

ALCOHOLIC BEVERAGES

CHAPTER 104

H. B. No. 643
(Wheeler)

REGULATE AND LICENSE BOTTLE CLUBS

AN ACT

To regulate and license bottle clubs in this state, and providing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. License and Regulation of Bottle Clubs—Definition—Penalty.) All bottle clubs shall be licensed by a political subdivision in the same manner and for the same fee as is provided in section 5-03-03 for the licensing of persons engaging in the retail sale of liquor. In addition, a bottle club shall also be licensed annually by the attorney general, who may prescribe such standards and qualifications for such license as he may deem necessary. The fee for the license issued by the attorney general shall be one hundred dollars annually.

It shall be unlawful for any bottle club to permit the consumption, dispensing, or serving of alcoholic beverages or soft drinks or mixes for alcoholic beverages or do any other act until the licenses provided by this section have been procured. In addition, it shall also be unlawful for any bottle club to allow any person under the age of twenty-one to purchase or consume any alcoholic beverage or soft drink or be in any room of any bottle club in which any alcoholic beverage is served or consumed.

All moneys received by the attorney general from the issuance of licenses to bottle clubs as provided in this section shall be transferred by him to the state treasurer and deposited in the general fund.

For purposes of this section a "bottle club" shall mean and include any establishment, public or private, which for a fee or consideration of any kind furnishes soft drinks, mix, ice, or any other service for the mixing thereof with any alcoholic beverage brought on the premises or which permits persons to bring alcoholic beverages on the premises for their own use and consumption or which permits the storage of alcoholic beverages on the premises for later use.

It shall be unlawful for any bottle club to sell or give away at any time any alcoholic beverage of any kind.

Any person violating any of the provisions of this section may have his license suspended or revoked as provided by section 5-03-20 or chapter 5-05 and in addition, such person shall be guilty of a misdemeanor.

Approved March 3, 1961.

CHAPTER 105

S. B. No. 94

(Meidinger, Nesvig, Wartner, Van Horn)

MANUFACTURE AND SALE OF BEER

AN ACT

To amend and reenact section 5-02-01 of the North Dakota Century Code, relating to the manufacturing and sale of beer.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 5-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-01. Manufacture and Sale of Beer Permitted.) Beer and ale containing four percent, or more, or less, of alcohol by weight, may be manufactured or sold in this state subject to the provisions of this chapter and chapter 5-05.

Approved March 3, 1961.

CHAPTER 106

S. B. No. 95

(Foss)

TAX ON SALE OF BEER AND LIQUOR

AN ACT

To amend and reenact sections 5-02-22 and 5-03-22 of the North Dakota Century Code, relating to the imposition of taxes on the sale of beer and liquor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 5-02-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-22. Separate Additional Tax on Sale of Beer—Collection—Penalty.) There hereby is levied and assessed and there shall be collected by the state treasurer for the general fund upon all beer sold in bottles or cans in North Dakota to consumers, an additional tax, separate and apart from all other taxes, of one cent per pint or a pro rata proportion thereof in accordance with the size of the container. This additional tax shall be collected as existing taxes on such beer are or hereafter may be collected, and shall be subject to similar accounting procedures, but no part of the revenue from this tax shall ever be used as such to satisfy any statutory allocation of beer tax revenues; provided, however, that this section, and the provisions thereof shall expire by their own limitation on July 1, 1967. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

§ 2. Amendment.) Section 5-03-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-03-22. Separate and Additional Taxes on the Sale of Liquor—Collection—Penalty.) 1. There hereby is levied and assessed and there shall be collected by the proper officer and paid to the state treasurer for the general fund upon all sales at wholesale of beer, malt, and ale containing more than four percent alcohol by weight, a tax, separate and apart from all other taxes, of four cents per gallon. There hereby is levied and assessed and there shall be collected and paid to the state treasurer for the general fund upon all sales at wholesale of alcoholic beverages, other than malt beverages, containing more than four percent of alcohol by weight but less than twenty-four percent of alcohol by weight, an additional tax, separate and apart from all other taxes, equal to the sum of twenty cents per gallon, and upon all sales at wholesale of alcoholic beverages containing twenty-four percent or more of alcohol by weight, an additional tax, separate and apart from all other taxes, equal to the sum of eighty cents per gallon. All such taxes shall be added to the sale price of merchandise sold to retailers and shall be collected as existing wholesale liquor transaction taxes are or hereafter may be collected, subject to similar accounting procedures, but no part of the revenue from the taxes hereby imposed shall ever be used as such to satisfy any statutory allocation of malt beverage or liquor tax revenues; provided, however, that this section and the provisions thereof shall expire by their own limitation on July 1, 1967.

2. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Approved March 15, 1961.

CHAPTER 107

S. B. No. 219
(Wartner, Brooks, Garaas)

LEVY AND COLLECTION OF EXCISE TAXES

AN ACT

To amend and reenact sections 5-03-06, 5-03-08, 5-03-09, 5-03-14, 5-03-21 and 5-04-03 of the North Dakota Century Code, and to repeal section 5-03-07 of the North Dakota Century Code, and to enact supplemental sections, relating to levy and collection of excise taxes on alcoholic beverages, providing for the elimination of the use of excise tax stamps and the inauguration of a monthly return system to pay such taxes and providing for an effective date.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 5-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-03-06. Exemption from Tax.) The taxes levied by this chapter shall not apply to one wine gallon or less of alcoholic beverages brought into North Dakota from foreign countries by any one person for his personal use and not for resale.

