

FISCAL NOTE
Requested by Legislative Council
01/05/2017

Amendment to: HB 1146

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill would allow direct shipment of alcoholic beverage from out of state to a retail licensee; and to provide a penalty.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill will have the attorney general review completed forms and issue a certificate for direct shipment of specified alcoholic beverages if the retail licensee was unable to receive the specified alcoholic beverages from a licensed wholesaler within sixty days from the date the licensed wholesaler received the request from the retail licensee.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Not applicable

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The fiscal impact is less than \$5,000.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The fiscal impact is less than \$5,000.

Name: Kathy Roll

Agency: Office of Attorney General

Telephone: 701-328-3622

Date Prepared: 01/05/2017

FISCAL NOTE
Requested by Legislative Council
01/05/2017

Bill/Resolution No.: HB 1146

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Cities			
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Name: Kathy Roll

Agency: Office of Attorney General

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Date Prepared: 01/05/2017

2017 HOUSE INDUSTRY, BUSINESS, AND LABOR

HB 1146

2017 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1146
1/10/2017
Job #26762

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Direct shipment of alcoholic beverages from out of state to a retail licensee.

Minutes:

Attachments #1 & 2

Chairman Keiser: Opens the hearing of HB 1146.

Rep Becker: Introduces HB 1146. This bill also deals with the three-tier system and how it is integrated. Currently the retailers have no choice but to go through the distributor. This doesn't dismantle the three-tier system. Because we are trying to protect the consumer, we are holding the consumer and retailer hostage. If there is a manufacturer that wants to come to the state, it is dependent on whether a distributor wants to sell the product.

If a distributor doesn't want to carry a product, the retailer fills out a form provided by the Attorney General asking permission to allow the manufacturer to do a direct shipment. A lot of law in the bill deals with the direct shipping.

If the distributor later decides to carry the product, then the retailer needs to go through the distributor. This prevents the distributor from having inventory on the shelf that doesn't sell. Let the retailer be the test market.

Handed out several pages of testimony from several constituents. (Attachment 1).

Rep Louser: In the instance where a manufacturer doesn't want to come to North Dakota, can they stop shipping once the distributor is involved again?

Rep Becker: I don't see how that can happen.

Rep Ruby: Is it possible to prevent the direct shipment that the distributor could lock in but not transport small quantities?

Rep Becker: Are you asking could they lock with the manufacturer so the manufacturer couldn't sell anywhere by contract?

Rep Ruby: Yes.

Rep Becker: The likelihood of malicious action like that is unlikely.

(10:35)

Chairman Keiser: On the second page, it states that if one of these establishments requests from a distributor a product that is not available in 60 days, they can apply for a certificate. Would you be open to an amendment to that section to clarify that even after receiving the certificate, when the distributor does start to carry that product, they then have to purchase the product from the distributor. Or would the certificate stay in play and they could compete with the distributor?

Rep Becker: I would be open to that. I believe that is already in administrative rule.

(11:20)

Michael Kashey~ Bartender and Spirits Historian: (Attachment 2)
Read statement prepared by manager Kate Gerwin.

Opposition:

(14:28)

Pat Ward~Representing the wholesaler liquor distributors:

There is a concern again for unintended consequences. There is a need for a fiscal note because it does put duties on the Attorney General's office. On the bottom of page 5, paragraph 4 it puts responsibilities on the Attorney General's office to issue the certificate which is based on the retail licensee filing an application. The unintended consequences could be the good faith of the person filing the certificate, of suppliers holding product back. We have a system that isn't broken.

Chairman Keiser: We do have a fiscal note from the Attorney General's office. The projected cost is under \$5,000.

I have yet to find a winery that won't ship to me as an individual. I really question whether manufacturers are willing to ship. I think they would be happy to ship.

Pat Ward: I disagree. They have to be compliant with laws in all 50 states. In regard to the fiscal note, I don't know if the Attorney General's office has considered the implications of the good faith aspects. It could also require additional time for the Tax Department. It is very easy with the system we have now.

