

2019 SENATE AGRICULTURE COMMITTEE

SB 2284

2019 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2284
2/1/2019
Job #32031 to (1:55:25)

- Subcommittee
 Conference Committee

Committee Clerk Signature Dan Johnston II

Explanation or reason for introduction of bill/resolution:

Relating to domestic winery ingredient utilization requirements and special events.

Minutes:

8 attachments.

Senator Klein: Opened hearing on SB 2284.

Doug Goehring: See attachment #1 for testimony in support of SB 2284.

Vice Chair Myrdal: Can you give us a rough appropriation?

Doug Goehring: Back in 2009, the legislature appropriated \$250,000 to start the process of research, and move forward. 2011, 2013, 2015 and 2017, there have been appropriations of roughly \$80,000 each biennium. In the previous biennium, it was about \$76,000 because of some cuts we had to make.

Vice Chair Myrdal: Can you give the number of wineries that use fruit verse those that use grapes.

Doug Goehring: There are over twenty wineries in North Dakota, and close to, I believe, 100 vineyards. Part of the funds that are utilized with the grape and wine research program can be used to support fruit production.

Senator Hogan: What happens today? In terms of purchase product user wine from outside the state?

Doug Goehring: There are some things you would have to comply with. In your second year, at least 10% of your product has to come from North Dakota. It goes up incrementally by 10% every year, until by your 6th year you have to have at least 51% product coming from North Dakota.

Rodney Hogen: See attachment #2 for testimony in support of SB 2284.

Patrick Ward: See attachment #3 for testimony in support of SB 2284.

Senator Klein: Could somebody just have a winery in this state and not have to comply by these rules?

Ward: Yes, North Dakota currently has a manufacturing license. You could buy one for about \$500, it costs a little more than a domestic winery license; however, under a manufacturing license, you cannot sell at your premise, you cannot occupy another tier.

Opposition

Jeff Peterson: See attachment #4 for testimony in opposition of SB 2284.

Senator Klein: I am somewhat offended by the whole-sell industry leading this thing, I would have to suggest that I tried to work with the whole sellers, with the growers, with the wineries. How are you doing business now under the current law, in regards to bulk wine? I don't see where in this bill I am restricting your use.

Peterson: That is based on negotiations that have been ongoing with our representative from the industry Ron Ballinger and Bob Nelson. I would like to defer that to those Ron.

Senator Klein: But I see clearly in here that you said the wholesale industry would lead you to believe. I do not know where that came from, are you a part of that discussion? Did they tell you that in particular?

Peterson: Are you asking if I have been in negotiation with Ron Ballinger and Bob Nelson?

Senator Klein: What I am saying is that "it cannot be emphasized enough that this is not wineries verses the growers issue, which is what the wholesale industry would lead you to believe." You wrote that, you said right here.

Peterson: History, over the last 16 years, has shown that the way for us to successfully grow this industry and make it work, was by working with the opposition, which has always been the wholesalers.

Greg Cook: See attachment #5 for testimony in opposition of SB 2284.

Ethan Hennings: See attachment #6 for testimony in opposition of SB 2284.

Senator Klein: This bill will not stop your ability to obtain fruit, as you need it; the adverse effect is that you may have to fill out more paperwork. We are not going to throw you into the street if you are unable to source your fruit locally, which was the whole point of the exemption, so you could acquire fruit elsewhere. You may have been a bit dramatic in saying the line, because you will be able obtain that juice if you so desirer it.

Hennings: Showing you where we are at right now with the market, why even have it in the law. We know that it is going to be an issue year, after year, after year, so why even have it at all.

Senator Klein: So once again, it is the law you do not like. This bill will not put you out of business; it is just going to be restrictive in the future?

Hennings: When I read the bill, it struck out to me that we would not be able to import juice. That is the only way we can make cider, we cannot get the same juice out of apple form.

Senator Klein: Just so everyone in here understands, I know the committee was having a tough time understanding how I wanted an exemption to an exemption, let me reassure you that if this passes you will have the ability to get all the juice you need.

Mark Vining: See attachment #7 for testimony in opposition of SB 2284.

Randy Albrecht: See attachment #8 for testimony in opposition of SB 2284.

Senator Klein: What do you propose to work together with the growers; I sense that is what we were doing initially? What can we do to work together with the growers now?

Albrecht: The reality is that, right now we take 100% of Red Trail Vineyards grapes, so their grapes are covered. We are having our annual conference now, unfortunately, we had to come back here, but the session right now is with the growers and the wineries. Talking about to work together to try to look at the fruit that the winery's needs, how to help the growers prosper. In a free market system this works, government cannot control everything sometimes the supply, the demand, the free market is what drives things to happen. That is really, what we are asking, the ingredient requirement does not solve any problems, it just creates some other problem.

Senator Larsen: What is the bulk amount of the juice that you can get from out of state?

Albrecht: Under the current wine law, it is either 50,000gl or 25,000gl of finished wine that can be brought in.

Senator Larsen: Not finished wine, just juice.

Albrecht: The 51% would drive the amount of juice that you could bring in.

Rod Ballinger, Bear Creek Winery: I would just like to give a little background info on how this wine industry got started. About 4 sessions ago, the legislature passed a bill that put \$250,000 for research, education, marketing and to jumpstart the wine and grape industry in North Dakota. It was a 7-man panel appointed to that, I was asked to serve as chairman of that committee. Because of that appropriation, we have 12,000 grape vines at NDSU right now under evaluation, and they are going through all the oenology wine science evaluations. We saw that this was going to be a huge venture for us, so we developed a Strategic Vision and Direction Conference. We invited people from all facets of the industry, including the office of the Governor, The Agriculture Commissioner, the Commerce Commissioner, we had NDSU, we had members from the Grape and Wine Association, and SBARE representatives were. We were to come up with a think tank so to speak, talking about how we can make this industry go. We had it facilitated by –inaudible- we had large tables, small discussions. During that time, we had a projection of what we had to get done in terms of our research, marketing;

one of the things that came up in that was a public policy. It was quoted that we have to streamline North Dakota laws, including direct to retail, that would allow North Dakotas wineries to survive. Three sessions ago the legislature passed law so we could now sell direct to retails.

Senator Osland: Is the growing of grapes profitable?

Ballinger: Yes, however there is a major startup cost.

Chairman Luick: Closed hearing on SB 2284.

(1:55:25) Committee goes to SB 2220 for remainder of recording.

2019 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2284
2/8/2019
32460

- Subcommittee
 Conference Committee

Committee Clerk: Liz Stenehjem

Explanation or reason for introduction of bill/resolution:

A bill relating to domestic winery ingredient utilization requirements and special events.

Minutes:

1 Attachment

Senator Klein: Explained proposed amendment 19.1026.01001 (**Attachment #1**). Refreshed committee on what they had discussed during previous meetings.
I Move the Amendment.

Senator Myrdal: I Second

Roll Call Vote Taken
Motion Carried 6-0-0

Senator Klein: I move SB 2284 as Amended

Senator Myrdal: I Second.

Senator Hogan: Obviously I've had huge pressure to vote no on this bill, but I love the amendment and it really makes sense to me, so I'm going to vote yes. I agree with Senator Klein; this bill is a back-up measure. If we need it, it will keep the industry alive. I don't think people see it that way, but I will try to message as I go home this weekend. I think messaging is what's important at this point. I think it's a good back-up strategy.

