

ALCOHOLIC BEVERAGES

CHAPTER 73

HOUSE BILL NO. 1143

(Industry, Business and Labor Committee)
(At the request of the State Treasurer)

BEER ALCOHOL CONTENT

AN ACT to amend and reenact subsection 3 of section 5-01-01 of the North Dakota Century Code, relating to the alcohol content of beer for purposes of the regulation of alcohol.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁶ **SECTION 1. AMENDMENT.** Subsection 3 of section 5-01-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Beer" means any malt beverage containing ~~more than~~ one-half of one percent or more of alcohol by volume.

Approved March 1, 1995
Filed March 2, 1995

²⁶ Section 5-01-01 was also amended by section 1 of Senate Bill No. 2198, chapter 74; section 2 of Senate Bill No. 2344, chapter 55; and section 2 of Senate Bill No. 2243, chapter 103.

CHAPTER 74**SENATE BILL NO. 2198**

(Industry, Business and Labor Committee)
(At the request of the State Treasurer)

MICROBREW PUB LICENSES

AN ACT to amend and reenact subsection 7 of section 5-01-01, sections 5-01-11, 5-01-14, and subsection 2 of section 5-03-04 of the North Dakota Century Code, relating to microbrew pubs; and to repeal section 5-03-03 of the North Dakota Century Code, relating to bonding of beer or liquor wholesalers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

27 SECTION 1. AMENDMENT. Subsection 7 of section 5-01-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7. "Microbrew pub" means a brewer that brews ~~twenty-five~~ ten thousand or fewer barrels of beer per ~~week~~ year and sells beer produced or manufactured on the premises for consumption on or off the premises, or serves beer produced or manufactured on the premises for purposes of sampling the beer.

SECTION 2. AMENDMENT. Section 5-01-11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-01-11. Unfair competition - Penalty. A manufacturer may not have any financial interest in any wholesale alcoholic beverage business. A manufacturer or wholesaler may not have any financial interest in any retail alcoholic beverage establishment and may not furnish any such retailer with anything of value. A retailer may not have any financial interest in any manufacturer, supplier, or wholesaler. A wholesaler may:

1. Extend normal commercial credits to retailers for industry products sold to them. The state treasurer may determine by regulation the definition of "normal commercial credits" for each segment of the industry.
2. Furnish retailers with beer containers and equipment for dispensing of tap beer if the expense does not exceed fifty dollars per tap per calendar year.
3. Furnish outside signs to retailers if the sign cost does not exceed one hundred dollars exclusive of costs of erection and repair.
4. Furnish miscellaneous materials to retailers not to exceed one hundred dollars per year. "Miscellaneous materials" not subject to this limitation

²⁷ Section 5-01-01 was also amended by section 1 of House Bill No. 1143, chapter 73; section 2 of Senate Bill No. 2344, chapter 55; and section 2 of Senate Bill No. 2243, chapter 103.

include any indoor point-of-sale items for retail placement. Point-of-sale items include back bar signs, pool table lights, neon window signs, and items of a similar nature. The point-of-sale items must be limited to two hundred fifty dollars per retail account from the wholesaler for each of the wholesaler's brewers or suppliers. The state treasurer may, to keep current with market conditions, adjust the limitation amount for the point-of-sale items on an annual basis upon consultation with representatives of the alcohol beverage industry.

Any wholesaler, retailer, or manufacturer violating this section, or any rule adopted to implement this section, and any retailer receiving benefits thereby, is guilty of a class A misdemeanor. This section does not apply to a A microbrew pub is exempt from the provisions of this section to the extent that this section restricts the coownership of a manufacturer's license and a retail license for the purpose of a microbrew pub.