(20:35)

Bob Nelson~Johnson Brothers Distributors: The bar business is changing fast. We are scrambling to get these new brands even if it is one or two cases. It's not that we don't want to carry some, they are just not available.

North Dakota requires us to report retailers that are over 30 days. If they are over 30 days no wholesaler can ship to them. Will others always check with the state and share the overdue list? We have tax issues. We have ethical issues. Much of the problem in the beverage world is counterfeiting.

Rep Louser: If this bill were to pass, how would the distributor know when to carry the product? What other issues might exist where a manufacturer does not want to come into our state?

Bob Nelson: There are many reasons they don't come into the state. Many times the owners of the brands don't want to introduce into a state until they can come with their representatives properly trained on the product. Once a supplier gets the right to direct ship to a retailer, the margin will be higher. Why would the supplier change that to a distributor? That is why this is a threat to the three-tier system.

(26:40)

Rep Louser: If the manufacturer doesn't want to be in the market then, they wouldn't go to the retailer direct. What if the requirement under this bill would bring the distributor back, the provision would be in place to allow for the distributor? Correct?

Bob Nelson: I believe you are correct. Once someone is shipping direct to a retailer, they wouldn't come back to a wholesaler unless it was a large amount that they needed our efficiency. Many of the wines in California are only sold directly to consumers.

Rep Dobervich: If I wanted to bring in a product not available at a liquor store and the distributor can't get it because they are not ready to come into our market, why would they ship to me if they aren't shipping to the distributor?

Bob Nelson: I see the business that way. Some are motivated to bypass the wholesale system because it is to their advantage. There is precedence where they would rather skip us.

Rep Dobervich: Would a distributor take the risk and pass the price of extra shipping on to the retailer?

Bob Nelson: In most cases we will get the brands our customers are asking for. Many brands we bring in are one case. We have brands that cost thousands of dollars a case.

Rep Dobervich: If I want it and am willing to pay for it and the producer is willing to ship it here, there should be no reason I couldn't get it?

Bob Nelson: That's correct.

(32:42)

Rep Kasper: Do you know the percentage of specialty product requests that you were able to fill or not fill?

Bob Nelson: We have brought in 100 items that we didn't carry before. We are able to get about $\frac{3}{4}$ of the brands.

Rep Becker: If a request is made, you will get it?

Bob Nelson: If the manufacturer is willing to sell it to me, about 99% of the time we will bring it in.

Rep Becker: If the distributors were willing to bring in any product, there would be no interest in this bill. What I'm finding, the experience has been different. If a distributor is willing to get any product for their customer, then the provisions in this bill would never be enacted. No one would have a two-month period of time in which the distributor would be saying they won't get it in.

Bob Nelson: The difference would be the unintended consequence that someone is going to use this legislation to eliminate the wholesaler by saying "no that is not available." They turn us down and then ship it directly to the retailer.

Rep Becker: It would be unreasonable to put this bill in if it is true that the distributor will get in anything we want, if able. But there are products we have been waiting on for three years.

(38:36)

Shannon McQuade-Ely~McQuade Distributing: If our staff gets asked for something, I do small batch liquor. I don't think this bill is necessary. 100% of beer wholesalers in North Dakota have a liquor license. Beer & liquor suppliers are different. If we get a request for a beer that is not offered in North Dakota, we pursue it as wholesalers. As a wholesaler I have to offer my brands to everyone. This bill is discriminatory. The small batches might all go to one place and not be offered to everyone. The bill would allow for any supplier to go to a retailer. I don't trust big suppliers to direct ship to COSTCO. That is what the wholesalers are concerned about.

(42:00)

Chairman Keiser: You say that if we ask for it, we will get it. We passed a law to allow for individuals to direct ship. To say that can't happen to restaurants and retail, there is no way you can handle 13,000 wineries. This transfers the risk to the restaurant owner and puts you back in the game if we write the bill correctly.