Senator Klein: Your comments could be that SB 2284 wasn't going to remove the requirements anyway. The requirements are in there, but we're not touching those; we're saying in a six-year business you're supposed to have 50% of your fruit from North Dakota so you maintain your North Dakota status. Then you can go outside of the state for any particular reason. I know there's some discussion it's a requirement, you shouldn't be doing this. That's not what this bill does. This bill does not touch that requirement regulation at all. I think that's where the confusion is, I know they have a different bill that will potentially supersede this, but our job is to look at the bill in front of us. Mr. Hogen who was here in support of the bill that day or the next day was elected as the president of the North Dakota Grape Growers. He also came to visit on Monday and said that they took no position, they

decided because there is a little bit of conflict between the growers and the makers. The growers are deeply concerned that if we eliminate the 50%. Of course I explained to Rodney that this bill does not change that and doesn't give them any more authority. But if the bill continues they would still be able to sell their produce to the in-state wineries. I think we can all understand that, when I tried to explain this to him. But I don't think anybody wants to listen. This has nothing to do with the distributors, this has to do with the grape growers. I said I would help Rodney through this process when he came to me; and continue to support grapes being researched here at the level of about \$80,000 at NDSU and some cultivars and all those issues. I think we're going to continue to build a North Dakota wine. We have to continue to work on North Dakota cultivars, and that's what he seems to understand and that's what he wants to do.

Senator Larsen: I agree that we have to keep this going. The group that I work with, three years ago I think we sold 48,000 bottles of wine. Two or three years ago we sold 13,000 bottles of wine, because of the downturn in the oil field. All of our rhubarb juice came from out of state because it didn't happen. My vineyard that I have been growing and my son has been growing a lot of our wine grapes or vines came from the NDSU extension project. When he was going to NDSU he was part of the what is it horticulture? He was in the greenhouse and part of that, they gave him a bunch of vines to bring home and we're growing them. Part of that six-year thing that Senator Klein's talking about; we were told to strip the fruit off to make the plant hearty. So we haven't produced any fruit for six years. This will be our second year producing, so the plants are seven years old. So we haven't been making any wine until, this will be our second year producing with the group I'm working with; Thumbs Up Winery. They have four acres that have been producing for many years. Our product is in every store on the top shelf and the problem that I see with North Dakota wines is that we're competing with worldwide wines that are really good for \$8-\$10 a bottle, and our North Dakota wines are \$14- \$17 a bottle and it's really hard for me to buy my own product when I can get it right out of the jug as much as I want. It's really hard for me to buy it. Until we find a wine or a grape that will match an Italian wine for \$8 we are going to have a huge struggle. I don't know what the answer of this is going to be. To keep the industry alive, I think we are going to end up having to blending our wines. I know the tourists; with what we're doing in the Minot area we have a pottery studio, art studio, wine event/wine tasting and wedding event thing that we're starting; another hat I'm putting on. People are going to come, and they are going to try to buy this wine and take it home. But you are not going to keep people there drinking that wine. They're going to need a good quality wine to keep them there. So that's where we're headed to. So I think not hindering it in any way is going to be key.

Chairman Luick: Does anybody know if the bill that is in the House has the language in here to increase the events from 20 to 30 as well or 20 to 40?

Senator Larsen: I know we shouldn't talk about cross bills or whatever, what is the angst about having more events and getting the word out and getting the promotion out, is that a problem?

Senator Klein: I think part of it is because this is not jams, jellies or farmer's markets. This is a taxed, very heavily regulated product; alcohol. The question is from the department and how you deliver that. There's a point where that local bar says why can't I just set up out

there on a Sunday afternoon? You're making a bar out of this because every Sunday you can go down and drink wine, maybe I should be allowed to do this. There's a little bit of a push back from the hospitality industry and I think there's going to be some push back from mothers against drinking, because your promoting this. In some respects, it's charity there are some charitable events. The big issue 40 events excluding Pride of Dakota gives them like every weekend. 30 seemed to be the number that Rodney suggested, because nobody's even doing 20 now and he said 30 would be more than enough, because we still are excluding the Pride of Dakota events from that total. There's been a lot of discussion. The tax department will be looking over their shoulders on that. The other issue is accounting for that alcohol and if they're properly picking up that tax on every bottle that's produced, because currently the distributor pays the tax when he delivers it to the store, to the retail outlet. So the tax department gets their tax in between their without having to go through Thumbs Up are you paying your tax? You'll be audited because they'll want to know where you're at. I think that's mostly the bottom line on that.

Chairman Luick: I think another crux of the whole thing is that you have the events like these, like if we have a dance in Fairmount where we have, it's a private event we still have to have a deputy; law enforcement there to make sure there's no alcoholic beverages being served to minors. In open events like this I think it's a little bit tougher to regulate and watch over. So if you again are loosening it up to the point were now we're going to have 50 events or 40 events even 30 events, whatever it is. I think somebody may come in and say, well we want to make sure that there is law enforcement over-sight at these places as well. I don't think that's necessary, but I think that is being thought about.

Senator Hogan: Have we done an interim study on this industry yet?

Senator Klein: We haven't really had a study, but as the businesses grow and the envelope continues to get pushed. There's still a concern amongst the three tiered system. We've allowed the wine makers now to go beyond that. They can make the wine and deliver the wine and we've given them special exemptions. That's some of the problems the distributors see. Now because of the direct delivery program we've established for our in state deliveries, we're finding that out of state wine companies have seen this and because of the commerce clause they're delivering direct into various liquor stores in North Dakota, which much to the angst of the big distributors they are bypassing that. I understand it's all about business, but as we chip away the existing law that was intended to help North Dakota and help produce this value added agriculture, it's unintended consequences that we face.

Senator Hogan: Fargo has opened up the street fair to allow alcohol there. There's a lot of policy on alcohol that's local too, so then they cross reference how does this bill cross reference with all of those local regulations. You might be interested to know that the mayor's commission on substance abuse is now looking at their local policies to see how they interface, and they should; because they are connected.

Chairman Luick: We have a motion on the floor, do we have any further discussion?

Roll Call Vote Taken
Motion Carries 6-0-0

February 4, 2019

SK
H/L

PROPOSED AMENDMENTS TO SENATE BILL NO. 2284

Page 1, line 23, remove "only"

Page 1, line 23, remove "not"

Page 1, line 23, replace "or" with ", and"

Page 1, line 23, remove ", unless"

Renumber accordingly

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2284**

Senate Agriculture Committee

Subcommittee

Amendment LC# or Description: 19.1026.01001

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 Senator Klein Seconded By Senator Myrdal

Senators	Yes	No	Senators	Yes	No
Senator Luick – Chairman	X		Senator Hogan	x	
Senator Myrdal – Vice Chair	X				
Senator Klein	X				
Senator Larsen	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2284**

Senate Agriculture Committee

Subcommittee

Amendment LC# or Description: _____

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 Senator Klein Seconded By Senator Myrdal

Senators	Yes	No	Senators	Yes	No
Senator Luick – Chairman	X		Senator Hogan	x	
Senator Myrdal – Vice Chair	X				
Senator Klein	X				
Senator Larsen	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Klein

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

REPORT OF STANDING COMMITTEE

SB 2284: Agriculture Committee (Sen. Luick, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2284 was placed on the Sixth order on the calendar.

