

Sixty-eighth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1504**

Introduced by

Representatives Hagert, D. Anderson, Christensen, Mock, Ostlie

Senators Conley, Larsen

A BILL for an Act to create and enact ~~a new section to chapter 5-03 and~~ a new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to ~~an alcoholic beverage tax credit for qualified microbrew pubs and brewer taproom licensees for barley purchases and~~ an income tax credit for qualified brewers for barley purchases; to provide an effective date; and to provide an expiration date.

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

~~**SECTION 1.** A new section to chapter 5-03 of the North Dakota Century Code is created and enacted as follows:~~

~~**North Dakota barley tax credit - Verification.**~~

- ~~1. A microbrew pub or brewer taproom licensee that produces beer subject to the tax in section 5-03-07 and purchases more than forty percent of the licensee's total annual barley purchases from a farmer or supplier in this state is entitled to a tax credit against the tax liability under section 5-03-07 equal to fifteen percent of the amount of tax imposed on beer sold by the microbrew pub or brewer taproom licensee to wholesalers in this state.~~
- ~~2. To apply for the credit, the microbrew pub or brewer taproom licensee annually shall sign and file with the tax commissioner an application containing a verified statement of facts establishing the applicant's qualifications for the credit under this section and any other information prescribed by the tax commissioner.~~
- ~~3. At the request of the tax commissioner, the microbrew pub or brewer taproom licensee shall provide documentation to the tax commissioner to verify eligibility for the credit, including records and accounts of the microbrew pub or brewer taproom licensee pertaining to barley purchases.~~

~~4. The tax commissioner shall prescribe, design, and make available all forms necessary to effectuate this section.~~

**SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**North Dakota barley tax credit for brewers - Verification.**

1. A brewer that produces beer and purchases more than forty percent of the brewer's total annual barley purchases from a farmer or supplier in this state is entitled to a tax credit against the tax liability under section 57-38-30 and 57-38-30.3 equal to ~~fifteen~~five percent of the ~~amount of tax that would be imposed on beer sold by the brewer to a wholesaler in this state if the beer was subject to the tax in section 5-03-07~~cost of the barley purchased from a farmer or supplier in this state. The maximum credit allowed for each eligible brewer under this section for the taxable year is fifty thousand dollars.

2. For purposes of this section, ~~a "brewer":~~

a. "Brewer" means a ~~licensed~~ brewer ~~or importer~~ of beer licensed under chapter 5-01 or a supplier of beer licensed under chapter 5-03 which is located within or outside this state ~~who enters an agreement with any beer wholesaler licensed to do business in this state.~~

b. "Purchase" does not include any expense incurred by the purchaser to complete the sale, including:

(1) Transportation or delivery costs;

(2) Service fees;

(3) Taxes; or

(4) Any other expense incurred by the purchaser that is necessary to complete the sale.

3. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for the taxable year. Any credit amount exceeding the limitation in this subsection for the taxable year may not be claimed as a carryback or carryforward.

4. ~~To apply for the credit, the~~A passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section and the amount of

1           the credit allowed must be determined at the passthrough entity level. The amount of  
2           the total credit determined at the passthrough entity level must be allowed to the  
3           partners, shareholders, or members in proportion to their respective interests in the  
4           passthrough entity.

5           5. The brewer ~~annually~~ shall ~~sign and~~ file the following information for purposes of  
6           verification of eligibility for the credit under this section with the ~~tax commissioner an~~  
7           ~~application containing a verified statement of facts establishing the applicant's~~  
8           ~~qualifications for the credit under this section and any~~ brewer's return:

9           a. The name and address of each barley farmer or supplier from which the brewer  
10           purchased barley;

11           b. The brewer's license number issued under chapter 5-01 or 5-03;

12           c. The brewer's total annual purchases of barley;

13           d. The total amount of barley purchased from a farmer or supplier located in this  
14           state; and

15           e. Any other information prescribed by the tax commissioner.

16           ~~5. At the request of the tax commissioner, the brewer shall provide documentation to the~~  
17           ~~tax commissioner to verify eligibility for the credit, including records and accounts of~~  
18           ~~the brewer pertaining to barley purchases.~~

19           6. The tax commissioner shall prescribe, design, and make available all forms necessary  
20           to effectuate this section.

21           **SECTION 2.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota  
22 Century Code is created and enacted as follows:

23           North Dakota barley tax credit for brewers under section 1 of this Act.

24           **SECTION 3. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for the first two  
25 taxable years beginning after December 31, 2022, and after that date is ineffective.