

**2021 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2321**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Fort Union Room, State Capitol

SB 2321  
2/8/2021

relating to microbrew pubs and brewer taprooms
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**Chair Klein** opened the hearing at 10:00 a.m. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

### Discussion Topics:

- Brew pubs
- Contract brewing
- Sizing of products available for sale

**Senator D. Larsen** introduced the bill, testified in favor, and submitted testimony #5862 [10:00].

**Scott Meske, ND Brewers Guild** testified in favor and submitted testimony #5816 [10:05].

**Mike Frohlich, Laughing Sun Brewing Company** testified in favor and submitted testimony #5748 [10:09].

**Mark Bjornstad, Drekker Brewing Company** testified in favor and submitted testimony #5754 [10:16].

**Eric Johnson, Atypical Brewery and Barrel Works** testified in favor and submitted testimony #5753 [10:26].

**Janet Seaworth, ND Brewers Association** testified neutral and submitted testimony #5875 [10:35].

**Dee Wald, ND Tax Department** testified neutral [10:42].

**Additional written testimony:** 5747, 5768, and 5814.

**Chair Klein** ended the hearing at 10:43 a.m.

*Isabella Grotberg, Committee Clerk*

Chairman Klein and esteemed members of the Industry, Business and Labor Committee,

My name is Doug Larsen, Senator from Mandan's District 34.

I don't intend to make you microbrewery beer experts, but I do want to talk a bit about the two different systems or types we have in the state, I will also be talking about the three main things that this bill will do for the industry.

The two types are Tap Rooms and Brewpubs.

Tap rooms function to allow a brewery to make beer and serve/sell only their product. If we went to a place like Buffalo Commons, located in the fine city of Mandan—you would be tap room. The only beer that my constituent could offer you would be what they have made on premise. If could were offered, it would be from an outside vendor—a food truck or some type of vendor.

They allowed to make up to 25,000 barrels of beer per year. A barrel of beer 31 gallons and would make two traditional kegs of beer or 15.5 gallon kegs. They are allowed to self-distribute up to 10K barrels per year. They are allowed to sell 'off-sale' up to a quantity of 5.16 gallons per day or what is commonly referred to as a 1/6-barrel keg. These are the same height as the more commonly known keg—only smaller in diameter.

Whereas a Brewpub is allowed to function more like a garden variety bar. They are allowed to sell other beer for instance, they are allowed to have a kitchen and sell food. An example of a brewpub would be Laughing Sun in District ?? of Bismarck.

The brewpub is allowed to make up to 10,000 barrels of beer, is not allowed to distribute, and can sell off-sale up to 3 gallons per day. The quantity has been further defined as to up to a case of beer per day per person. These quantities found their beginning with the idea of the growler. Many years ago, a 1-gallon growler (or jug) was a common size that a customer would purchase and take home. Through advances in packaging, the growler is less common.

There are three primary things that this bill will accomplish

1. First it will allow for contract brewing. Contract brewing would allow a brewer to use another facility to brew their beer. Examples of this might be equipment breaking or some type of other limitation at the requestors facility. The brewed beer quantities would count against the brewer that is having it brewed—not the facility that is doing the brewing.

This was assumed to be allowed during the last session, however the tax department has requested that 'clarifying language' be added. There does not seem to be any resistance to clarifying the language or the idea of contract brewing.

2. The second thing the bill will accomplish is increasing the amount that the brew pub and tap room are allowed to sell via 'off-sale.' This bill would standardize the amount to 5.16 gallons or a 1/6-barrel keg. This would increase the quantity from 3 to 5.16 gallons. Growlers are no longer popular and personal kegerators are tending market. They do not make a 3-gallon keg—your options are either 5.16 or 15.5 gallons. No change would be seen on the 'tap room' only standardizing the container size for off sale between a tap room and brew pub.
3. Currently both tap rooms and brew pubs are allowed to purchase 20 event permits per year whereas distilleries and wineries are allowed 40 per year. An event might be something like "Arts in the Park," "Buggies and Blues," or similar community or business venture. This bill will increase that to 40. Though they are not 'using' all of them presently, decisions are being made from time to time of what to do and not because of the limitation.

The point of this bill to add clarifying language recommended by the tax department as it pertains to contract brewing and standardizing – standardizing sizes between the brew pub and tap house into sizes that are currently being used as well as number of events allowed between the members of the industry.

I urge a DP and will stand for questions, however—more informed people are scheduled to speak next.





# Craft breweries help grow communities

#5816

## **SENATE BILL 2321 – 67<sup>TH</sup> LEGISLATIVE ASSEMBLY OF NORTH DAKOTA**

Senate bill 2321 modifies North Dakota Century Code to allow brewpubs and taprooms the same business models as domestic wineries and distilleries in North Dakota. These privileges include direct shipping, event permits issued by the Tax Department, common container language, and contract brewing.

**CONSUMER DEMAND:** As craft brewing in North Dakota has grown over the past 15 years, consumers continue to ask for local brews in their restaurants and local bars. By producing a quality product and working with distributors, local brewers can meet those demands, and grow their business.