Page 1, line 23, remove "only"

Page 1, line 23, remove "not"

Page 1, line 23, replace "or" with ", and"

Page 1, line 23, remove ", unless"

Renumber accordingly

2019 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2284

2019 HOUSE STANDING COMMITTEE MINUTES

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

SB 2284
3/12/2019
33584

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Domestic winery ingredient utilization requirements & special events.

Minutes:

Attachments 1, 2

Chairman Keiser: Opens the hearing on SB 2284.

Sen Jerry Klein~District 14: Introduces SB 2284. The bill helps the grape growers. If there is a fruit shortage, they can go out & buy some fruit. The 2nd page, we added special events from 20 to 30.

2:30

Chairman Keiser: Why did we drag the Ag commissioner into this decision instead of giving it to the Ag Commissioner?

Sen Klein: Because the alcohol industry is heavily regulated & taxed, the tax commissioner doesn't miss an opportunity that they are following.

Doug Goehring~Agriculture Commissioner-ND Department of Agriculture:
Attachment 1.

5:00

Rep Laning: The instate requirement is still there, this is really an exemption only on the shortage of the product, correct?

Doug Goehring: Yes, this would just grant a variance.

Rep Richter: How does this differ from what we heard in the Ag Committee that appeared to grant the same exceptions to growers having to use so much of ND products & the events? Are the two bills about the same?

Doug Goehring: I believe they are different. They can access the product but doesn't take out the requirement. They would be granted the special permits.

Rep M Nelson: Is this covering only grapes or is it fruit as well?

Doug Goehring: Any product for wine production.

Rep Adams: HB 1502, that one states 40 events & this one states 30, shouldn't they coincide with each other?

Doug Goehring: There are some things that are slightly different. The Pride of Dakota was taken out, so they were offered 40 special permits. Where The Pride of Dakota will be there with 30 events.

Chairman Keiser: In addition to Pride of Dakota?

Doug Goehring: Yes.

Chairman Keiser: Anyone else here to testify on SB 2284 in support, opposition?

Randy Albrecht~Owns Wolf Winery: Winerys were supporting & wholesalers were against it. Since that time, we have come together as a group & supported with some amendments on HB 1190 to make it a good bill. It also strengthens the existing system that they are concerned with. We ask that you not pass SB 2284 & allow us to work with our wholesalers on HB 1190. We are happy with where we are at.

Rep Schauer: How would this disrupt what's happening on your work now for HB 1190.

Randy Albrecht: There are two bills trying to go to the same place with slightly different provisions. HB 1190 is supported by everyone except for one.

Chairman Keiser: The one that counts is the last one that was signed for bills.

Ethan Hennings~Wild Terra Cider: Attachment 2.

14:30

Chairman Keiser: Anyone else here to testify on SB 2284 in opposition, neutral position?

Myles Wosberg~Tax Commissioner's Office: I'm here to answer questions.

Chairman Keiser: Where is the tax benefit? Why do you need to be involved versus Ag Commissioner?

Myles Wosberg: We issue the wine events & licenses. As far as the waiver of the wine ingredients, I don't think it's that important to us.

Chairman Keiser: Closes the hearing.

Chairman Keiser: Do you have HB 1190?

Sen Klein: We have HB 1190. Whether you pass SB 2274 or not, this shouldn't affect HB 1190. Fruit requirement is in law. We are providing an exemption.

Chairman Keiser: We will hold this one.

2019 HOUSE STANDING COMMITTEE MINUTES

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

SB 2284
4/2/2019
34453

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Domestic winery ingredient utilization requirements & special events.

Minutes:

Chairman Keiser: Reopens the hearing on SB 2284.

Rep D Ruby: Moves a Do Not Pass.

Vice Chairman Lefor: Second.

Chairman Keiser: Further discussion? We have HB 1190 that we sent out & the senate did amend it. These bills are duplicative & that is the reason for the motion.

Roll call was taken on SB 2284 for a Do Not Pass with 11 yes, 0 no, 3 absent & Rep D Ruby is the carrier.

Date: Apr 2, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2284

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or
Description: _____

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 Ruby Seconded By Rep Lefor

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	Ab	
Vice Chairman Lefor	X		Rep Richter	X	
Rep Bosch	X		Rep D Ruby	X	
Rep C Johnson	X		Rep Schauer	Ab	
Rep Kasper	X		Rep Adams	X	
Rep Laning	X		Rep P Anderson	X	
Rep Louser	X		Rep M Nelson	Ab	

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep Ruby

REPORT OF STANDING COMMITTEE

SB 2284, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO NOT PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2284 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2284

COMMISSIONER
DOUG GOEHRING



SB2284
2-1-19 #1 Pg1
ndda@nd.gov
www.nd.gov/ndda

**Testimony of Doug Goehring, Agriculture Commissioner
North Dakota Department of Agriculture
Senate Bill 2284
Senate Agriculture Committee
Roosevelt Park Room
February 1, 2019**

Chairman Luick and members of the Senate Agriculture Committee, I am Agriculture Commissioner Doug Goehring. Thank you for the opportunity to appear before the committee. I am here today in support of Senate Bill 2284.

I support the option of allowing a variance for a winery who is having difficulties attaining local feedstock for wine production. This bill will allow the Agriculture Commissioner to assess the situation and determine what the need is. After consulting with the Tax Commissioner, a variance can be granted to a domestic winery allowing them the ability to purchase produce, juice or wine from outside of the state.

Grape and wine production has been supported by the legislature for the last ten years and there has been a great deal of investment made in vineyards for grape research and production that supports our wine industry. This bill would help to protect our growers and allow them to continue to grow their value-added industry, while addressing a concern or issue a domestic winery may be having.

Chairman Luick and committee members, I thank you for your consideration and would be happy to take any questions.

SB 2284
2-1-19
#2 Pg 1

SB 2284 is a common sense bill that will focus on the needs of the ND fruit/grape growers and also the wineries in ND.

There are two issues in this bill that I would like to focus on today. The first is the number of event days that a winery can go off site and do wine tastings and sell retail. This bill would increase the number of days from 20 day to 30 days. I believe in the past no winery has asked for more event days. There are some that use very few days and others that are up to the limit. The use of off-site sales has been a very good marketing tool for the wineries to promote their wine and sell wine at the different locations. For some the majority of their wine is sold at these events. In my opinion this 50% increase in the number of days, would give wineries an opportunity to sell more product and 10 more event days to promote their winery.

The second issue with SB 2284 is with the majority clause. Presently 51% of the product that a winery uses to make wine has to be produce in ND.

That is a big issue for the wineries for they believe they are treated unfairly because the craft breweries, can go out of state and purchase all their product to make beer. Breweries and Wineries are different in a way. We know that Budweiser or Coors isn't going to move into ND and start up a Brewery. They are here already in every liquor store in ND. And like wise we know that Sutter Home or Black Stallion from Napa or Erath Winery in Oregon won't be moving into ND to start a new winery, because they are here already. The majority clause protects the small wineries that have started and keeps others out. Like people that have had a very successful career and is looking for a way to invest in ND. As in a large event center, for weddings, or conferences and build a large winery with a beautiful tasting room and restaurant.