Shannon McQuade-Ely: That's correct. There are a lot of wine and liquor suppliers. As the middle tier we are the people who go in and collect the taxes. There have been some issues with direct shipments and how they are taxed. We are making sure it is not a fake product. Where we have issue is the big box store looking for direct shipments.

Neutral:

(45:30)

Myles Vosberg~North Dakota Tax Dept:

Rep Laning: How would you handle the collection of tax on the direct shipment?

Myles Vosberg: We are already handling this situation. We ask the businesses that are going to direct ship to register with us to get a license. They are required to collect. It would just be the wholesale tax.

Rep Laning: You don't see a major problem in tax collection.

Myles Vosberg: It is not a lot different than what we are doing. The volume may increase because of new tax payers.

Rep Laning: Would you see the tax department as an entity to report the quantities when sales of a particular product got to a point where a wholesaler decided they wanted to handle it? How would the wholesaler obtain that information?

Myles Vosberg: How would we know at what point a wholesaler is going to want to pick up a certain product?

Rep Laning: Does the tax department issue any reports that are available for them to use?

Myles Vosberg: We would have the report of the direct shippers so we would have the volumes. It is by level of alcohol content.

Chairman Keiser: Closed the hearing

Rep Ruby: Was there discussion about some verification that they had been turned down?

Chairman Keiser: Go to page 5 & 6, subsection 4, you have to identify in document that you have requested and was not provided within 60 days. Then you have the option to go forward and purchase directly.

Rep Kasper: If the distributors were willing pick up this brand later, it could be purchased through the distributor. Maybe we should support an amendment that does that.

Chairman Keiser: We will not take action on the bill, but we will work with an amendment to clarify that.

Rep Becker: I would support that.

2017 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1146
1/18/2017
Job # 27093

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Direct shipment of alcoholic beverages from out of state to a retail licensee.

Minutes:

Attachments #1 & 2

Chairman Keiser: Opens the hearing of HB 1146.

Rep Becker: (Attachment 1) The question was posed to me that it would be good to know or have a sense of whether this is an occurrence limited to one retailer or is it more. I started calling Saturday afternoon. I raised the question in the same way.

Those that say it is a concern don't want to go direct. It is costlier to a retailer to have a manufacturer ship direct.

(2:35)

Rep Bosch: (Attachment 2)

The amendment added language onto the last line on page 6. This would clarify what happens when the 60 days had passed and what options the wholesaler had at that point.

Janet Seaworth~Executive Secretary and Legal Counsel for the ND Beer Distributors Association (NDBDA):

I had never seen this legislation before. I wanted to know if any other state would allow direct shipments to retailers. I used a list serve to colleagues around the country. Thirty-one states responded that their state would not allow this kind of direct shipment to retail. In the case of beer, it's usually the supplier that determines whether they will be in the market. What happens if the supplier doesn't want to make that product available to the wholesaler?

I wondered how the state would police this process. I asked the Attorney General's office and indicated my concerns. One concern is that there wasn't a cap on the amount of product that the direct shipper could ship to the retailer. Also, if a retailer pays with an NSF check to the manufacturer, then how will the wholesalers know that. Wholesalers are not supposed to sell to any retailer that is paying with an NSF check.

Rep Becker: We did close the hearing. So far I am not hearing anything germane to the amendment.

Janet Seaworth: The amendment would still allow the shipment direct if the retailer gets the certificate. How will the state address the provision of that certificate? That is what I asked the Attorney General's office about. They said there would be significant challenges in providing that certificate.

The amendment has to do with confirmation of the ability to provide the specific alcoholic beverage to the retail licensee. The Attorney General's office said that would be very difficult. There are 1,500 licensees. They would have to make that inquiry about why they can't get that product and then make the inquiry to the wholesaler as to why they can't provide that product.

Rep Becker: Moves to adopt the amendment.

Rep Bosch: Seconded the motion.

Rep Becker: I think the amendment is a good amendment. I don't know that it is entirely necessary. The retailers would love for the distributors to take it back so they can have the efficiencies that the distributors provide. But because it was raised as a significant concern and this does satisfy that concern.

Voice Vote taken. Motion carried.

