

Fifty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2179

Introduced by

Senators Espegard, J. Lee

Representative Potter

1 A BILL for an Act to amend and reenact section 5-01-17 of the North Dakota Century Code,
2 relating to a domestic winery license; and to declare an emergency.

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

4 **SECTION 1. AMENDMENT.** Section 5-01-17 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **5-01-17. Domestic winery license.**

- 7 1. The state tax commissioner may issue a domestic winery license to the owner or
8 operator of a winery located within this state to produce wine. A majority of the
9 ingredients by volume, excluding water, of wine produced by a domestic winery,
10 must be grown and produced in this state. Domestic wineries ~~may be granted an~~
11 ~~exemption~~ are exempt from the majority ingredient utilization requirement
12 ~~whenever the state tax commissioner determines, upon the commissioner's own~~
13 ~~motion or at the request of a domestic winery, that weather conditions, pest~~
14 ~~infestations, plant disease epidemics, or other natural causes have reduced the~~
15 ~~quantity or quality of produce for a particular type of wine if the tax commissioner~~
16 ~~determines an ingredient grown in this state to an extent that renders compliance~~
17 ~~with the majority ingredient utilization requirement infeasible~~ is not available to
18 make that type of wine. The exemption is effective for one year unless the state
19 tax commissioner issues a new exemption. A domestic winery may purchase, at
20 wholesale or retail, brandy for use of on-premises fortification. A domestic winery
21 license may be issued and renewed for an annual fee of one hundred dollars,
22 which is in lieu of all other license fees required by this title.
- 23 2. Before a domestic winery sells any wine, the licensee must register with the state
24 tax commissioner, without a fee, the labels for each type or brand of wine

1 produced. A domestic winery may sell, on the winery premises, wine produced by
2 that winery at on-sale or off-sale, in retail lots, and not for resale, in total quantities
3 not in excess of ~~ten~~ twenty-five thousand gallons [94625 liters] in a calendar year;
4 glassware; wine literature and accessories; cheese, cheese spreads, and other
5 snack food items. A licensee may dispense free samples of the wines offered for
6 sale. Subject to local ordinance, sales at on-sale and off-sale may be made on
7 Sundays between twelve noon and twelve midnight. The state tax commissioner
8 may issue special events permits for not more than ~~five~~ twenty days per calendar
9 year to a domestic winery allowing the winery, subject to local ordinance, to give
10 free samples of its wine and to sell its wine by the glass or in closed containers, at
11 a designated trade show, convention, festival, or a similar event approved by the
12 state tax commissioner. The domestic winery may sell its wine to a liquor
13 wholesaler licensed in this state and may sell or deliver its wine to persons outside
14 the state pursuant to the laws of the place of the sale or delivery. ~~A domestic~~
15 ~~winery may not engage in any wholesaling activities. All sales and delivery of~~
16 ~~wines to any other retail licensed premises in this state may be made only through~~
17 ~~a wholesale liquor license. Notwithstanding any other provision of law, a domestic~~
18 ~~winery may sell directly to a person with a retail license.~~ A domestic winery may
19 obtain a domestic winery license and a retailer license allowing the on-premises
20 sale of alcoholic beverages at a restaurant owned by the licensee and located on
21 property contiguous to the winery.

- 22 3. A domestic winery shall pay to the state the wholesaler taxes on wine sold directly
23 to a retailer and the wholesale taxes and the sales taxes on all wines sold at retail
24 by the licensee as set forth in sections 5-03-07 and 57-39.2-03.2.
- 25 4. A domestic winery shall report quarterly or annually to the state tax commissioner
26 the total quantity of wine sold by type and the amount of taxes due to the state in
27 the manner and on the forms prescribed by the state tax commissioner.
- 28 5. Except as otherwise specified in this section, all provisions of this title govern the
29 production, sale, possession, and consumption of wine produced by a domestic
30 winery.

31 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.