Without the majority clause these new wineries could bring in wine or grapes from the western states, bottle it or make it on site. Even a small winery could bring in California grapes and sell wine that people can relate with, such a Merlot, Cabs, Riesling, etc. and possible sell for less than the cold climate varieties that are grown in ND.

CAN IT HAPPEN ?

What could happen in ND has already happened in Montana without a majority clause. Montana has 11 wineries. One winery makes wine from cold climate grapes that they produce. One other winery makes Mead wine out of honey. The other nine wineries get their produce (grapes) shipped in from California, Oregon and Washington and make the Merlots, Cabs, Pinots etc. And some bring in wine made out of state and bottle it in Montana.

Wisconsin has 80 wineries without a majority clause and a lot of their produce is purchase out of state. Wisconsin does raise many acres of the cold climate

grapes like NDbut they have a much different climate.

Iowa has no ingredients restriction (majority clause) and about 100 wineries and over 1300 acres of grapes planted. Why did Iowa grow so fast?

Maybe we should look at one very important ingredient when it comes to growing grapes.

IT'S THE WEATHER! Like anything in the Ag business.

Looking at the average growing degree days in Iowa it is 2685 GDDs. In North Dakota it is 2135.

With Marquette needing approximately 2500 GDDs to ripen its fruit, it's pretty obvious why Northern MN, North Dakota and Montana have problems, and Iowa, Southern MN and Wisconsin can successfully grow even less hardy grape varieties and get at least 4 tons per acre. And they don't get the winter injury that we get. Andrej Svyantek (who is doing his Doctorate at NDSU) has done a

winter stress test on our grapes and with the temperatures this past week we can expect winter injury on our crop in 2019. Other threats are late frost in the spring killing the main bud, rain at pollination time, hail storm , early frost. It's farming 101.

Vineyards need better varieties that mature and produce an abundance of quality grapes so wineries can produce more wine and be successful.

NDSU has been doing an outstanding job in their research on the development of new varieties and have around 12,000 new varieties in their nurseries and research plots. Some of these have been made into a small batch of wine and a few are very promising. If the vineyards currently in the state and the new ones just starting could produce 4 tons/acre of these new varieties the 51% rule wouldn't be an issue. Like Iowa.

SB 2284 will still have a majority clause to protect the Growers and the Wineries. The 51% was never

meant to restrict anyone but to protect the grape and wine industry.

SB 2284 clearly states that Domestic Wineries may be granted an exemption from the ingredients utilization requirement whenever the state tax commissioner determines, upon the commissioner's own motionafter consultation with the agriculture commissioner, or at the request of a domestic winery, that a shortage of produce grown in this state exists for a particular crop rendering a winery unable to meet its production needs, or production problems/weather problem, etc. Also changed is the exemption applies only to the use of out of state produce, NOT juice or finished wine, UNLESS approved by the Ag Commissioner. I had this discussion about juice from white grapes. The correct way to transport white grapes is to convert them to juice at the vineyard add sulfate to protect them from bacteria and kill any wild yeast.

According to the Department they have no records to show a request and denial of any ingredient utilization exemption was ever applied for in the past. But they remember that way back there was someone who called and wanted to buy some frozen rhubarb in the middle of December.

I believe the Ag and Tax Commissioners will faithfully follow these easier guidelines to grant exemptions to the wineries and help create a template for the future.

Thank You

Rodney Hogen Red Trail Vineyard

SB 2284
2-1-19
#2
PS 8

Q All Rodney Hogen, search your mailbox

Home Rodney

RE: GDD's Event Invitation: Jelf C Re: ND Grape Variety

Compose

Archive Move Delete Spam More

RTV Bud Cold-Hardiness Report 12/22-23/2018

Svyantek, Andrej <andrej.svyantek@nds.u.edu> 12/26/18 at 6:10 PM

To Rodney Hogen

Howdy Mr. Hogen,

I collected buds from RTV over the weekend and froze them. I have included the results below.

If possible, I would like to request your permission to share this data from your vineyard along with the variety trial freezing report- sent to the ND Grape Listserv.

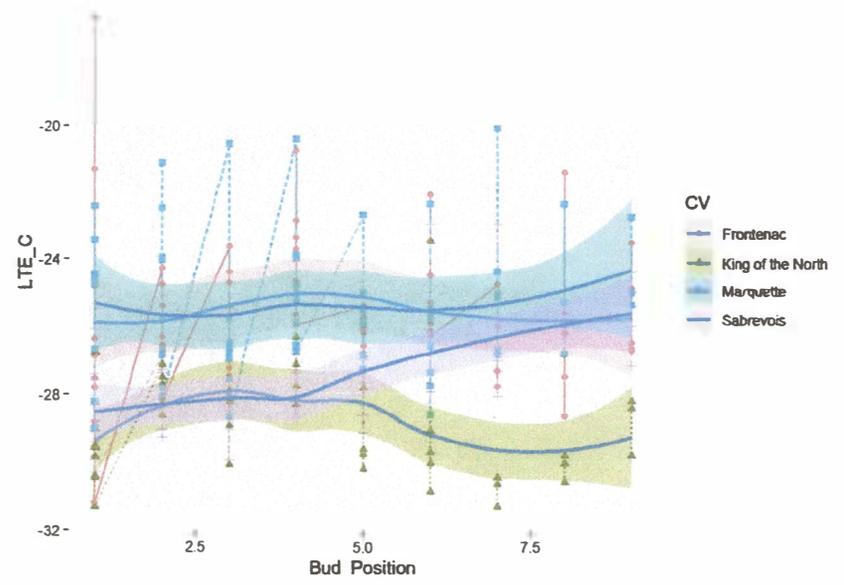
Bests,
Andrej

Average temperature at which buds died 12/22/2018:
North Frontenac gris: -25.2 °C -13.4 °F
South Frontenac gris: -25.9 °C -14.6 °F
La Crescent: -25.2 °C -13.3 °F

For the reds, I pooled buds from 9 separate canes into cells based on their bud position to investigate whether hardiness differed along the cane.

This was the first screening, so I won't jump to any conclusions. Sabrevois and King of the North were generally hardier at lower bud positions, but Sabrevois' hardiness decreased as I got farther along the cane. Frontenac and Marquette were typically fairly similar.

Average temperature at which buds died 12/23/2018:



SB 2284
2-1-19
#2
Pg. 9

Compose | RE: GDD's

Compose | Archive | Move | Delete | Spam | More

- Inbox (154)
- Drafts (18)
- Sent
- Archive
- Spam
- Trash (206)
- Smart Views
 - Important
 - Unread
 - Starred
 - People
 - Social
 - Shopping
 - Travel
 - Finance
 - inforum.com
 - google maps
- Folders (15)
 - Square (15)
 - Susan Hogen
 - Unwanted

RE: GDD's | People

Hatterman-Valenti, Harlene <h.hatterman.valenti@ndsu.edu> Jan 19 at 8:40 PM
To rehogen

Yes, they don't get the winter injury that we get, and they can successfully grow even less hardy grape varieties and get at least 4 ton/acre. They also have 1300 acres and do not have a fruit restriction.
Harlene

From: rehogen <rehogen@yahoo.com>
Sent: Saturday, January 19, 2019 6:28 PM
To: Hatterman-Valenti, Harlene <h.hatterman.valenti@ndsu.edu>
Subject: Re: GDD's

Thanks. It shows you why Iowa can have 1300 acres. Thanks for the info.