Rep Boschee: Moves to a Do Pass as Amended

Rep Becker: Seconded the motion.

Rep Becker: We have presented clear evidence that this is ongoing. It is a situation where a three-tier system is left in place. We don't want to have the retailers and the consumers being held hostage to the economics of what goes on with the distributor.

(11:10)

Rep Kasper: In reading the amendment something came up that posed a concern. It is talking about one individual retailer. What about all the other retailers?

Rep Becker: The only retailers that can have shipment of the product are ones that have requested it through a distributor and have not been able to get it for two months, have filled out a form with the Attorney General's office and then went with the direct shipper. So it will be a limited amount.

Rep Kasper: The other concern raised, the big stores being able to use any change in the three-tier system to go direct. Do you see any way a large retailer could circumvent the three-tier system with this bill?

Rep Becker: I don't, if there is a big box entity, then it will be a large volume. The law states that they must go through a distributor. No distributor will turn down the opportunity to distribute huge quantities.

Rep Bosch: There should be a process or procedure between the retailer and the distributor. Is there a process to handle this?

Shannon McQuade-Ely~President of McQuade Distributing: There isn't a formal process. A retailer will ask us to bring in a supplier. We contact that supplier and ask if they are willing. The concern regarding the amendment would be whether they have the choice to go back to a wholesaler or just stay with the retailer. Territory agreements get sent. They do interviews of the wholesalers and decide who they choose to partner with. Then we bring in the product and sell it to the retailers. We can't discriminate. We have to make it available to all retailers.

(17:20)

Bob Nelson~Johnson Brothers Distributors: Sometimes suppliers contact us. Sometimes we contact them. Often retailers contact us. We welcome retailers to search out brands. I don't understand why we need this bill to change the way the three-tier system is monitored.

Rep Louser: The question on the territorial agreement, that agreement is based on the product not the territory? If one distributor is unwilling or unable to get a product, that would still allow for a competing distributor to get that product. Correct?

Bob Nelson: That is right. There are several dozen large suppliers that aren't even the manufacturer. They represent that brand. Everything they have is under that brand umbrella and is under our distribution agreement with them. The brands that spark up from small distilleries or wineries are harder for us to source because they don't want to come to a market yet. I'm not sure how successful this bill will be for the retailer.

Chairman Keiser: But you don't know that they won't be.

Bob Nelson: That's correct.

Rep Kasper: Is there a breakdown in communication in the distribution side where your sales people are being asked and it is not being communicated to the home office?

Bob Nelson: I agree. There is probable miscommunication from the retailer to our sales representative to our sales manager.

Rep Dobervich: If I own a liquor store and I want to grow my wine section and the distributor is downsizing, what options do I have? Can I work with a different distributor?

Bob Nelson: In North Dakota there are three large multi-state wholesalers, three boutique wholesalers that specialize in small brands, and about twenty beer wholesalers that also have liquor and wine licenses. Brands in North Dakota are appointed by the supplier. Then

we become the exclusive supplier of that brand. Your option as a retailer is to go to another wholesaler.

Kate Gerwin~Property Manager for Rep Becker: Explained difficulty in bringing in certain products.

Rep Kasper: This has been a worthwhile debate. Both sides have issues that have merit. I am unwilling to support a bill that has the potential to disrupt the three-tier system that has worked. I'm going to vote against the bill.

Rep Bosch: I agree with Rep Kasper. There needs to be a policy in place that allows the retailers to make requests and the wholesalers to deliver. Wholesalers have a higher level of responsibility because of the three-tier system.

Rep Becker: As I view it, there is no downside to this bill. If there is not a problem, then this bill never comes into play. If there is a problem, then this bill will resolve that issue. If there is a communication problem, this bill will insure that there is the best possible communication.

Chairman Keiser: There is one concern, there is a potential unintended consequence. This doesn't eliminate the three-tier system. It does soften by chipping away at it. These certificates that would be filed are public records. If I were a wholesaler, I would request monthly or weekly reports and then try to get it into my list. It does create an adversarial relationship between the wholesalers and retailers. I'm just cautioning you about that. I don't want to upset our suppliers. This does give some flexibility.

