

HOUSE BILL NO. 1286

Introduced by

Representatives Mock, Becker, Kasper, Keiser, O'Brien, D. Ruby

Senators Kreun, Weber

1 A BILL for an Act to amend and reenact section 5-01-19 of the North Dakota Century Code,
2 relating to domestic distilleries and satellite locations.

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

4 **SECTION 1. AMENDMENT.** Section 5-01-19 of the North Dakota Century Code is amended
5 and reenacted as follows:

6 **5-01-19. Domestic distillery.**

- 7 1. The tax commissioner may issue a domestic distillery license to the owner or operator
8 of a distillery that is located within this state which uses a majority of North Dakota
9 farm products to manufacture and sell spirits produced on the premises. A domestic
10 distillery license may be issued and renewed for an annual fee of one hundred dollars.
11 This fee is in lieu of all other license fees required by this title. The tax commissioner
12 may not issue the domestic distillery license until the applicant has established that the
13 applicant has applied for and obtained the necessary federal registrations and permits,
14 as required under the Internal Revenue Code of 1986 [26 U.S.C. 5001 et seq.] and the
15 federal Alcohol Administration Act [27 U.S.C. 203], for the operation of a distilled spirits
16 plant.
- 17 2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in
18 retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or
19 outside the state in a manner consistent with the laws of the place of the sale or
20 delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters]
21 in a calendar year. Direct sales within this state are limited to two and thirty-eight
22 hundredths gallons [9 liters] or less per month per person for personal use and not for
23 resale. The packaging must conform with the labeling requirements in section 5-01-16.
24 A licensee may dispense free samples of the spirits offered for sale. Subject to local

1 ordinance, sales at on sale and off sale may be made on Sundays between twelve
2 noon and twelve midnight. A domestic distillery may hold events inside and outside its
3 premises, but only on contiguous property under common ownership, allowing free
4 samples of its spirits and to sell its spirits by the glass or in closed containers. The tax
5 commissioner may issue event permits for not more than forty event days per calendar
6 year to a domestic distillery allowing the domestic distillery, subject to local ordinance,
7 to give free samples of its product and to sell its product by the glass or in closed
8 containers, at off-premises events. A domestic distillery may not engage in any
9 wholesaling activities. Except as provided by section 5-01-19.1, all sales and
10 deliveries of spirits to any other retail licensed premises in this state may be made only
11 through a licensed North Dakota liquor wholesaler. However, a domestic distillery may
12 sell distilled spirits to a domestic winery if the distilled spirits were produced from
13 products provided to the domestic distillery by the domestic winery. No later than the
14 last business day of a calendar month, a farm distillery that has made sales to a North
15 Dakota wholesaler during the preceding calendar month shall file a report with the tax
16 commissioner reporting those sales.

- 17 3. A domestic distillery may obtain a domestic distillery license and a retailer license
18 allowing the onpremises sale of alcoholic beverages at a restaurant owned by the
19 licensee and located on property contiguous to the domestic distillery. A domestic
20 distillery also may own or operate a winery.

- 21 4. a. As used in this subsection, "samples" means the serving of free tastings of a
22 domestic distillery's products not to exceed six ounces [0.18 liter] of spirits per
23 individual per day.
24 b. A domestic distillery may operate one satellite location in addition to its licensed
25 premises for the purpose of providing samples and on sale or off sale retail sales.
26 (1) The spirits sampled or sold at the satellite location must be produced by the
27 domestic distillery.
28 (2) A domestic distillery may not produce any spirits at the satellite location.
29 (3) A domestic distillery that is issued an event permit in accordance with
30 subsection 2 may hold an indoor or outdoor event at its satellite location at

1 which the domestic distillery may offer free samples of its spirits and may
2 sell its spirits by the glass or in closed containers.

3 (4) The satellite location must be owned or leased by the domestic distillery
4 licensee.

5 (5) A domestic distillery may not engage in wholesaling activities at its satellite
6 location.

7 c. A domestic distillery shall obtain a satellite location license from the tax
8 commissioner before operating a satellite location. The tax commissioner may
9 issue and renew a satellite location license for an annual fee of one hundred
10 dollars. This fee is in addition to all other license fees required by this title.

11 d. A domestic distillery is liable for any violation of alcohol or licensing requirements
12 committed on the premises of its satellite location.

13 5. A domestic distillery is subject to section 5-03-06 and shall report and pay annually to
14 the tax commissioner the wholesaler taxes due on all spirits sold by the licensee at
15 retail or to a retail licensee, including all spirits shipped directly to consumers as set
16 forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due
17 January fifteenth of the year following the year sales were made. The report must
18 provide the detail and be in a format as prescribed by the tax commissioner. The tax
19 commissioner may require that the report be submitted in an electronic format
20 approved by the tax commissioner.