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----
From: "Hatterman-Valenti, Harlene" <h.hatterman.valenti@ndsu.edu>
Date: 1/19/19 12:31 PM (GMT-06:00)
To: rehogen@yahoo.com
Subject: GDD's

Rodney,
I used the 85/50 GDD model and a May 1 to October 1 growing period to determine the accumulated GDDs for each state. Adnan sent me a link for corn GDDs where I could select a county in each state and adjust the start date in order to get the 30 year average. I selected the center county on the north and south border of each state to get the GDD range. This most likely underestimates the accumulated GDDs by at least 200 GDDs for lower locations as one would gain approximately 2 weeks for growth/maturity every 250 miles further south. Here's what I found:

- North Dakota
 - Bottineau Co. 1960 GDDs
 - Emmons Co. 2310 GDDs
- Minnesota
 - Lake of the Woods Co. 1880
 - Martin Co. 2530
- South Dakota
 - Corson Co. 2350
 - Todd Co. 2490
- Iowa
 - Kassuth Co. 2530
 - Decatur Co. 2840
- Nebraska
 - Keya Paha Co. 2570
 - Harlan Co. 2910

With 'Marquette' needing approximately 2500 GDDs to ripen its fruit, it's pretty obvious why northern MN and ND has problems, and why most of the vineyards in MN are in the southern third of the state.

Harlene

US MAIL ADDRESS
NDSU Dept 7670
P.O. Box 6050
Fargo, ND 58108-6050

Harlene Hatterman-Valenti
Asst. Head & Professor
High-Value Crops Specialist
Department of Plant Sciences
470E Loftsgard Hall
Phone: (701) 231-8536

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SB 2284
2-1-19
#3 Pat

Testimony of Pat Ward in Support of SB 2284
S-IBL – February 1, 2019 – 10:00 a.m.

My name is Patrick Ward. I represent the ND Wholesale Liquor Distributors in support of SB 2284. We have three major issues with the winery bill which will be coming from the House, and we think the Senate bill is a better approach.

1. North Dakota Fruit

This domestic winery legislation was originally crafted over opposition from the wholesale industry. We saw this as a concerning exception to the laws and spirit of the three-tier system. Wholesalers represent successful domestic (ND) wineries who may not be in support of doing away with the fruit requirement. Certainly, some grape growers are not.

North Dakota laws, and the laws of many states, require manufacturers, wholesalers, and retailers to stay in their own lanes. Now, we have wineries, less than 20 small businesses, asking you to carve out more exemptions, for their operation in all 3 tiers. More and more wineries, from out of state, are taking advantage of this exemptions and shipping direct to retail. Can we know if the tax department is catching it all?

The original intent of this law was to encourage value added agriculture and to create farm wineries where grapes would be grown. It also allowed new wineries to gradually build up their vineyards (lines 8-13, on page 1) by using less North Dakota fruit at the beginning, and gradually requiring more.

As you know, the state has funded research and development to support this industry far beyond any returns to this point. Excise taxes paid by domestic wineries are a small fraction of what has been spent. By contrast, the wholesalers pay several million annually in excise taxes every year. Their importation of wine and payments are easy to track and collect.

The legislation was crafted to ensure the use of North Dakota produce, thus creating a niche for North Dakota farmers and to allow time for those vines to be developed and to allow them to market and sell their own wine. Now a few domestic wineries (there are about 19 in the state, and not all agree) want to do away with this requirement. We object to HB 1190 which they advocated. First, in the House bill, the requirement to use North Dakota fruit is **completely removed**. This Senate bill takes the common sense approach of instead creating an exception to the ingredient requirement for situations where there may be shortages, p. 1, lines 15-24.

The wineries who will oppose this bill want you to allow a domestic winery to ship imported wine, juice or grapes into the State (from California or Chile for example) to bottle and label. This would fit the existing definition of a "commercial" winery or a wine manufacturer license. That is not a farm or

domestic winery. Their proposal would not even require a domestic winery to have a single vine on the premises, so why allow them to occupy multiple tiers.

Each session the wineries come in and ask for more changes in this law. This bill is similar in many ways to HB 1343 from the 2017 session that was killed in the Senate. We felt, at that time, that we offered them a good and fair compromise. They chose to move on with no additional changes under the statute as it was then and is now.

As you may already know, some of the non-winery grape growers support this bill because of concerns about the House Bill taking away the incentives for wineries to buy locally sourced grapes.

2. Cap on Events

Another change is to increase the number of special events from 20 to 30, p. 2, lines 12 and 18. The special advantage of the event permits was to give domestic wineries more markets for their ND grown value-added product.

While this would be subject to the Tax Department's discretion to issue a permit, that discretion is narrowly defined. Currently domestic wineries sell directly to the public at "Pride of Dakota" events and do quite well, selling up to 100 cases a day I have been told. The problem apparently is a few wineries nearing 20 events. It would be much more prudent to simply raise the cap to say 30 events per year as in this bill.

Also, it seems very inconsistent for them to say they cannot grow or buy enough ND grapes to meet the current percentage requirements of existing ND law but at the same time be asking for more events. How can you sell more if you cannot make enough,

3. This change in law opens up court challenges to the 3 Tier System

Anyone who can import juice and bottle wine becomes a "domestic winery." No farm or vines required. ND currently has a wine manufacturer license, but under the three-tier system that licensee cannot occupy all 3 tiers of wholesale, manufacture and retail. If they manufacture, they must sell through a wholesaler.

Another concern we have is that if you further erode the three-tier system, this bill would subject our farm winery statute to even greater Granholm scrutiny (that is, potential for a commerce clause challenge). Large out-of-state operations could take advantage of this law and circumvent local wholesalers and retailers. Talk about unintended consequences.

It will not help local wineries sell their novelty product (the attraction being it is grown right here in ND). Why then couldn't a large retailer, like Sam's, assert its right under the commerce clause to manufacture and sell its own wine here in

ND? What would be left to make a domestic winery unique if it has no vines and they are shipping in juice or wine from out of state, and bottling it in Fargo or Bismarck.

HB 1190 is a special interest bill for 18 small business owners that changes the equitable, fair distribution of alcohol in North Dakota and risks putting all retailers and wholesalers (large and small) at risk. It opens the entire 70-year-old system to the "unintended" consequence of large-scale dismantling and disruption. In the alternative, this bill, SB 2284, allows the wineries to get exemptions when needed, but requires them to be a truly ND farm to table product.

Domestic wineries and grape growers already receive state funds for their association and statutory advantages, like event permits and direct delivery, to help them succeed. They can sell and deliver direct to customers and to retail. At this point they provide little tax revenue compared to current wholesalers and retailers, less than 1%. These advantages should not be allowed if they do not use ND produce. Plus, they might put 30 grape growers at risk of losing their intended market. Why would they buy local grapes when it is not required, and the law allows them to purchase finished wine or juice, and stick their label on it.

