

Introduced by

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

Senators Kreun, Weber

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

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

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

6 **5-01-19.2. Manufacturing distillery - Satellite locations.**

7 1. The tax commissioner may issue a manufacturing distillery license to the owner or
8 operator of a distillery located within this state which uses a majority of North Dakota
9 farm products to manufacture and sell spirits produced on the premises. A
10 manufacturing distillery license may be issued and renewed for an annual fee of one
11 hundred dollars. This fee is in lieu of all other license fees required by this title. The tax
12 commissioner may not issue the manufacturing distillery license until the applicant has
13 established the applicant has applied for and obtained the necessary federal
14 registrations and permits, as required under the Internal Revenue Code of 1986
15 [26 U.S.C. 5001 et seq.] and the federal Alcohol Administration Act [27 U.S.C. 203], for
16 the operation of a distilled spirits plant.

17 2. A manufacturing distillery may sell spirits produced by that distillery at off sale, in retail
18 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 off sale may be made on Sundays between twelve noon and
2 twelve midnight. A manufacturing distillery may hold events inside its premises and at
3 its satellite location. The tax commissioner may issue event permits for not more than
4 forty event days per calendar year to a manufacturing distillery to allow the
5 manufacturing distillery, subject to local ordinance, to give free samples of its product
6 and to sell its product by the glass or in closed containers at on-premises events and
7 at its satellite location. A manufacturing distillery may not engage in any wholesaling
8 activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to
9 any other retail licensed premises in this state may be made only through a licensed
10 North Dakota liquor wholesaler. However, a manufacturing distillery may sell distilled
11 spirits to a domestic winery if the distilled spirits were produced from products
12 provided to the manufacturing distillery by the domestic winery.

- 13 3. a. As used in this subsection, "samples" means the serving of free tastings of a
14 manufacturing distillery's products not to exceed six ounces [0.18 liter] of spirits
15 per individual per day.
- 16 b. A manufacturing distillery may operate one satellite location in addition to its
17 licensed premises for the purpose of providing samples and on sale or off sale
18 retail sales.
- 19 (1) The spirits sampled or sold at the satellite location must be produced by the
20 manufacturing distillery.
- 21 (2) A manufacturing distillery may not produce any spirits at the satellite
22 location.
- 23 (3) An event permit issued to a manufacturing distillery in accordance with
24 subsection 2 for an indoor or outdoor event held at its satellite location does
25 not count towards the forty event days per calendar year allowed under
26 subsection 2. The manufacturing distillery may offer free samples of its
27 spirits and may sell its spirits by the glass or in closed containers at the
28 event held at the satellite location.
- 29 (4) The satellite location must be owned or leased by the manufacturing
30 distillery licensee.

1 (5) A manufacturing distillery may not engage in wholesaling activities at its
2 satellite location.

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

7 d. A manufacturing distillery is liable for any violation of alcohol or licensing
8 requirements committed on the premises of its satellite location.

9 4. A person may not hold a manufacturing distillery license and a domestic distillery
10 license.

11 5. A manufacturing distillery may obtain a manufacturing distillery license and a retailer
12 license allowing the on-premises sale of alcoholic beverages at a restaurant owned by
13 the licensee and located at the manufacturing distillery's satellite location.

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

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

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