

SB 2321

Testimony before the Senate Industry, Business and Labor Committee
February 8, 2021

Mr. Chairman, members of the Senate Industry Business and Labor Committee,

My name is Janet Seaworth, I am Executive Secretary and Legal Counsel for the North Dakota Beer Distributors Association. We are neutral on SB 2321.

While we have some concerns about the provisions in SB 2321, primarily related to allowing brew pubs to sell sixth barrel kegs, we are more concerned about HB 1265 now pending in the House. That bill contains a similar provision allowing brew pubs to sell sixth barrel kegs, but it also removes existing limits on the amount brew pubs may sell and it would allow brew pubs to act as distributors, which we cannot support and which we now understand the Brewers Guild does not support.

We have met with the Brewers Guild and shared our concerns about both bills. We are agreed with the Guild that SB 2321 should be the focus of their efforts and that as long as HB 1265 is removed from consideration, we will remain neutral on SB 2321.

Our neutrality is based on our agreement with the Guild and several observations about SB 2321.

- While we are opposed to allowing brew pubs to sell sixth barrel kegs because it has the potential to turn brew pubs into production brewers, SB 2321 maintains a limit on the total amount that can be sold. That is consistent with the intent expressed by this legislature that when limited exceptions are provided for small producers in order to nurture these small businesses, it is important to maintain the distinction between brew pubs (taverns that have the special privilege to brew their own beer for enjoyment in the restaurant or bar) and production brewers.
- SB 2321 allows brew pubs and small brewers to ship direct to consumers in North Dakota in accordance with existing law that

allows out-of-state manufacturers to ship direct to consumers. That seems fair.

- SB 2321 allows brew pubs and small brewers to contract brew in accordance with federal law as long as the small brewer maintains a physical brewing presence in the state and the beer produced pursuant to contract is included in the total barrels produced by the contractee. That is important, so as to not allow brew pubs and small brewers to morph into large production brewers with all of the special privileges reserved for small producers.
- SB 2321 allows brew pubs and small brewers 20 additional special event permits per year. While some may consider that unfair to retailers, that issue is probably best addressed by retailers.

Thank you.

Janet Demarais Seaworth
Executive Secretary and Legal Counsel
North Dakota Beer Distributors Association