North Dakota should continue to require their use of North Dakota fruit at the winery to be authentically "domestic." We remain more than willing to work with the wineries to find a common sense solution, that does not throw away the baby with the bath water.

We believe SB 2284 would be the appropriate vehicle to do so.

Representatives of two of our wholesalers may also testify today, Dan Sobolik of RNDC and Bob Nelson of Johnson Brothers.

We urge a Do Pass on SB 2284.

P:\PWARD\Liquor Dealers\2019\Testimony - SB 2284.doc

SB 2284
2-1-19
#4 B&L

Agriculture

SB 2284

Chairman Luick and Committee Members,

02/01/2019

My name is Jeff Peterson and I represent Pointe of View Winery and Souris Valley Vineyard and Research Center. Please do not pass SB 2284. SB 2284 is not the wine industries bill, Our bill, HB 1190 is on its way to the Senate. SB 2284 is the same bill written by the wholesalers last session and defeated on the senate floor.

Recent calculations show hundreds of thousands of pounds of fruit shortage in North Dakota, that is a huge growth hindrance, but that is not the focus of my testimony.

It cannot be emphasized enough that this is not a wineries versus the growers issue, which is what the wholesale industry would lead you to believe. It is not about the majority clause, event days, or even about adding more government to our day to day operations with an exemption clause proposal from the Ag Department. These are all diversion tactics. The real reason for the wholesalers objections to HB 1190 and the reason for SB 2284, is our ability to sell and purchase bulk wine. Bulk wine is a basic business transaction utilized in our industry and authorized by the federal government. The transaction must remain within the manufacturing tier between wineries. The wholesalers want to completely remove our ability to engage in bulk wine activity and Patrick Ward, the wholesalers lobbyist, stated recently to HB 1190 primary sponsor Representative Dan Ruby that we have no need for bulk wine transactions if they agree to the removal of the majority clause.

Here are three reasons why we need bulk wine:

1. If you remove the ability to purchase bulk wine then you have to remove the ability to sell our bulk wine. It cannot be either or, it's unconstitutional by doing so. I personally have sold ND bulk wine and do not want to lose that ability.
2. Why would we want to completely give up a vital business tool for our industry that is currently available to us!
3. bulk wine purchase is used at times to supplement production and used in blending to create a specific character in wine.

Our industry has been in ongoing talks about this issue with the wholesalers and discussions about a gallonage cap that both parties can be satisfied with has not prompted any meaningful results with the wholesalers, but we are still very interested in resolving this issue with them.

Please do not pass SB 2284. Thank you for your time!

Jeff Peterson
Pointe of View Winery
Souris Valley Vineyard
Burlington, ND

4e winery

SB2284

February 1, 2019

#5 Ag

To: Senate Agriculture Committee
From: Greg and Lisa Cook, 4e Winery
Re: Opposition to SB 2284

Dear Chairman Luick and esteemed committee members,

Thank you for your time today. I am here today to express our support for positive changes to the grape and wine industry in North Dakota and to share my opinion on a number of reasons for saying no to this legislation, not the least of which is that the ingredient utilization regulations run counter to free market principles and inhibit growth of our industry.

My wife and I began our dream of building a North Dakota winery in 2012 when we purchased our historic farmstead just south of Casselton. We opened our doors in the summer of 2015 with a small quantity of our first wines made from local fruits. We are passionate about making North Dakota wine and expressing the flavors of our local fruits and grapes. We absolutely want to put North Dakota on the front of our label. We have refused to ship in any grapes from the west coast as we are 100% dedicated to promoting our cold climate varieties and expressing the terroir of the region. Due to the lack of grapes being grown in North Dakota we have had to reduce our wine production by 20% in 2018 to meet the state ingredient requirements.

- Wineries are the ONLY ND agriculture or manufacturing industry to have a ND ingredient utilization requirement.
- Ingredient requirement regulations are generally put into place in states at the insistence of national wholesalers whose goal is to limit the growth of domestic wineries in order to favor the importation of millions of bottles of mass produced wine from out of state.
- In states where no such requirement exists, free market principles have been demonstrated to be good for grape and wine industries. Many states around us that have flourishing grape and wine industries have no such regulations. (Montana, Michigan, Iowa, etc.)

Case in point - Iowa. In 2000 there were a half dozen wineries and less than 30 acres of grapes being grown. Iowa removed their restrictive ingredient requirements and wineries began opening. Today there are 100 active wineries and over 1,300 acres of cultivated grapes.

Iowa in 2008: Wine Grape Sales = \$1.26M; Winery sales = \$7.11M

Iowa in 2012: Wine Grape Sales = \$2.05M (~100% increase); Winery Sales = \$10.6M (~30% increase)

==> Vineyard growth is now far outpacing winery growth. The growers are stepping up to the demand created by the wineries.

==> An estimated 65-70% of wines produced in Iowa are made from state grown grapes despite having no ingredient requirements.

The bottom line is that the product utilization limitation is inhibiting the growth of the North Dakota grape and wine industry and will limit further cooperative growth of new vineyards in the state. This is demonstrated by data from other states that have allowed the free market to thrive and prosper vigorously.

Thank you for time and kind attention.

Yours sincerely,

Greg and Lisa Cook
Owners and Winemakers

SB2284
2-1-19
#6 Pg1

SB2284 in opposition WILD TERRA CIDER 2/1/19

My name is Ethan Hennings, I am the head cider maker and part owner of Wild Terra Cider.

In December of 2017 my wife and I opened the doors to our downtown Fargo business to bring to people the diversity of a craft beverage with rich and extensive history in the U.S.

Until we did, consumers had very little options to understand this wonderful libation.

Cider is federally classified as a wine. It is fermented apple juice as opposed to grape juice.

So we are here with fellow wineries in opposition to SB2284.

Last year we travelled around the state to pick apples for our cider. We collected approximately 20,000 lbs of fruit that was either picked by ourselves or donated by our patrons. One family travelled as far as Kenmare, ND about 320 miles from Fargo to bring us their apples. This number may sound like a lot of fruit, but in reality it is hardly anything compared to what we need.

In 2018 we sold about 600 gl of cider we produced and pressed around 1300 gl of North Dakota apples. Currently we are working on expanding our production area where we plan on producing 13,000 gl in our second year and continuing to increase the following years. Not only do we plan on selling more in our taproom, we are going to distribute in kegs and cans to liquor stores, restaurants, and bars all over the state and neighboring states as well.

One of several issues with this bill is that it will not allow to import juice for making cider. This is the only way to purchase raw product to make our cider. You cannot buy the equivalent of our juice in apple form across state lines at a reasonable rate. We will continue doing local foraging and accepting donations each year, but unfortunately there are zero commercial apple orchards in the state lines.

We have little control over what people bring us regarding varieties and quality of fruit. Also there is no guarantee the people that brought us their apples last year will bring them again this year. So whereas this has been a great, exciting community building project it will not sustain the growth of our business. The passing of this bill would essentially kill our small family owned business. Our 10 employees would be out of a job and my wife and two kids would be living on the street, since we have put everything, our entire livelihood into this business. And I am not exaggerating. We believe in North Dakota to eventually produce high quality cider fruit, but there just isn't enough yet.

