

SENATE BILL NO. 2376

Introduced by

Senators J. Lee, Fischer, Trenbeath

Representative N. Johnson

1 A BILL for an Act to amend and reenact section 5-01-16 of the North Dakota Century Code,
2 relating to the direct sale of alcoholic beverages.

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

4 **SECTION 1. AMENDMENT.** Section 5-01-16 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **5-01-16. Direct sale from out-of-state seller to consumer - Penalty.**

- 7 1. ~~No~~ A person in the business of selling alcoholic beverages may not knowingly or
8 intentionally ship, or cause to be shipped, any alcoholic beverage from an
9 out-of-state location directly to a person in this state who is not a wholesaler.
- 10 2. ~~No~~ A person in the business of transporting goods may not knowingly or
11 intentionally transport any alcoholic beverage, from an out-of-state location of a
12 person in the business of selling alcoholic beverages, directly to a person in this
13 state who is not a wholesaler.
- 14 3. For a first violation of subsection 1 or 2, the state tax commissioner shall notify, by
15 certified mail, the violator and order that person to cease and desist any shipment
16 of alcoholic beverages in violation of subsection 1 or 2. The second violation of
17 subsection 1 or 2 is a class A misdemeanor and a third and subsequent violation is
18 a class C felony.
- 19 4. The alcoholic beverage transported in violation of this section and the vehicle used
20 in violation of this section are forfeitable property under chapter 29-31.1.
- 21 5. This section does not apply to a transaction in which an individual twenty-one
22 years of age or older who imports or transports into this state 47.85 gallons [180
23 liters] or less of wine per year, or 2.38 gallons [9 liters] or less of liquor, not
24 including wine, or two hundred eighty-eight fluid ounces [8517.18 milliliters] or less

1 of beer per month. The liquor or beer must be for personal use and not for resale
2 from a person holding a valid manufacturer's or retailer's license issued by the
3 state of its domicile. ~~Every package of alcoholic beverages shipped directly to an~~
4 ~~individual in this state must be labeled with conspicuous words "SIGNATURE OF~~
5 ~~PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".~~ A shipper shall
6 ~~obtain the signature of an individual twenty-one years of age or older before~~
7 ~~delivering any alcoholic beverages shipped directly to an individual in this state. A~~
8 ~~manufacturer or retailer~~ direct shipper selling or shipping alcoholic beverages
9 under this subsection shall ~~obtain a direct shipping permit from~~ report to the state
10 tax commissioner and ~~pay an annual fee of fifty dollars within thirty days of making~~
11 ~~the first shipment. A direct shipper~~ the name and address of each recipient, and
12 the amount and type of alcoholic beverage shipped. The recipient of the shipment
13 shall pay the wholesaler and retailer taxes to the state tax commissioner on all
14 alcoholic beverages ~~sold to residents~~ received in this state at the rates set forth in
15 sections 5-03-07 and 57-39.2-03.2. ~~A direct shipper shall file reports with the state~~
16 ~~tax commissioner showing for each shipment, the quantity sold, the date shipped,~~
17 ~~and the amount of tax due the state.~~ A direct shipper is subject to section 5-03-06.
18 The state tax commissioner may initiate and maintain an action in a court of
19 competent jurisdiction to enjoin a violation of this subsection and may request
20 award of all costs and attorneys' fees incurred by the state incidental to that action.
21 Upon determination by the state tax commissioner that an illegal sale or shipment
22 of alcoholic beverages has been made to a consumer in this state by either a
23 manufacturer or retailer of alcoholic beverages, the state tax commissioner may
24 notify both the bureau of alcohol, tobacco and firearms of the United States
25 department of the treasury and the licensing authority for the state in which the
26 manufacturer or retailer is domiciled that a state law pertaining to the regulation of
27 alcoholic beverages has been violated and may request those agencies to take
28 appropriate action.

29 6. A package of alcoholic beverages shipped directly to an individual in this state
30 under subsection 5 must be labeled with conspicuous words "SIGNATURE OF
31 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY". A shipper shall

- 1 obtain the signature of an individual twenty-one years of age or older before
2 delivering any alcoholic beverages shipped directly to an individual in this state.
3 Notwithstanding this subsection, a direct shipper in a state that allows direct
4 shipments of alcoholic beverages into that state from this state may ship to this
5 state under the shipping law of the home state as the law applies to direct shippers
6 from this state.
- 7 7. Notwithstanding any other law, a winery or retail licensee may sell and ship wine
8 directly to a consumer in another state under that state's law as long as the taxes
9 are paid as if the sale were made in this state.