

**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.~~ for an Act to create and enact section  
3 5-01-19.2 of the North Dakota Century Code, relating to a manufacturing distillery; and to  
4 provide for transition.

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

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

8 ~~— **5-01-19. Domestic distillery.**~~

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

19 ~~— 2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in~~  
20 ~~retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or~~  
21 ~~outside the state in a manner consistent with the laws of the place of the sale or~~  
22 ~~delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters]~~  
23 ~~in a calendar year. Direct sales within this state are limited to two and thirty-eight~~  
24 ~~hundredths gallons [9 liters] or less per month per person for personal use and not for~~

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

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

23 ~~4. a. As used in this subsection, "samples" means the serving of free tastings of a~~  
24 ~~domestic distillery's products not to exceed six ounces [0.18 liter] of spirits per~~  
25 ~~individual per day.~~

26 ~~b. A domestic distillery may operate one satellite location in addition to its licensed~~  
27 ~~premises for the purpose of providing samples and on-sale or off-sale retail sales.~~

28 ~~(1) The spirits sampled or sold at the satellite location must be produced by the~~  
29 ~~domestic distillery.~~

30 ~~(2) A domestic distillery may not produce any spirits at the satellite location.~~

1 ~~(3) A domestic distillery that is issued an event permit in accordance with~~  
2 ~~subsection 2 may hold an indoor or outdoor event at its satellite location at~~  
3 ~~which the domestic distillery may offer free samples of its spirits and may~~  
4 ~~sell its spirits by the glass or in closed containers.~~

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

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

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

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

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

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

25 **5-01-19.2. Manufacturing distillery - Satellite locations.**

26 1. The tax commissioner may issue a manufacturing distillery license to the owner or  
27 operator of a distillery located within this state which uses a majority of North Dakota  
28 farm products to manufacture and sell spirits produced on the premises. A  
29 manufacturing distillery license may be issued and renewed for an annual fee of one  
30 hundred dollars. This fee is in lieu of all other license fees required by this title. The tax  
31 commissioner may not issue the manufacturing distillery license until the applicant has

1 established the applicant has applied for and obtained the necessary federal  
2 registrations and permits, as required under the Internal Revenue Code of 1986  
3 [26 U.S.C. 5001 et seq.] and the federal Alcohol Administration Act [27 U.S.C. 203], for  
4 the operation of a distilled spirits plant.

5 2. A manufacturing distillery may sell spirits produced by that distillery at off sale, in retail  
6 lots, and not for resale, and may sell or direct ship its spirits to persons inside or  
7 outside the state in a manner consistent with the laws of the place of the sale or  
8 delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters]  
9 in a calendar year. Direct sales within this state are limited to two and thirty-eight  
10 hundredths gallons [9 liters] or less per month per person for personal use and not for  
11 resale. The packaging must conform with the labeling requirements in section 5-01-16.  
12 A licensee may dispense free samples of the spirits offered for sale. Subject to local  
13 ordinance, sales at off sale may be made on Sundays between twelve noon and  
14 twelve midnight. The tax commissioner may issue event permits for not more than  
15 forty event days per calendar year to a manufacturing distillery to allow the  
16 manufacturing distillery, subject to local ordinance, to give free samples of its product  
17 and to sell its product by the glass or in closed containers at off-premises events at a  
18 satellite location. A manufacturing distillery may not engage in any wholesaling  
19 activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to  
20 any other retail licensed premises in this state may be made only through a licensed  
21 North Dakota liquor wholesaler. However, a manufacturing distillery may sell distilled  
22 spirits to a domestic winery if the distilled spirits were produced from products  
23 provided to the manufacturing distillery by the domestic winery.

24 3. a. As used in this subsection, "samples" means the serving of free tastings of a  
25 manufacturing distillery's products not to exceed six ounces [0.18 liter] of spirits  
26 per individual per day.

27 b. A manufacturing distillery may operate one satellite location in addition to its  
28 licensed premises for the purpose of providing samples and on sale or off sale  
29 retail sales.

30 (1) The spirits sampled or sold at the satellite location must be produced by the  
31 manufacturing distillery.

1 (2) A manufacturing distillery may not produce any spirits at the satellite  
2 location.

3 (3) A manufacturing distillery that is issued an event permit in accordance with  
4 subsection 2 may hold an indoor or outdoor event at its satellite location at  
5 which the manufacturing distillery may offer free samples of its spirits and  
6 may sell its spirits by the glass or in closed containers.

7 (4) The satellite location must be owned or leased by the manufacturing  
8 distillery licensee.

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

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

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

17 4. A person may not hold a manufacturing distillery license and a domestic distillery  
18 license.

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

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

30 **SECTION 2. TRANSITION PERIOD.** On or before August 1, 2022, a domestic distillery  
31 licensee rescind a domestic distillery license and apply for and be issued a manufacturing

- 1 distillery license. After August 1, 2022, a domestic distillery licensee may not be issued a
- 2 manufacturing distillery license.