

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1286
(Representatives Mock, Becker, Kasper, Keiser, O'Brien, D. Ruby)
(Senators Kreun, Weber)

AN ACT to create and enact section 5-01-19.2 of the North Dakota Century Code, relating to a manufacturing distillery; to provide for transition; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 5-01-19.2 of the North Dakota Century Code is created and enacted as follows:

5-01-19.2. Manufacturing distillery - Satellite locations.

1. The tax commissioner may issue a manufacturing distillery license to the owner or operator of a distillery located within this state which uses a majority of North Dakota farm products to manufacture and sell spirits produced on the premises. A manufacturing distillery license may be issued and renewed for an annual fee of one hundred dollars. This fee is in lieu of all other license fees required by this title. The tax commissioner may not issue the manufacturing distillery license until the applicant has established the applicant has applied for and obtained the necessary federal registrations and permits, as required under the Internal Revenue Code of 1986 [26 U.S.C. 5001 et seq.] and the federal Alcohol Administration Act [27 U.S.C. 203], for the operation of a distilled spirits plant.
2. A manufacturing distillery may sell spirits produced by that distillery at off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at off sale may be made on Sundays between twelve noon and twelve midnight. A manufacturing distillery may hold events inside its premises and at its satellite location. The tax commissioner may issue event permits for not more than forty event days per calendar year to a manufacturing distillery to allow the manufacturing distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers at on-premises events and at its satellite location. A manufacturing distillery may not engage in any wholesaling activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a manufacturing distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the manufacturing distillery by the domestic winery.
3.
 - a. As used in this subsection, "samples" means the serving of free tastings of a manufacturing distillery's products not to exceed six ounces [0.18 liter] of spirits per individual per day.
 - b. A manufacturing distillery may operate one satellite location in addition to its licensed premises for the purpose of providing samples and on sale or off sale retail sales.
 - (1) The spirits sampled or sold at the satellite location must be produced by the manufacturing distillery.

- (2) A manufacturing distillery may not produce any spirits at the satellite location.
- (3) An event permit issued to a manufacturing distillery in accordance with subsection 2 for an indoor or outdoor event held at its satellite location does not count towards the forty event days per calendar year allowed under subsection 2. The manufacturing distillery may offer free samples of its spirits and may sell its spirits by the glass or in closed containers at the event held at the satellite location.
- (4) The satellite location must be owned or leased by the manufacturing distillery licensee.
- (5) A manufacturing distillery may not engage in wholesaling activities at its satellite location.
- c. A manufacturing distillery shall obtain a satellite location license from the tax commissioner before operating a satellite location. The tax commissioner may issue and renew a satellite location license for an annual fee of one hundred dollars. This fee is in addition to all other license fees required by this title.
- d. A manufacturing distillery is liable for any violation of alcohol or licensing requirements committed on the premises of its satellite location.
- 4. A person may not hold a manufacturing distillery license and a domestic distillery license.
- 5. A manufacturing distillery may obtain a manufacturing distillery license and a retailer license allowing the on-premises sale of alcoholic beverages at a restaurant owned by the licensee and located at the manufacturing distillery's satellite location.
- 6. A manufacturing distillery is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all spirits sold by the licensee at retail or to a retail licensee, including all spirits shipped directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the year following the year sales were made. The report must provide the detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require the report to be submitted in an electronic format approved by the tax commissioner.

SECTION 2. TRANSITION PERIOD. After the effective date of this Act, a domestic distillery licensee may rescind a domestic distillery license and apply for and be issued a manufacturing distillery license. After August 1, 2022, a domestic distillery licensee may not be issued a manufacturing distillery license.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1286 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 93 Nays 0 Absent 1

Speaker of the House

Chief Clerk of the House

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

Vote: Yeas 40 Nays 6 Absent 1

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,
at _____ o'clock _____ M.

Secretary of State