

Fifty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1437

Introduced by

Representatives Boe, Froelich

Senator Bercier

1 A BILL for an Act to amend and reenact sections 5-02-01, 5-02-01.1, 5-02-05.1, and 5-02-10 of  
2 the North Dakota Century Code, relating to retail licenses to sell alcoholic beverages.

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

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

6 **5-01-01. Definitions.** In this title:

- 7 1. "Alcohol" means neutral spirits distilled at or above one hundred ninety degrees  
8 proof, whether or not such product is subsequently reduced, for nonindustrial use.
- 9 2. "Alcoholic beverages" means any liquid suitable for drinking by human beings,  
10 which contains one-half of one percent or more of alcohol by volume.
- 11 3. "Beer" means any malt beverage containing one-half of one percent or more of  
12 alcohol by volume.
- 13 4. "Distilled spirits" means any alcoholic beverage that is not beer, wine, sparkling  
14 wine, or alcohol.
- 15 5. "Licensed premises" means the premises on which beer, liquor, or alcoholic  
16 beverages are normally sold or dispensed and must be delineated by diagram or  
17 blueprint which must be included with the license application or the license renewal  
18 application.
- 19 6. "Liquor" means any alcoholic beverage except beer.
- 20 7. "Local governing body" means the governing entity of a city, county, or federally  
21 recognized Indian tribe in this state.
- 22 8. "Local license" means a city, county, or tribal retail alcoholic beverage license  
23 issued by the appropriate local governing body.

1           9. "Microbrew pub" means a brewer that brews ten thousand or fewer barrels of beer  
2                   per year and sells beer produced or manufactured on the premises for  
3                   consumption on or off the premises, or serves beer produced or manufactured on  
4                   the premises for purposes of sampling the beer.

5       8- 10. "Organization" means a domestic or foreign corporation, general partnership,  
6                   limited partnership, or limited liability company.

7       9- 11. "Sparkling wine" means wine made effervescent with carbon dioxide.

8           12. "Tribal licensee" means a person issued a local license by the governing body of a  
9                   federally recognized Indian tribe in this state for the retail sale of alcoholic  
10                   beverages within the exterior tribal reservation boundaries.

11       40- 13. "Wine" means the alcoholic beverage obtained by fermentation of agricultural  
12                   products containing natural or added sugar or such beverage fortified with brandy  
13                   and containing not more than twenty-four percent alcohol by volume.

14           **SECTION 2. AMENDMENT.** Section 5-02-01 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16           **5-02-01. State and local retail license required - Exception.** Except as otherwise  
17 provided in section 5-02-01.1, any person engaging in the sale of alcoholic beverages at retail  
18 without first securing an appropriate license from the attorney general and a local license from  
19 the governing body of any city, or ~~board of county commissioners~~ if said business is located  
20 outside the corporate limits of a city, ~~the board of county commissioners or the governing body~~  
21 of an Indian tribe, as the location requires, is guilty of a class A misdemeanor. This section  
22 does not apply to public carriers engaged in interstate commerce.

23           **SECTION 3. AMENDMENT.** Section 5-02-01.1 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25           **5-02-01.1. Event permit authorized - Penalty.**

26           1. The local governing body may by permit authorize a qualified alcoholic beverage  
27 licensee licensed under this chapter to engage in the sale of alcoholic beverages  
28 at events designated by the permit. For purposes of this section, "qualified  
29 alcoholic beverage licensee" means a licensee in a city that imposed a city lodging  
30 and restaurant tax on July 31, 1993, who paid such tax and who continues to pay  
31 any such tax imposed by the city or a licensee in a county or, a licensee in a city

1 that did not impose a city lodging and restaurant tax on July 31, 1993, or a tribal  
2 licensee. A fee for the local permit may be set by ordinance or resolution at not  
3 more than twenty-five dollars. The permit may not be valid for a period greater  
4 than fourteen days, and may include Sundays. The local governing body may  
5 establish rules to regulate and restrict the operation of an event permit. Any  
6 person who dispenses, sells, or permits the consumption of alcoholic beverages in  
7 violation of this section or the conditions of a permit is guilty of a class B  
8 misdemeanor.

9 2. The local governing body may authorize persons under twenty-one years of age to  
10 remain in the area of the event, or a portion thereof, where beer, wine, or sparkling  
11 wine may be sold pursuant to the permit. However, this authorization must be  
12 subject to the following minimum conditions:

13 a. The area where persons under twenty-one years of age may remain must be  
14 specifically set forth in the permit;

15 b. Only employees of the qualified alcoholic beverage licensee who are at least  
16 twenty-one years of age may deliver and sell the beer, wine, or sparkling  
17 wine;

18 c. Subject to section 5-02-06, the area where persons under twenty-one years  
19 of age may remain may not be the qualified alcoholic beverage licensee's  
20 fixed or permanent licensed premises as shown on the state and local  
21 governing body's alcoholic beverage license issued pursuant to section  
22 5-02-01; and

23 d. No person under twenty-one years of age within the area described in the  
24 permit may consume, possess, or receive alcoholic beverages.

25 **SECTION 4. AMENDMENT.** Section 5-02-05.1 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **5-02-05.1. Sunday alcoholic beverage permit - Penalty.**

28 1. Any ~~city or county~~ local governing body may issue a Sunday alcoholic beverage  
29 permit to a qualified alcoholic beverage licensee licensed under this chapter or to a  
30 publicly owned or operated facility. For purposes of this section, "qualified  
31 alcoholic beverage licensee" has the same meaning as in section 5-02-01.1. A

- 1 county may not issue a permit under this section to a retail alcoholic beverage  
2 establishment located within the geographical boundaries of a city.
- 3 2. The authority for issuing the permit rests solely with the local governing body ~~of the~~  
4 ~~city or county~~. A permit may be granted only upon proper application to and  
5 approval by the governing body, and must include payment of a fee determined by  
6 the governing body. A permit granted by the ~~city or county~~ local governing body  
7 may be effective for more than one Sunday.
- 8 3. Under the permit, alcoholic beverages may be distributed and dancing may be  
9 permitted in the establishment or facility. A ~~city or county~~ local governing body  
10 may permit dancing and the distribution of alcoholic beverages between the hours  
11 of twelve noon on Sunday and one a.m. on Monday. The general public may be  
12 permitted to participate in the consumption of alcoholic beverages distributed  
13 under the authority of the permit. The establishment or facility granted the permit  
14 shall enforce the requirements of this section.
- 15 4. Any person who dispenses, sells, or permits the consumption of alcoholic  
16 beverages in violation of this section, or who furnishes information required by this  
17 section which is false or misleading, is guilty of a class A misdemeanor.

18 **SECTION 5. AMENDMENT.** Section 5-02-10 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **5-02-10. Hearing on alleged violations.** Any person having information that a  
21 licensed retailer of alcoholic beverages has violated any provisions of this title may file with the  
22 attorney general, city attorney, or state's attorney an affidavit specifically setting forth such  
23 violation. Upon receipt of such affidavit, the city attorney or state's attorney shall set the matter  
24 for hearing not later than the next regular meeting of the local governing body or forward such  
25 affidavit to the attorney general. Upon receipt of any such affidavit the attorney general shall  
26 set the matter for hearing in the local county courthouse not less than ten days after copies of  
27 the affidavit and notice of hearing have been mailed to the licensee by registered mail. If the  
28 hearing is held by the local governing body, a copy of this affidavit and notice of hearing must  
29 be mailed the licensee by registered mail not less than five days before such hearing. A record  
30 of such hearings will be made by stenographic notes or the use of an electronic recording  
31 device.