§ 2. **Repeal.)** Section 5-03-07 of the North Dakota Century Code is hereby repealed.

§ 3. **Amendment.)** Section 5-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-03-08. Licensed Liquor Dealers' Reports.) All wholesale liquor dealers liable for any tax imposed by this chapter shall keep, in current and available form on the licensed premises, records of all purchases, sales, quantities on hand, and such other information as the state treasurer may by regulations prescribe. The state treasurer may require from any licensed wholesale or retail liquor dealer in North Dakota any reports as the state treasurer shall prescribe, and he may require the production of any book, record, document, invoice, and voucher kept, maintained, received, or issued by any such licensed dealer in connection with his business which in the judgment of the state treasurer may be necessary to administer and discharge his duties as custodian of the liquor fund and to secure the maximum of revenue to be paid into said liquor fund, and to carry out the provisions of law. If default is made, or if any such licensee shall fail or refuse to furnish any of the reports or information referred to upon request therefor, the state treasurer, or any of his duly appointed representatives,

may enter upon the premises of such licensee where said records are kept and make such examination as is necessary to compile the required report. The cost of such examination shall be paid by the dealer whose reports are in default.

§ 4. Amendment.) Section 5-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***5-03-09. Disposition of Tax Moneys.)** All moneys received representing the excise tax herein provided for shall be deposited into the general fund of this state.

§ 5. Amendment.) Section 5-03-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-03-14. Payment of Taxes—Wholesale Dealers File Returns and Copies of Invoices.) The taxes levied by this chapter upon alcoholic beverages shall be paid by the wholesale dealer by whom such beverages are sold. Such taxes shall be paid only once. On or before the fifteenth day of every month, every licensed wholesale liquor dealer shall file with the state treasurer a return, on such form as the state treasurer may require, showing the kind and quantity of alcoholic beverages received, disposed of, and on hand during the preceding calendar month, the persons from whom received, the amount of tax due, and containing such other information as the state treasurer shall by regulation prescribe. Such return shall be accompanied by copies of all invoices of liquor sold during the preceding calendar month. Such invoices shall show the name and address of the purchaser, the date of sale, the sale price of the merchandise sold, the kind of merchandise, the number and size of containers, and the wholesaler is required to remit with such return the amount of the tax due during the period covered by the transmitted return.

§ 6. Amendment.) Section 5-03-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-03-21. Penalty.) Any person violating any of the provisions of this chapter for which a specific penalty is not provided as a first offense shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment. Any subsequent offense shall be punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. If the person

***Note:** Section 5-03-09 was also amended by section 2 of chapter 211 of the 1961 Session Laws; however the section reads identically the same in both amendments.

so convicted is the holder of a license, the same shall be revoked by the governing body issuing the same, and such conviction shall be sufficient evidence and ground for such revocation.

§ 7. Enact.) Bond to Secure Payment of Tax.) Any wholesale liquor dealer liable for the payment of any taxes levied by this chapter shall file with the state treasurer a bond or bonds, in such amount and form as the state treasurer shall prescribe, with surety satisfactory to the state treasurer, but not more than fifty thousand dollars. Such bond or bonds shall run to the state of North Dakota and shall be conditioned on the payment of all taxes levied by this chapter on or before the due date of payment, and on the payment of all fines and penalties lawfully imposed by reason of failure to pay any such taxes on the date payment is due.

§ 8. Enact.) Penalty for Not Filing—For False or Fraudulent Return.)

1. If any wholesale liquor dealer liable for any tax imposed by this chapter shall fail to pay such tax on the date payment is due, there shall be added to the tax five percent per month of the total amount of the tax unpaid from the due date of payment until paid. If any wholesale liquor dealer shall file a false or fraudulent return, there shall be added to the tax an amount equal to the tax evaded, or attempted to be evaded, and all such taxes and civil penalties may be collected by assessment and distraint, and no court of this state shall enjoin the collection of any such tax or civil penalty.
2. Any wholesale liquor dealer required by this chapter to make, render, sign, or verify any return who shall fail to make such return when due shall also be guilty of a misdemeanor and upon conviction be punished by a fine of not less than one thousand dollars nor more than five thousand dollars or by imprisonment in the county jail for not less than ninety days nor more than one year, or by both such fine and imprisonment. Any person who shall file a false or fraudulent return in connection with any tax imposed by this chapter, or willfully evade, or attempt to evade, any tax herein levied shall upon conviction be fined not more than five thousand dollars, or imprisoned for not more than three years, or both such fine and imprisonment.

§ 9. Amendment.) Section 5-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-04-03. Wholesaler's Report—Revenue to go into Revolving Fund.) Any wholesaler selling to any such carrier shall

report such sale as in the case of other sales of intoxicating liquors. The revenue realized from the sale of intoxicating liquors, sold under the provisions of this chapter, shall be deposited into the general fund.

§ 10. Credit for Returned Stamps.) The state treasurer shall allow proper credit to the purchaser of excise tax stamps purchased under the provisions of chapters 5-03 and 5-04 of the North Dakota Century Code and supplements thereto for unused stamps in the possession of the purchaser on the effective date of this Act upon delivery of such unused stamps to the state treasurer.

§ 11. Effective Date.) The provisions of this Act shall become effective on and after October 1, 1961.

Approved March 17, 1961.