SECTION 3. AMENDMENT. Section 5-01-14 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-01-14. Microbrew pubs - Licensing - Taxes. A microbrew pub shall obtain a brewer license and a retailer license as required under this title. A microbrew pub may manufacture on the licensed premises, store, transport, sell to wholesale malt beverage licensees, and export no more than ten thousand barrels of malt beverages annually; sell malt beverages manufactured on the licensed premises; and sell alcoholic beverages regardless of source to consumers for consumption on the microbrew pub's licensed premises. A microbrew pub may not engage in any wholesaling activities. All sales and delivery of malt beverages to any other retail licensed premises may be made only through a wholesale malt beverage licensee. Beer manufactured on the licensed premises and sold by a microbrew pub is liable for directly to the consumer for consumption on or off the premises is subject to the taxes imposed pursuant to section 5-03-07, in addition to any other taxes imposed on brewers and retailers. A microbrew pub is not precluded from retailing beer it purchases from a wholesaler. Complimentary samples of beer may not be in an amount exceeding sixteen ounces per patron. Licenses under this section entitle the microbrew pub to sell beer manufactured on the premises for offpremise consumption, in brewery-sealed containers of not less than one-half gallon and not more than three gallons. This section may not be superseded under chapters 11-09.1 and 40-05.1.

SECTION 4. AMENDMENT. Subsection 2 of section 5-03-04 of the North Dakota Century Code is amended and reenacted as follows:

2. Liquor wholesalers shall make the payments based on the total gallonage sold the preceding calendar month. Beer wholesalers shall make the payments based on the total gallonage purchased from brewers the preceding calendar month. Microbrew pubs shall make payments based on the total gallonage sold on premises during the preceding calendar month.

SECTION 5. REPEAL. Section 5-03-03 of the North Dakota Century Code is repealed.

Approved April 12, 1995
Filed April 13, 1995

CHAPTER 75

SENATE BILL NO. 2197
(Industry, Business and Labor Committee)
(At the request of the State Treasurer)

ALCOHOLIC BEVERAGE MANUFACTURING AND
LICENSE FEES

AN ACT to amend and reenact sections 5-01-04 and 5-01-08 of the North Dakota Century Code, relating to the manufacture of alcoholic beverages.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-04 of the North Dakota Century Code is amended and reenacted as follows:

5-01-04. Manufacture of alcoholic beverages prohibited - Exceptions. A person may manufacture malt beverages and wine for personal or family use, and not for sale, without securing a license if the amount manufactured is within quantities allowed by the bureau of alcohol, tobacco and firearms of the United States treasury department. Any person manufacturing alcoholic beverages within this state in quantities greater than those permitted by the United States treasury department, is guilty of a class A misdemeanor and property used for same is subject to disposition by the court except any person may establish a brewery for the manufacture of malt beverages or a distillery or other plant for the distilling, manufacturing, or processing of liquor within this state if he the person has secured a license from the state treasurer. Such license must be issued on a calendar-year basis with a fee of five hundred dollars. A first-time license fee may be reduced twenty-five percent for each full quarter of a year elapsed between the first day of the year for which the license is issued and the date on which the application for the license is filed with the state treasurer. A license may not be issued for any period for a fee less than one-half of the annual license fee. Said license shall allow sale to only licensed wholesalers.

SECTION 2. AMENDMENT. Section 5-01-08 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Persons under twenty-one years of age prohibited from manufacturing, purchasing, consuming, or possessing alcoholic beverages or entering licensed premises - Penalty - Exceptions - Referrals to addiction facilities. Except as permitted in this section and section 5-02-06, any person under twenty-one years of age manufacturing or attempting to manufacture alcoholic beverages, purchasing or attempting to purchase alcoholic beverages, consuming alcoholic beverages other than during a religious service, being under the influence of alcoholic beverages, or being in possession of alcoholic beverages, or furnishing money to any person for such purchase, or entering any licensed premises where alcoholic beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal

guardian, or in accordance with section 5-02-06, or if the person is a law enforcement officer entering the premises in the performance of official duty, is guilty of a class B misdemeanor. The court may, under this section, refer the person to an outpatient addiction facility licensed by the state department of human services for evaluation and appropriate counseling or treatment.

