

Sixty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1343

Introduced by

Representatives Boschee, Beadle, Dobervich, Kasper, D. Ruby, Sukut

Senators Burckhard, Casper, Heckaman, Marcellais, Roers

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 ingredient utilization requirements and special event permits.

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 amended
5 and reenacted as follows:

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

7 1. The tax commissioner may issue a domestic winery license to the owner or operator of
8 a winery located within this state to produce wine. ~~The percentage of ingredients by~~
9 ~~volume, excluding water, of wine produced by a domestic winery which must be grown~~
10 ~~and produced in this state must be at least ten percent in the second year of licensure,~~
11 ~~twenty percent in the third year of licensure, thirty percent in the fourth year of~~
12 ~~licensure, forty percent in the fifth year of licensure, and fifty-one percent in the sixth~~
13 ~~and subsequent years of licensure. Domestic wineries may be granted an exemption~~
14 ~~from the ingredient utilization requirement whenever the state tax commissioner~~
15 ~~determines, upon the commissioner's own motion or at the request of a domestic~~
16 ~~winery, that weather conditions, pest infestations, plant disease epidemics, or other~~
17 ~~natural causes have reduced the quantity or quality of produce grown in this state to~~
18 ~~an extent that renders compliance with the ingredient utilization requirement infeasible.~~
19 ~~The exemption is effective for one year unless the tax commissioner issues a new~~
20 ~~exemption~~A domestic winery is not precluded from retailing alcoholic beverages
21 regardless of source in accordance with state and local licensing requirements. A
22 domestic winery may purchase, at wholesale or retail, brandy for use of on premises
23 fortification. A domestic winery license may be issued and renewed for an annual fee
24 of one hundred dollars, which is in lieu of all other license fees required by this title.

- 1 2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail
2 lots, and not for resale, and may sell or direct ship its wine to persons inside or outside
3 of the state in a manner consistent with the laws of the place of the sale or delivery in
4 total quantities not in excess of twenty-five thousand gallons [94625 liters] in a
5 calendar year; glassware; wine literature and accessories; and cheese, cheese
6 spreads, and other snack food items. A licensee may dispense free samples of the
7 wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be
8 made on Sundays between twelve noon and twelve midnight. The tax commissioner
9 may issue special events permits ~~for not more than twenty events per calendar year to~~
10 a domestic winery allowing the winery, subject to local ordinance, to give free samples
11 of its wine and to sell its wine by the glass or in closed containers, at off-premises
12 events. To participate in a pride of Dakota event sponsored by the department of
13 agriculture, a domestic winery shall obtain a special events permit. ~~Participation by a~~
14 ~~domestic winery in a pride of Dakota event sponsored by the department of agriculture~~
15 ~~does not count against the twenty special events limitation.~~ A domestic winery may not
16 engage in any wholesaling activities. All sales and deliveries of wines to any other
17 retail licensed premises in this state may be made only through a licensed North
18 Dakota liquor wholesaler. For any month in which a domestic winery has made sales
19 to a North Dakota wholesaler, that domestic winery shall file a report with the tax
20 commissioner no later than the last day of each calendar month reporting sales made
21 during the preceding calendar month. When the last day of the calendar month falls on
22 a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.
- 23 3. A domestic winery may obtain a domestic winery license and a retailer license allowing
24 the onpremises sales of alcoholic beverages at a restaurant owned by the licensee
25 and located on property contiguous to the winery.
- 26 4. A domestic winery is subject to section 5-03-06 and shall report and pay annually to
27 the tax commissioner the wholesaler taxes due on all wines sold by the licensee at
28 retail, including all wines shipped directly to consumers as set forth in sections 5-03-07
29 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the
30 year following the year sales were made. When the fifteenth of January falls on a
31 Saturday, Sunday, or legal holiday, the due date is the first working day thereafter. The

- 1 report must provide such detail and be in a format as prescribed by the tax
- 2 commissioner. The tax commissioner may require that the report be submitted in an
- 3 electronic format approved by the tax commissioner.