

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED HOUSE BILL NO. 1466

Introduced by

Representatives Dockter, Berg, O'Brien, Toman

Senators Larson, Mathern

1 | A BILL for an Act to amend and reenact ~~section~~sections 5-01-01 and 5-01-19.1, and
2 subsection 2 of section 5-01-19.2 of the North Dakota Century Code, relating to the definitions
3 of a domestic and manufacturing distillery and satellite locations.

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

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

7 **5-01-01. Definitions.**

8 In this title:

- 9 1. "Alcohol" means neutral spirits distilled at or above one hundred ninety degrees proof,
10 whether or not such product is subsequently reduced, for nonindustrial use.
- 11 2. "Alcoholic beverages" means any liquid suitable for drinking by human beings, which
12 contains one-half of one percent or more of alcohol by volume.
- 13 3. "Beer" means any malt beverage containing one-half of one percent or more of alcohol
14 by volume and includes an alcoholic beverage made by the fermentation of malt
15 substitutes, including rice, grain of any kind, glucose, sugar, or molasses, which has
16 not undergone distillation.
- 17 4. "Bottle or can" means any container, regardless of the material from which made,
18 having a capacity less than a bulk container for use for the sale of malt beverages at
19 retail.

- 1 5. "Direct shipper" means a person that is licensed by the commissioner and ships or
2 causes to be shipped alcoholic beverages directly into this state to a consumer for the
3 consumer's personal use and not for resale.
- 4 6. "Distilled spirits" means any alcoholic beverage that is not beer, wine, sparkling wine,
5 or alcohol.
- 6 7. "Domestic distillery" means a distillery that produces twenty-five thousand gallons
7 [94635 liters] or ~~less~~fewer of distilled spirits per year.
- 8 8. "In bulk" means in containers having a capacity not less than one-sixth barrel for use
9 for the sale of malt beverages at retail.
- 10 ~~8-9.~~ "Licensed alcohol carrier" means a person licensed to transport or deliver alcoholic
11 beverages to a consumer without first having the alcoholic beverage delivered through
12 a wholesaler licensed in this state.
- 13 ~~9-10.~~ "Licensed logistics shipper" means a person that provides fulfillment house services,
14 including warehousing, packaging, distribution, order processing, or shipment of
15 alcoholic beverages on behalf of a licensed direct shipper and by way of a licensed
16 alcohol carrier.
- 17 ~~10-11.~~ "Licensed premises" means the premises on which beer, liquor, or alcoholic beverages
18 are normally sold or dispensed and must be delineated by diagram or blueprint which
19 must be included with the license application or the license renewal application.
- 20 ~~11-12.~~ "Liquor" means any alcoholic beverage except beer.
- 21 ~~12-13.~~ "Local governing body" means the governing entity of a city, county, or federally
22 recognized Indian tribe in this state.
- 23 ~~13-14.~~ "Local license" means a city, county, or tribal retail alcoholic beverage license issued
24 by the appropriate local governing body.
- 25 15. "Manufacturing distillery" means a distillery that produces ~~more than twenty-five-~~
26 ~~thousand~~forty thousand gallons [151416 liters] or fewer of distilled spirits per year.
- 27 ~~14-16.~~ "Microbrew pub" means a brewer that brews ten thousand or fewer barrels of beer per
28 year and sells beer produced or manufactured on the premises for consumption on or
29 off the premises or serves beer produced or manufactured on the premises for
30 purposes of sampling the beer.