Approved March 6, 1995

Filed March 6, 1995

CHAPTER 76

HOUSE BILL NO. 1474
(Representative Glassheim)

PUBLIC INTOXICATION

AN ACT to amend and reenact section 5-01-05.1 of the North Dakota Century Code, relating to public intoxication.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-05.1 of the North Dakota Century Code is amended and reenacted as follows:

5-01-05.1. Public intoxication - Assistance - Medical care. A peace officer has authority to take any apparently intoxicated person to ~~his~~ the person's home, to a local hospital, to a detoxification center, or, whenever ~~such that~~ person constitutes a danger to ~~himself that person~~ or others, to a jail for purposes of detoxification. A duly licensed physician of ~~such~~ a local hospital or a licensed addiction counselor of a detoxification center has authority to hold ~~such that~~ person for treatment up to seventy-two hours. ~~Such That~~ intoxicated person must not be held in jail because of intoxication more than twenty-four hours. An intoxicated person ~~must~~ may not be placed in a jail unless a jailer is constantly present within hearing distance and medical services are provided when the need is indicated. Upon placing ~~such that~~ person in a hospital, detoxification center, or jail, ~~said~~ the peace officer shall notify the intoxicated person's family as soon as possible. Any additional costs incurred by the city or county on account of an intoxicated person shall be recoverable from ~~such that~~ person.

Approved March 27, 1995

Filed March 28, 1995

CHAPTER 77

HOUSE BILL NO. 1144 (Finance and Taxation Committee) (At the request of the State Treasurer)

ALCOHOLIC BEVERAGE TAX METRIC EQUIVALENTS

AN ACT to amend and reenact section 5-03-07 of the North Dakota Century Code, relating to metric equivalents for wholesale alcoholic beverage taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-03-07 of the North Dakota Century Code is amended and reenacted as follows:

5-03-07. Imposition of tax - Rate. A tax is hereby imposed upon all alcoholic beverage wholesalers for the privilege of doing business in this state. The amount of such tax shall be determined by the gallonage sold by wholesalers according to the following schedule:

Beer in bulk containers - per wine gallon	\$.08 <u>(.021 per liter)</u>
Beer in bottles and cans - per wine gallon	.16 <u>(.042 per liter)</u>
Wine containing less than 17% alcohol by volume - per wine gallon	.50 <u>(.132 per liter)</u>
Wine containing 17%-24% alcohol by volume - per wine gallon	.60 <u>(.159 per liter)</u>
Sparkling wine - per wine gallon	1.00 <u>(.264 per liter)</u>
Distilled spirits - per wine gallon	2.50 <u>(.66 per liter)</u>
Alcohol - per wine gallon	4.05 <u>(1.07 per liter)</u>

Approved March 6, 1995

Filed March 6, 1995

CHAPTER 78**HOUSE BILL NO. 1233**

(Representatives Keiser, Berg, Hausauer)

BEER BRAND EXTENSIONS

AN ACT to create and enact two new subsections to section 5-04-01 and a new section to chapter 5-04 of the North Dakota Century Code, relating to definitions applicable to beer wholesalers and brewers brand extensions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new subsections to section 5-04-01 of the 1993 Supplement to the North Dakota Century Code are created and enacted as follows:

"Brand" means any word, name, group of letters, symbol, or combination thereof, that is adopted and used by a brewer or importer to identify a specific beer product, and to distinguish that beer product from another beer product.

"Brand extension" is any brand that incorporates all or a substantial part of the unique features of a preexisting brand of the same brewer or importer, and which relies to a significant extent on the goodwill associated with that preexisting brand.

SECTION 2. A new section to chapter 5-04 of the North Dakota Century Code is created and enacted as follows:

Same brands - Assignment of brand extensions. Different categories of products manufactured and marketed under a common identifying trade name are the same brand. For example, "old faithful" includes "old faithful", "old faithful light", "old faithful draft", "old faithful dry", and other products identified principally by the old faithful name. Differences in packaging do not establish different brands. A brewer or importer may assign a brand extension only to the wholesaler with an exclusive sales territory to the brand that is the basis for the brand extension. This limitation does not apply to assignments of brand extensions to wholesalers which were made by a brewer or importer before the effective date of this Act. If, before the effective date of this Act, a brewer or importer assigned a brand extension to a wholesaler that is without exclusive sales territory to the brand that is the basis of the brand extension, any additional brand extension must be assigned to the wholesaler who first had the brand.

Approved March 14, 1995

Filed March 14, 1995