Before we opened there was very little cider being sold in North Dakota while the beverage category is skyrocketing across the nation. We had a vision and were determined to be in the forefront of creating a market. In order for anyone to grow fruit there has to be a demand. The wineries and cideries need to exist and be growing sustainably first. The local fruit will come with our growth and this will create more tax revenue, more jobs and diversify agriculture and agro-tourism.

SB2284
2-1-19
#6 PG2

We plan on purchasing land and planting an orchard ourselves, but if we were to buy that land this year and plant trees in 2020 we would be expected to have 51% North Dakota apples for our cider one year before our trees would even yield their first, small crop. Even with our future orchard we won't be able to grow enough apples to meet our cider production demands. Buying local fruit is the most cost efficient way to make cider and has the best marketing power behind your brand. So we definitely want to use local fruit. But using the right varieties and best quality is key to creating the best tasting product that consumers will want to pay for and ask for at the retail stores.

Having a government office to determine for us whether or not there are enough apples to make our cider is arbitrary, since we already know that there isn't and won't be for many years to come. And having another industry such as the wholesalers convincing you that this will create unintended consequence of big box wineries coming to North Dakota is preposterous. If these big brands wanted to be in any other state without these restrictions, they would've done so already and they haven't. For them to come to North Dakota, build another winery, pay to ship their juice up here to ferment, and then self-distribute up to 50,000 gal in one of the least populous state's with no wine market to speak of since we haven't been allowed to create one yet, makes no sense financially or logistically.

Allowing us to grow our businesses only helps out the wineries, growers, the state, and the distributors as when beverage producers grow they will give business to the distributors. If we can't grow they are just missing out on new local business opportunities. I know of great relationships between many beer brewing and distilling companies with distributors already in this state.

I ask that you vote No on SB2284 as if it were to pass it would destroy my family business and more than likely others as well.

SB2284
2-1-19
#7 Pg 1

January 31, 2019

North Dakota 66th Legislative Assembly
Senate Agriculture Committee

Re: SB 2284

Senator Larry Luick – Chairman
Committee Members

I own Rookery Rock Winery and Agassiz Shores Orchard/Vineyard located near Wheatland, ND. I am opposed to SB2284 not because the proposed change in the requirement and possible exemption from the requirement for wineries to utilize North Dakota sourced ingredients is critical to my winery survival. My opposition is primarily because the Bill as proposed will impede the growth and jeopardize the survival of the ND wine industry.

SB2284 is identical to the 65th Legislative Assembly Engrossed HB1343. HB1343 was sponsored by Representative Boschee to eliminate the percent ingredient requirements and increase the number of event permits. The engrossment, written by the liquor and beer wholesaler lobbyists, eviscerated the original intent of the Bill.

The objections raised by the wineries to Engrossed HB1343 are today the same as the objections and concerns raised to SB2284.

The growth of the North Dakota wine industry has cause the demand for ND grown ingredients to exceed the supply. This will only get worse as newer wineries experience an increase in the required percentage of ND sourced product. At best, it will take several years for the supply to catch up with the demand.

The proposed exemption from the ingredient requirement places additional burdens on the Tax Department and the Ag Department. This appears to be in direct contradiction to the past years efforts to reduce the State government.

The Bill does not set forth a framework to administer the exemption process. Senator Klein did not consult with the wineries regarding the proposed bill or the method of administering the exemption process.

*How will a shortage of produce be determined? If a ND vineyard or orchard sells its crop out of state without first offering it to ND wineries is that crop counted in the total ND production?

* Does the shortage only apply to products grown commercially? If so, how is "commercially grown defined?"

*If fruit or grapes are of a quality, quantity, variety, price, spray program, etc. that is not acceptable to the winery's needs or standards is winery allowed an exemption?

*When is the exemption request allowed to be submitted and when is a shortage determined? Wineries prepare production plans prior to or early in the growing season. They need to make sourcing arrangements early to make efficient use of their facility. If a "mom and pop" contact a winery to sell a small quantity of fruit or grapes after the winery has completed its production plan is the winery obligated to purchase from "mom and pop". Many times the fruit or grapes offered by such seller are of timing, quantity, quality, questionable spray program, etc. makes it undesirable or unmanageable for the winery to purchase.

The ingredient requirement is unequitable in that it requires ND wineries to source the majority of their ingredients from ND growers yet the ND growers have no requirement to sell to ND wineries.

Over the past few years there has been much discussion that the funding of the grape research program and NDSU is the justification for the ingredient requirement on wineries. If that is the justification for the requirement on wineries that same requirement should be placed on other ND manufacturers such as breweries, distilleries, potato processors, bakeries, meat processors, malting plants, mills. The State has funded commodity research, primarily at NDSU and Extension, for decades. Three varieties of 2 row (malting) barley have been developed at NDSU with released in 1996, 2005, and 2015. In a June 22 2018 Power Point Presentation SBARE Chair Keith Peltier presented a slide showing the NDAES Research Impact. The slide stated that 50% of the ND acres sown to 2 row barley were done so with varieties developed by NDAES in 2015 (American Malting Barley Association Survey)

Pride of Dakota is funded by State tax dollars. The Pride of Dakota membership qualifications are: "Only products that were produced, processed, or originated in North Dakota, or are significantly altered by input of labor, process, or intellectual content in North Dakota qualify as Pride of Dakota products."

Based on the above facts the ingredient requirement placed on the wineries is not justified.

For the past several years the wholesalers, through their lobbyists, have been warning that without an ingredient limitation big out of state wineries would come into ND and open facilities to the detriment of the Domestic Wineries. If the entire population of ND was contained in one city it would rank as the 18th largest in the US. It is highly unlikely that an out of state winery would invest in the construction and operation of a winery in such a sparsely populated area that is thousands of miles from its primary source of grapes. It is not a viable business model.

During the 65th Legislative Assembly on Day 61 Senator Poolman addressed the Senate starting at 1:52.

She stated “ HB 1343 was brought to us by the wine industry...” “After a great deal of deliberation and an attempt to find common ground we came up with the amendment before you...” That amendment was drafted by the wholesaler’s lobbyist without any consultation with wineries and over the objection of the wineries.

At 1:53 Senator Poolman addressed the Senate stating: “HB 1343 as amended is now a bill the winery industry is not interested in ...”

“It is important to note that the taxpayers of North Dakota have invested in this industry with a focus on *value added agriculture...*” (*italics added for emphasis*)

“The majority of your industry, business, and labor committee wants to continue to support the wine industry while maintaining the intent of the original legislation and subsequent appropriations which is *value added agriculture.*” (*italics added for emphasis*).

Wineries provide the “value added” to “value added agriculture”. The ND Department of Commerce defines Value Added Agriculture as: “ Value added agriculture is changes made to primary agriculture products (crops and livestock) that increase the product’s value, thereby creating new economic activity and jobs in one of three ways:

1. Process activities that create value for the product and/or introduce the product to new markets
2. Diversification and/or modification of primary agriculture products: or
3. Pre-production modifications that increase yields, quality and uses

HB2284 does not support value added agriculture. It places the fledgling winery industry at risk. It does not protect and/or provide current or future growers with a market for their products. HB2284 does exactly the opposite of what is represented to do for the wineries, growers, and the State of North Dakota.