- 1 ~~15-17.~~ "Organization" means a domestic or foreign corporation, general partnership, limited
2 partnership, or limited liability company.
- 3 18. "Satellite location" means an offsite location owned or leased by a manufacturing
4 distillery to conduct retail operations.
- 5 ~~16-19.~~ "Sparkling wine" means wine made effervescent with carbon dioxide.
- 6 ~~17-20.~~ "Supplier" means an alcoholic beverage manufacturer, importer, marketer, or
7 wholesaler selling alcoholic beverages to a wholesaler licensed in this state for
8 purposes of resale.
- 9 ~~18-21.~~ "Tribal licensee" means a person issued a local license by the governing body of a
10 federally recognized Indian tribe in this state for the retail sale of alcoholic beverages
11 within the exterior tribal reservation boundaries.
- 12 ~~19-22.~~ "Twenty-one years of age" means it is after eight a.m. on the date twenty-one years
13 after a person's date of birth.
- 14 ~~20-23.~~ "Wine" means the alcoholic beverage obtained by fermentation of agricultural products
15 containing natural or added sugar or such beverage fortified with brandy and
16 containing not more than twenty-four percent alcohol by volume.

17 **SECTION 2. AMENDMENT.** Section 5-01-19.1 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **5-01-19.1. Direct sale by domestic distilleries.**

- 20 1. A domestic distillery that produces no more than twelve thousand proof gallons
21 [~~42000~~45425 liters] of spirits per year may sell and deliver, onsite or offsite, the spirits
22 produced by the distillery directly to licensed retailers. The distillery may sell and
23 deliver spirits onsite to a licensed retailer that presents the retailer's license or a
24 photocopy of the license. The distillery may deliver the spirits offsite if the distillery:
25 a. Uses the distillery's equipment, trucks, and employees to deliver the spirits;
26 b. Contracts with a licensed distributor to ship and deliver the spirits to the retailer;
27 or
28 c. Contracts with a common carrier to ship and deliver the spirits to the retailer
29 directly from the distillery or the distillery's warehouse.
- 30 2. The total amount of spirits each domestic distillery may sell or deliver directly to all
31 licensed retailers may not exceed two hundred cases per year. Individual shipments

1 delivered by common carrier may not exceed three cases a day for each licensed
2 retailer. A case may not exceed two and thirty-eight hundredths gallons [9 liters].
3 3. As used in this section, "proof gallon" means a gallon [~~3.78~~3.79 liters] of liquid at sixty
4 degrees Fahrenheit [15.5 degrees Celsius] which contains fifty percent ethyl alcohol
5 by volume or its equivalent.

6 **SECTION 3. AMENDMENT.** Subsection 2 of section 5-01-19.2 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 2. A manufacturing distillery may sell spirits produced by that distillery at off sale, in retail
9 lots, and not for resale, and may sell or direct ship its spirits to persons inside or
10 outside the state in a manner consistent with the laws of the place of the sale or
11 delivery in total quantities not in excess of ~~twenty-five thousand~~one hundred fifty-
12 thousand~~forty thousand~~ gallons [~~94635~~567812151416 liters] in a calendar year.

13 a. Direct sales within this state are limited to two and thirty-eight hundredths gallons
14 [9 liters] or less per month per person for personal use and not for resale. The
15 packaging must conform with the labeling requirements in section 5-01-16. A
16 licensee may dispense free samples of the spirits offered for sale. Subject to local
17 ordinance, sales at off sale may be made on Sundays between twelve noon and
18 twelve midnight.

19 b. A manufacturing distillery may hold events inside its premises and at its satellite
20 location. The tax commissioner may issue event permits for not more than forty
21 event days per calendar year to a manufacturing distillery to allow the
22 manufacturing distillery, subject to local ordinance, to give free samples of its
23 product and to sell its product by the glass or in closed containers at ~~on-premises-~~
24 events on the premises, off the premises, and at its satellite location.

25 c. A manufacturing distillery may not engage in any wholesaling activities. Except
26 as provided by section 5-01-19.1, all sales and deliveries of spirits to any other
27 retail licensed premises in this state may be made only through a licensed North
28 Dakota liquor wholesaler. However, a manufacturing distillery may sell distilled
29 spirits to a domestic winery if the distilled spirits were produced from products
30 provided to the manufacturing distillery by the domestic winery.