Rep Louser: I speak in favor of the bill. First I think communication could be improved. Secondly if there was a direct shipment to the retailer, that shifts the risk of an unknown product sale to the retailer.

A Roll Call vote was taken: Yes 6 , No 8 , Absent 0 .

Do Pass as amended fails.

Rep Kasper: Moved Do Not Pass as amended

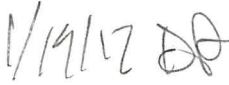
Rep Sukut: Seconded it.

A Roll Call vote was taken: Yes 9 , No 5 , Absent 0 .

Do Not Pass as amended carries.

Representative Bosch will carry the bill.

17.0252.01001
Title.02000

1/19/17 
Adopted by the Industry, Business and Labor
Committee

January 19, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1146

Page 6, line 3, after the underscored period insert "However, if the licensed wholesaler subsequently confirms the ability to provide the specified alcoholic beverages to the retail licensee, the retail licensee shall revert back to receiving the specified alcoholic beverages from the licensed wholesaler."

Renumber accordingly

Date: Jan 18, 2017

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1146

House _____ Industry, Business and Labor _____ Committee

☐ Subcommittee

Amendment LC# or
Description:

17.0252.01001

Recommendation

☒ Adopt Amendment

☐ Do Pass ☐ Do Not Pass

☐ Without Committee Recommendation

☐ As Amended

☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions

☐ Reconsider

☐ _____

Motion Made By Rep Becker Seconded By Rep Bosch

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep Laning		
Vice Chairman Sukut			Rep Lefor		
Rep Beadle			Rep Louser		
Rep R Becker			Rep O'Brien		
Rep Bosch			Rep Ruby		
Rep C Johnson			Rep Boschee		
Rep Kasper			Rep Dobervich		

Total (Yes) _____ No _____

Absent _____

Floor
Assignment _____

If the vote is on an amendment, briefly indicate intent:

When wholesaler is able to provide
-voice vote - motion carried

Date: 1/18/17
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES 1146
BILL/RESOLUTION NO. _____

House _____ Industry, Business and Labor _____ Committee

☐ Subcommittee

Amendment LC# or
Description:

17.0252-01001

Recommendation

- ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions

☐ Reconsider

☐ _____

Motion Made By Rep Boschee Seconded By Rep Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Rep Laning	X	
Vice Chairman Sukut		X	Rep Lefor		X
Rep Beadle		X	Rep Louser	X	
Rep R Becker	X		Rep O'Brien		X
Rep Bosch		X	Rep Ruby	X	
Rep C Johnson	X		Rep Boschee	X	
Rep Kasper		X	Rep Dobervich		X

Total (Yes) 6 No 8

Absent 0

Floor
Assignment _____

If the vote is on an amendment, briefly indicate intent:

motion failed

Date: 1/18/17
Roll Call Vote #: 3

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES 1146
BILL/RESOLUTION NO. _____

House _____ Industry, Business and Labor _____ Committee

☐ Subcommittee

Amendment LC# or
Description:

17.0252.01001

Recommendation

- ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions

☐ Reconsider

☐ _____

Motion Made By Rep. Kasper Seconded By Rep. Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep Laning	X	
Vice Chairman Sukut	X		Rep Lefor	X	
Rep Beadle	X		Rep Louser		X
Rep R Becker		X	Rep O'Brien	X	
Rep Bosch	X		Rep Ruby		X
Rep C Johnson		X	Rep Bosch		X
Rep Kasper	X		Rep Dobervich	X	

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep Bosch

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1146: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO NOT PASS (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1146 was
placed on the Sixth order on the calendar.

Page 6, line 3, after the underscored period insert "However, if the licensed wholesaler
subsequently confirms the ability to provide the specified alcoholic beverages to the
retail licensee, the retail licensee shall revert back to receiving the specified alcoholic
beverages from the licensed wholesaler."

