

Introduced by

Senators Epegard, 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 domestic winery wine sales and special events; 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 The percentage of ingredients by volume, excluding water, of wine produced by a
10 domestic winery; which must be grown and produced in this state must be at least
11 ten percent in the second year of licensure, twenty percent in the third year of
12 licensure, thirty percent in the fourth year of licensure, forty percent in the fifth year
13 of licensure, and fifty-one percent in the sixth and subsequent years of licensure.
14 Domestic wineries may be granted an exemption from the ~~majority~~ ingredient
15 utilization requirement whenever the state tax commissioner determines, upon the
16 commissioner's own motion or at the request of a domestic winery, that weather
17 conditions, pest infestations, plant disease epidemics, or other natural causes
18 have reduced the quantity or quality of produce grown in this state to an extent that
19 renders compliance with the ~~majority~~ ingredient utilization requirement infeasible.
20 The exemption is effective for one year unless the state tax commissioner issues a
21 new exemption. A domestic winery may purchase, at wholesale or retail, brandy
22 for use of on-premises fortification. A domestic winery license may be issued and
23 renewed for an annual fee of one hundred dollars, which is in lieu of all other
24 license fees required by this title.

- 1 2. ~~Before a domestic winery sells any wine, the licensee must register with the state~~
2 ~~tax commissioner, without a fee, the labels for each type or brand of wine~~
3 ~~produced.~~ A domestic winery may sell, on the winery premises, wine produced by
4 that winery at on-sale or off-sale, in retail lots, and not for resale, in total quantities
5 not in excess of ~~ten~~ twenty-five thousand gallons [94625 liters] in a calendar year;
6 glassware; wine literature and accessories; cheese, cheese spreads, and other
7 snack food items. A licensee may dispense free samples of the wines offered for
8 sale. Subject to local ordinance, sales at on-sale and off-sale may be made on
9 Sundays between twelve noon and twelve midnight. The state tax commissioner
10 may issue special events permits for not more than ~~five~~ twenty days per calendar
11 year to a domestic winery allowing the winery, subject to local ordinance, to give
12 free samples of its wine and to sell its wine by the glass or in closed containers, at
13 a designated trade show, convention, festival, or a similar event approved by the
14 state tax commissioner. The domestic winery may sell its wine to a liquor
15 wholesaler licensed in this state and may sell or deliver its wine to persons outside
16 the state pursuant to the laws of the place of the sale or delivery. A domestic
17 winery may not engage in any wholesaling activities. All sales and delivery of
18 wines to any other retail licensed premises in this state may be made only through
19 a wholesale liquor license. A domestic winery may obtain a domestic winery
20 license and a retailer license allowing the on-premises sale of alcoholic beverages
21 at a restaurant owned by the licensee and located on property contiguous to the
22 winery.
- 23 3. A domestic winery shall pay to the state the wholesaler taxes and the sales taxes
24 on all wines sold at retail by the licensee as set forth in sections 5-03-07 and
25 57-39.2-03.2.
- 26 4. A domestic winery shall report quarterly or annually to the state tax commissioner
27 the total quantity of wine sold by type and the amount of taxes due to the state in
28 the manner and on the forms prescribed by the state tax commissioner.
- 29 5. Except as otherwise specified in this section, all provisions of this title govern the
30 production, sale, possession, and consumption of wine produced by a domestic
31 winery.

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