproom licenses; ~~and~~ to amend and reenact section 5-03-07 of the
3 North Dakota Century Code, relating to taxes on alcohol; and to provide for a statement of
4 legislative intent and severability.

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

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

8 **Brewer taproom license.**

9 1. The tax commissioner may issue a brewer taproom license to the owner or operator of
10 a brewery ~~located within this state to produce beer~~producing no more than twenty-five
11 thousand barrels of malt beverages annually. A brewer taproom license may be issued
12 and renewed for an annual fee of five hundred dollars, which is in lieu of all other state
13 license fees required by this title. All provisions of this chapter which apply to a retail
14 license must apply to a license issued under this section unless the provision is
15 explicitly inconsistent with this section.

16 2. A brewer holding a brewer taproom license may:

17 a. Manufacture on the licensed premises, store, transport, sell ~~to wholesale malt~~
18 beverage licensees, and export no more than twenty-five thousand barrels of
19 malt beverages annually.;

20 b. Sell malt beverages manufactured on the licensed premises for consumption on
21 the premises of the brewery or a restaurant owned by the licensee and located
22 on property contiguous to the brewery.;

1 c. Sell beer manufactured on the licensed premises for off premises consumption in
2 brewery-sealed containers of not less than twelve ounces [.36 liters] and not
3 more than 5.16 gallons [19.53 liters].

4 d. Sell and deliver beer produced by the brewery to licensed beer wholesalers.

5 e. Dispense free samples of beer offered for sale. Complimentary samples of beer
6 may not be in an amount exceeding sixteen ounces [.47 liter] per patron.:

7 ~~d.f.~~ Sell and deliver beer produced by the brewery to licensed retailers within ~~one-~~
8 hundred fifty miles [241.40 kilometers] of the brewerythe state, but only if:

9 (1) The brewer uses the brewer's own equipment, trucks, and employees to
10 deliver the beer;

11 (2) Individual deliveries, other than draft beer, are limited to the case equivalent
12 of eight barrels per day to each licensed retailer;

13 (3) The total amount of beer sold or delivered directly to all retailers does not
14 exceed ten thousand barrels per year; and

15 (4) A common carrier is not used to ship or deliver the brewery's product to the
16 public or to licensed retailers. All other sales and deliveries of beer to
17 licensed retailers in this state may be made only through a wholesaler
18 licensed in this state.

19 3. The tax commissioner may issue special event permits for not more than twenty days
20 per calendar year to a brewer taproom licensee allowing the licensee, subject to local
21 ordinance, to give free samples of its beer and to sell its beer by the glass or in closed
22 containers, at a designated trade show, convention, festival, or a similar event
23 approved by the tax commissioner.

24 4. For any month in which a brewery has made sales to a wholesaler licensed in this
25 state, that brewery shall file a report with the tax commissioner no later than the last
26 day of each calendar month reporting sales made during the preceding calendar
27 month. When the last day of the calendar month falls on a Saturday, Sunday, or legal
28 holiday, the due date is the first working day after that day.

29 5. A brewer taproom licensee is subject to section 5-03-06 and shall report and pay
30 annually to the tax commissioner the wholesaler taxes due on all beer sold by the
31 licensee at retail or to a retail licensee, including all beer sold directly to consumers as

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

7 6. A brewer may have only one taproom license and may not have an ownership interest
8 in whole or in part, or be an officer, director, agent, or employee of any other
9 manufacturer, brewer, importer, wholesaler, or retailer, or be an affiliate thereof,
10 whether the affiliation is corporate or by management, direction, or control.

11 **SECTION 2. AMENDMENT.** Section 5-03-07 of the North Dakota Century Code is amended
12 and reenacted as follows:

13 **5-03-07. Imposition of tax - Rate.**

14 A tax is hereby imposed upon all alcoholic beverage wholesalers, domestic wineries,
15 domestic distilleries, microbrew pubs, brewer taproom licensees, and direct shippers for the
16 privilege of doing business in this state. The amount of this tax shall be determined by the
17 gallonage according to the following schedule:

18 Beer in bulk containers - per wine gallon	\$.08 (.021 per liter)
19 Beer in bottles and cans - per wine gallon	.16 (.042 per liter)
20 Wine, including sparkling wine,	
21 containing less than 17% alcohol by	
22 volume - per wine gallon	.50 (.132 per liter)
23 Wine containing 17%-24% alcohol by	
24 volume - per wine gallon	.60 (.159 per liter)
25 Distilled spirits - per wine gallon	2.50 (.66 per liter)
26 Alcohol - per wine gallon	4.05 (1.07 per liter)

27 **SECTION 3. LEGISLATIVE INTENT - SEVERABILITY.** A licensee who manufactures more
28 than twenty-five thousand barrels of malt beverages annually may not use the sales and
29 distribution activities identified in section 1 of this Act. In the event that a court of competent or
30 final jurisdiction holds that any section of title 5 is unconstitutional or otherwise invalid, the
31 invalidity does not affect other provisions or applications of title 5 that can be given effect

1 without the invalid provisions or application, and to this end the provisions of title 5 are
2 severable.