Renumber accordingly

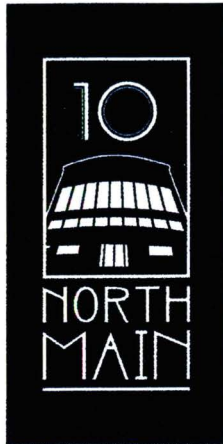
2017 TESTIMONY

HB 1146

HB 1146

Jan 10, 2017
Rep. Becker

①



Ashlee Deschamp
1603 East Main Ave
Bismarck, ND 58501

January 9th, 2017

Honorable George Keiser
North Dakota House of Representative
Bismarck, ND 58501

Dear Chairman Kaiser and members of the Industry, Business and Labor Committee,

My name is Ashlee Deschamp and I am a business owner in Minot and Bismarck North Dakota. I am writing this letter to urge a yes vote on HB 1146, a bill introduced to you by Representative Rick Becker. The amendment to subsections 5 and 8 of section 5-01-01 and sections 5-01-16 and 5-02-01 of the North Dakota Century Code, relating to direct shipment of alcoholic beverages from out of state to a retail licensee would allow business's some leniency to obtain lesser desired spirits that otherwise aren't offered by distributors.

It is my understanding that business decisions are made by distributors for reasons suitable to their financial bottom line, which is completely understandable and my representation and support of this bill respects the process in which alcoholic beverages are distributed. With that being said, in the event a distributor chooses not to obtain a desired product to transact business with a retail licensee, that licensee would appreciate the ability to have the product be direct shipped in the legal matter stated in the amended bill mentioned above.

Thank you in advance for your consideration of this matter,

Sincerely,

Ashlee Deschamp
Owner/CEO Sixteen03 Main Events
701-578-4502
ashleeduhamel@aol.com



January 8, 2017

North Dakota Industry,
Business and Labor Committee.
Legislative Council
State Capitol
600 East Boulevard
Bismarck, ND 58505

Dear Committee Members,

It is with tremendous optimism that I write to support Representative Rick Becker's bill that would allow liquor license holders to bring into the state alcoholic beverages that distributors are unwilling pick up.

As the owner of Macchu Pisco LLC, the largest importer of Peruvian Pisco since 2007, our products have distribution in 25 states, yet we have yet been able to take foothold in the state of North Dakota. Given, the growth of the craft spirits market in North Dakota, I believe that the deregulation that Dr. Becker proposes will liberalize commerce, increase competition and expand the diversity in offering which will ultimately benefit the end customer.

Should you need further comment please do not hesitate to contact me.

Sincerely,

Melanie Asher
CEO
Macchu Pisco LLC

January 7, 2017

Chairman Keiser and Committee Members of the North Dakota Industry, Business and Labor Committee
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

Dear Chairman and Committee Members:

I am the CEO and majority owner of a zero-waste, USDA organic certified distillery in the Brazilian jungle, with the US headquarters near Seattle, WA. We produce cachaça, the world's 5th largest distilled spirit category, in many formats:



We sell our spirits in most US states and many of the Canadian provinces, including those around North Dakota, such as Montana, Wyoming, Nebraska, Illinois, Wisconsin, Minnesota, Alberta, Saskatchewan, and Manitoba. However, North Dakota has been elusive due to the relative small size of the market and spirit distributors' lack of interest in carrying our products.

The North Dakota spirits and cocktail world is blossoming, with more bars and restaurants seeking to expand their offering to higher quality, more culturally-diverse spirits. There is demand for our products at the on-premise level, but the distributor have been slow to act.

I am writing to extend my support to any arrangement that would facilitate a direct supply relationship between North Dakota liquor licensees and our company or our distributors in other states that neighbor North Dakota. I believe that the businesses and consumers of North Dakota should not be penalized for the state's low population numbers; if the system no longer supports its constituents, it may be time to innovate it.