Respectfully,

Mark Vining
Rookery Rock Winery
Agassiz Shores Orchard&Vineyard

SB2284
2-1-19
#8 Pg 1

Chairman Luick, members of the Senate Agriculture committee:

My name is Randal Albrecht, Owner of Wolf Creek Winery and I appear before you to testify in opposition to SB2284. In the past 5 years both the number of Wineries and the gallons of wine they produce have increased significantly creating a severe shortage of fruit available in the State to use to produce local wine. As an example it takes about 15lbs of grapes per gal of wine. If 10 of our ND Wineries produced 2,000 gallons of wine, they would need 30,000 lbs of grapes each. The average vine in our Vineyards produce about 7lbs of grapes. That would require 300,000 lbs of grapes, or about 42,850 vines. We haven't been able to determine the exact number of producing vines in the State but the data we have **indicates we are a minimum of 32,000 vines, or 224,000 lbs short**. The Industry tried to negotiate their position in several meeting with Senator Klein and the wholesalers on the needed changes without success.

- SB2284 Bill was introduced by Senator Klein after it had been proposed to, and **was rejected by 17 out of 18 Wineries Licensed in the State of ND.**
- It was implied that this Bill is supported by the NDWGA. **The association has not taken a position on this Bill**
- The Wineries feel very strongly that an ingredient requirement is an unfair government regulation, which limits our business from competing in the open market, and is limiting our industry growth.
- Our Domestic Wineries are the only private business in N.D. subject to a Government regulated Ingredient Requirement
- **Please kill SB 2284 as it does not fix our problem.**
- Please support HB 1190 which eliminates the ingredient requirement and adds 20 additional event days. **It is supported by 17 of the 18 Wineries.** It was passed by the House IBL committee unanimously and the Full House by a 82 to 3 vote. **This Bill fixes our problem, minimizes government regulations, and allows for free market growth for the Local Wine Industry.** Thank you for your support. You may contact me with questions at any time. (701)220-7237, or ralbre@live.com
Randy Albrecht, Wolf Creek Winery

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Prepared by the Legislative Council staff for
Senator Klein

February 4, 2019

SB2284 #1
2/8/19 pg1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2284

Page 1, line 23, remove "only"

Page 1, line 23, remove "not"

Page 1, line 23, replace "or" with ", and"

Page 1, line 23, remove ", unless"

Renumber accordingly

COMMISSIONER
DOUG GOEHRING



Attachment 1

ndda@nd.gov
www.nd.gov/ndda

**Testimony of Doug Goehring, Agriculture Commissioner
North Dakota Department of Agriculture
Senate Bill 2284
House Industry, Business & Labor Committee
Peace Garden Room
March 12, 2019**

Chairman Keiser and members of the House Industry, Business and Labor Committee, I am Agriculture Commissioner Doug Goehring. Thank you for the opportunity to appear before the committee. I am here today in support of Senate Bill 2284.

I support the option of allowing a variance for a winery who is having difficulties attaining local feedstock for wine production. This bill will allow the Agriculture Commissioner to assess the situation and determine what the need is. After consulting with the Tax Commissioner, a variance can be granted to a domestic winery allowing them the ability to purchase produce, juice or wine from outside of the state.

Grape and wine production has been supported by the legislature for the last ten years and there has been a great deal of investment made in vineyards for grape research and production that supports our wine industry. This bill would help to protect our growers and allow them to continue to grow their value-added industry, while addressing a concern or issue a domestic winery may be having.

Chairman Keiser and committee members, I thank you for your consideration and would be happy to take any questions.

My name is Ethan Hennings, I am the head cider maker and part owner of Wild Terra Cider.

In December of 2017 my wife and I opened the doors to our downtown Fargo business to bring to people the diversity of a craft beverage with rich and extensive history in the U.S. Until we did, consumers had very little options to understand this wonderful libation. Cider is federally classified as a wine. It is fermented apple juice as opposed to grape juice. So we are here with fellow wineries in opposition to 582284.

Last year we travelled around the state to pick apples for our cider. We collected approximately 20,000lbs of fruit that was either picked by ourselves or donated by our patrons. One family travelled as far as Kenmare, ND about 320 miles from Fargo to bring us their apples. This number may sound like a lot of fruit, but in reality it is hardly anything compared to what we need. In 2018 we sold about 600 gl of cider we produced and pressed around 1300 gl of North Dakota apples. Currently we are working on expanding our production area where we plan on producing 13,000 gl in our second year and continuing to increase the following years. Not only do we plan on selling more in our taproom, we are going to distribute in kegs and cans to liquor stores, restaurants, and bars all over the state and neighboring states as well. One of several issues with this bill is that it will not allow to import juice for making cider. This is the only way to purchase raw product to make our cider. You cannot buy the equivalent of our juice in apple form across state lines at a reasonable rate. We will continue doing local foraging and accepting donations each year, but unfortunately there are zero commercial apple orchards in the state lines. We have little control over what people bring us regarding varieties and quality of fruit. Also there is no guarantee the people that brought us their apples last year will bring them again this year. So whereas this has been a great, exciting community building project it will not sustain the growth of our business. The passing of this bill would essentially kill our small family owned business. Our 10 employees would be out of a job and my wife and two kids would be living on the street, since we have put everything, our entire livelihood into this business. And I am not exaggerating. We believe in North Dakota to eventually produce high quality cider fruit, but there just isn't enough yet. Before we opened there was very little cider being sold in North Dakota while the beverage category is skyrocketing across the nation. We had a vision and were determined to be in the forefront of creating a market. In order for anyone to grow fruit there has to be a demand. The wineries and cideries need to exist and be growing sustainably first. The local fruit will come with our growth and this will create more tax revenue, more jobs and diversify agriculture and agro-tourism. We plan on purchasing land and planting an orchard ourselves, but if we were to buy that land this year and plant trees in 2020 we would be expected to have 51% North Dakota apples for our cider one year before our trees would even yield their first, small crop. Even with our future orchard we won't be able to grow enough apples to meet our cider production demands. Buying local fruit is the most cost efficient way to make cider and has the best marketing power behind your brand. So we definitely want to use local fruit. But using the right varieties and best quality is key to creating the best tasting product that consumers will want to pay for and ask for at the retail stores. Having a government office to determine for us whether or not there are enough apples to

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Attachment 2

make our cider is arbitrary, since we already know that there isn't and won't be for many years to come. And having another industry such as the wholesalers convincing you that this will create unintended consequence of big box wineries coming to North Dakota is preposterous. If these big brands wanted to be in any other state without these restrictions, they would've done so already and they haven't. For them to come to North Dakota, build another winery, pay to ship their juice up here to ferment, and then self-distribute up to 50,000 gal in one of the least populous state's with no wine market to speak of since we haven't been allowed to create one yet, makes no sense financially or logistically. Allowing us to grow our businesses only helps out the wineries, growers, the state, and the distributors as when beverage producers grow they will give business to the distributors. If we can't grow they are just missing out on new local business opportunities. I know of great relationships between many beer brewing and distilling companies with distributors already in this state.

I ask that you vote No on SB2284 as if it were to pass it would destroy my family business and more than likely others as well.