Kind regards,

Dragos Axinte
CEO
425.985.8270, tree@novofogo.com
PO Box 903, Issaquah, WA 98027





Russell Kadlec
307 North 3rd Street
Bismarck, ND 58501

January 9, 2017

Honorable George J. Keiser
North Dakota House of Representatives
Bismarck, ND 58501

Re: Support of HB 1146

Dear Chairman Keiser and Industry, Business and Labor Committee Members,

My name is Russell Kadlec and I am a business owner in Bismarck, North Dakota. I am writing to you to express my support of HB 1146, as introduced by Representative Becker, which would allow retail licensee's the option to source lesser known fermented and distilled products via direct shipment when a formal request to a distributor for the product has been denied.

As a business owner, I understand the balance required to provide variety to customers while maintaining profitability, I believe this legislation maintains the integrity of our existing distributor network while allowing for the introduction of lesser known brands to the local market.

Thank you for your consideration of my viewpoint on this matter. Support of this legislation is vitally important to be more responsive to customer requests for lesser known spirits.

Sincerely,

Russell Kadlec
Kadlec Enterprises
Lucky Ducks N.D. LLC
701-354-7947
Russell@The307District.com



Eric Brass
675 King St W, Suite 303
Toronto, ON
M5V1M9

Monday January 9, 2017

Chairman Keiser and committee members of the North Dakota Industry, Business and Labor Committee,

This letter is in support of the bill currently being considered that would allow license holders to bypass distributors and purchase products that distributors are unwilling to pick up. As the founder of Tequila Tromba, I greatly support granting license holders the freedom to outsource products through alternate sources if denied by a distributor following a formal request. This move would not take money away from distributors, but rather allow greater access to fantastic products distributors pass on.

Sincerely,

A handwritten signature in black ink, appearing to be "Eric Brass", written over a horizontal line.

Eric Brass
President & CEO

Dear Chairman Keiser and committee members of the North Dakota Industry, Business and Labor Committee,

I am writing this letter in support of the upcoming bill that would allow license holders to bypass distributors and purchase products that distributors are unwilling pick up. It is unfair that distributors are not serving the people- though presently a small portion, an important portion in the promulgation of the craft spirits, wine and beer industry. Should they want a particular spirit, wine or beer to sell in their establishments they should not be limited by an antiquated distribution system, but rather empowered to bypass it with the passage of this bill. Trends in the cocktail world move quickly and North Dakota should have the same access as the bigger markets. Thank you kindly for your time.

Cheers,
Kami Kenna
Piscologia Pisco

Kami Kenna
Piscología Pisco
www.piscologia.com

Experience Tequila
[Website](#) | [Facebook](#) | [Twitter](#)
[+1-503-922-1774 \(US\)](#)
[+52-1-55-3060-8242 \(Mexico\)](#)

January 9, 2017

North Dakota Industry,
Business and Labor Committee.
Legislative Council
State Capitol
600 East Boulevard
Bismarck, ND 58505

Dear Committee Members,

It is with tremendous optimism that I write to support Representative Rick Becker's bill HP 1146 that would allow liquor license holders to bring into the state alcoholic beverages that distributors are unwilling pick up. There is a market for these spirits and tax revenue to be received by your state from doing business with craft distillers and smaller producers.

Ann Tuennerman

ann@talesofthecocktail.com

Founder

Tales of the Cocktail

Ann R. Tuennerman
Founder
Tales of the Cocktail
o: 504.948.0511
c: 504.343.4285
538 Louisa Street, New Orleans, LA 70117
www.TalesoftheCocktail.com

HB 1146
1/10/17

②
Michael Kashey

From: Michael Kashey michael.j.kashey@gmail.com
Subject: Fwd: my thoughts on the bill first draft - let me know what I should change before I send it to Kashey please
Date: January 10, 2017 at 12:13 PM
To: melissa@humpbacksallys.com

----- Forwarded message -----

From: "Kate Gerwin" <k8gerwin@gmail.com>
Date: Jan 10, 2017 10:46 AM
Subject: Fwd: my thoughts on the bill first draft - let me know what I should change before I send it to Kashey please
To: "Mike Kashey" <michael.j.kashey@gmail.com>
Cc:

Begin forwarded message:

From: Kate Gerwin <k8gerwin@gmail.com>
Subject: my thoughts on the bill first draft - let me know what I should change before I send it to Kashey please
Date: January 9, 2017 at 8:30:23 PM MST
To: Rick Becker <rickybecker@gmail.com>

My name is Kate Gerwin and I am a Restaurant and Bar consultant. I have been honored to be the first female and first american world bartending champion as well as being inducted to the Cocktail Hall of Fame. I have opened over 30 bars and restaurants in over 10 states. I have been working in North Dakota for three years now. I specialize in bringing craft cocktail culture to small markets. To say that working in North Dakota has been challenging would be an understatement. With limited access to unique products it has made bringing a new culture and understanding of what is happening in the industry in the rest of the world nearly impossible. While distributors have been helpful in bringing in some products, it is completely understandable that they would not want to make the investment to bring in loads of new products that will only sell at a few bars in the state, but this shouldn't mean the market should not have access to these artisanal and small batch products. I have made multiple request for products that have been denied and it only sets North Dakota back as we are a constantly involving industry with a unique and special worldly culture. Allowing this bill would enable bars and restaurants to carry special and unique products without the hassle of the distributors having to pick up labels that will only carry a minimal case buy annually. As I see it, everyone wins! The community now has exposure to more products as well as a variety of places to enjoy new and different experiences. The business now can carry the products they choose to highlight their unique creations. The smaller brands who cannot get representations now have the exposure they otherwise would be denied. And the distributors now can see how a product performs without having to make a blind investment to pick it up! For example if I request a mezcal a distributor is unwilling or unsure of, I can purchase it and if it takes off, they can simply decide to pick up the label knowing it will already be a viable investment. This bill will benefit the community of North Dakota by allowing the restaurant and bar industry to keep up with current trends and products that have been unavailable as of yet.

Jan 18, 2017

Rep. Becker
HB 1146

Humpback Sally's and Luft, Bismarck - Yes, testimony provided

1603 Main Events, Bismarck - Yes, testimony provided

Lucky Ducks and J60, Bismarck - Yes, testimony provided

10North Main, Minot - Yes, testimony provided

GeeWilliquors, Bismarck - Bill Klein, owner: "Absolutely! Plenty of situations"(referring to bourbons and other spirits). "We had to fight for over a year to get 1921 Tequila in". and; "We are wanting to increase our inventory of wines, while our distributor is downsizing."

Wurst Bierhaus, Fargo - Johnathon, bar manager: "It has happened a few times."

Cork and Cleaver, Fargo - Steve Dahl, GM: "Absolutely! I am 100% behind this!"

"One of many examples is beers from Excelsior Brewing."

"There are tons of different things, like with all the great craft distillers."

Bonzers, Grand Forks - Matt, bar manager: "Yeah, it does happen. There are products we can't get from time to time."

Broadway Grill, Bismarck - Karla, GM: "Not really any major problems."

Blarney Stone, West Fargo - Andrew, bar manager: "There are always instances we come across with beer." -Matt, GM: "They tend to get in what we want, but I can see it could be a problem for smaller operations."

Calls done in exact order above. All calls phrased exactly the same: "There is a bill in the legislature that would allow retailers to get a specific product shipped direct from a manufacturer if the distributor chooses not to carry the product. Have you ever experienced a situation when you wanted a specific product, but couldn't get it - not because the manufacturer won't expand to ND, but because the distributor chose not to carry it?"

Jan 18, 2017

Rep. Bosch

2

17.0252.01000

Prepared by Legislative Intern 8
January 11, 2017

PROPOSED AMENDMENT TO HOUSE BILL NO. 1146

Page 6, line 3 after "licensee." insert "However, if the licensed wholesaler subsequently confirms the ability to provide the specified alcoholic beverages to the retail licensee, the retail licensee shall revert back to receiving the specified alcoholic beverages from the licensed wholesaler."

Renumber accordingly