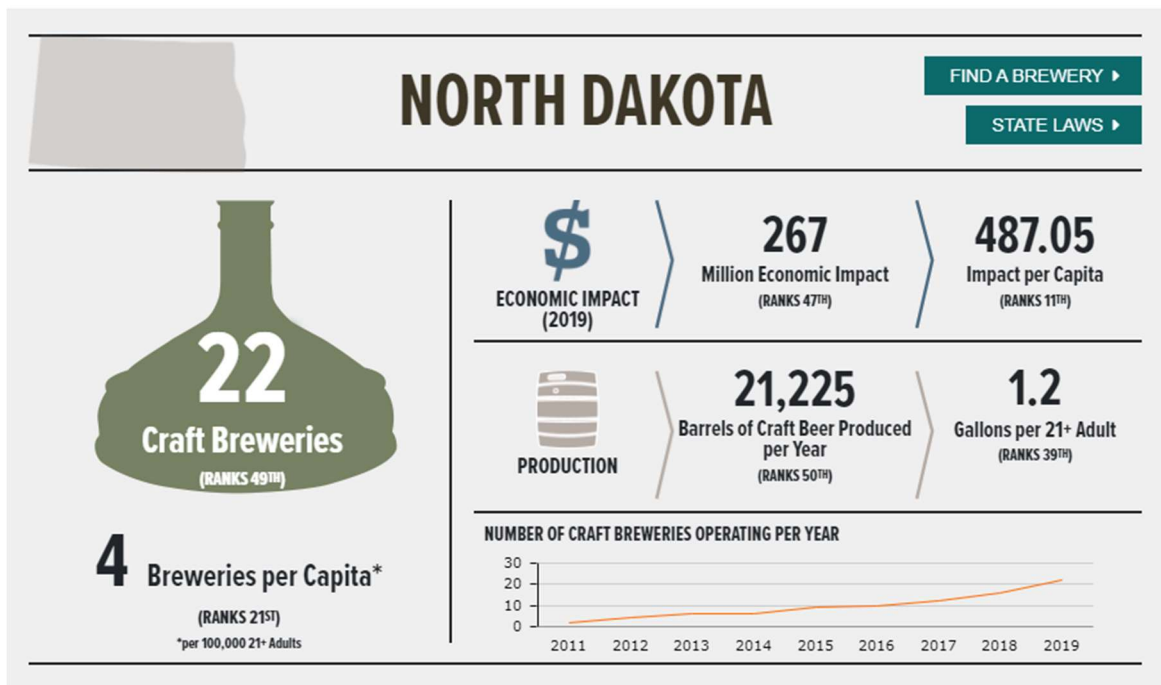
**ECONOMIC VALUE TO COMMUNITIES:** Locally owned breweries create jobs; help bring tourism dollars to their communities and support local charities and events. SB 2321 allows brewpubs and taprooms up to 40 event permits as determined by the Tax Department.

**COMMON PRACTICES:** Contract brewing gives North Dakota breweries the ability to have more product made when their facilities may be in maintenance stage, or just to meet demands. SB 2321 also could help smaller in-state taprooms and brewpubs as larger brewers could assist them, particularly after a difficult economic year.

**TAX CODE CLEAN UP:** The Tax Department has administered alcohol code since the first craft brewer began operations. The wholesalers and distributors as well as the craft beverage producers have worked on the code language, sometimes together, to meet industry and consumer trends. Container size and off-sale amounts in SB 2321 are standardized for both brewpubs and taprooms.

**VALUE ADDED AGRICULTURE AND ECONOMIC IMPACT:** The Tax Department lists 11 Taprooms and 12 Brewpubs in their 2020 records. Combined, these small businesses help drive the tourism economy in North Dakota and use locally sources grains and products and support North Dakota's value-added agriculture economy.

## 2019 STATISTICS



**NORTH DAKOTA  
BREWERS GUILD**

Supported by North Dakota Brewers Guild

Contact: Angie Pelton, President | [angie@shooterhospitality.com](mailto:angie@shooterhospitality.com)

2/8/2021

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Mike Frohlich  
Laughing Sun Brewing Company  
1023 E Front Ave, Bismarck ND 58504



Chairmen Klein and Members of the Senate IBL Committee,

I am submitting testimony in support of Senate Bill 2321. This bill represents a community of brewers across the state, making their communities better places to live, providing jobs, supporting farmers, growers, and maltsters across the state. We use a local maltster in Lincoln, that partners with farmers near Goodrich, Belfield, and Dickinson for 98% of our beer production. Just a small example of the synergy of the industry in North Dakota, that contributes more than \$250 million dollars to the economy of the state.

We opened in 2012 in downtown Bismarck. In 2013, we licensed as a taproom after legislation passed in the 2013 session. As a taproom, we were allowed to sell up to 5.16 gallon containers out the door to consumers. In 2018, we expanded to a new, larger location with a canning line, BBQ restaurant, catering business, and a second BBQ restaurant in Mandan. We had to license back as a brewpub because our second location did not have a brewery attached, and as a taproom, we were not allowed to own another retail alcohol establishment. With that license change, we had to limit our sales to three gallons. In 2019, a change was made to eliminate the minimum container size, but a discrepancy was created when the limit went to 288 ounces, or three gallons. Those ounces do not match the three gallon limit. This has created a lot of confusion with our customers and with the tax department. SB2321 makes this language consistent across the taproom brewer and brewpub licenses, eliminating confusion for all, allowing both licenses to sell up to 5.16 gallon container sizes.

This past year has been challenging for the taproom and brewpub industry, with restrictions on seating capacities, in-store dining, and limitations on hours of operation. Our beer production shifted entirely to cans during the spring and summer of 2020. During times like these, we learned to pivot, offer online takeout options, third-party delivery sources, and focus on our canning operations. Smaller breweries don't always have the option to put their product in cans.

SB2321 specifically lays out contract brewing language in century code. If a smaller brewer was allowed to contract another brewery to brew and package their beer at a larger facility, that could be the difference in surviving a pandemic. It can be a way to grow your business without the massive investments in equipment required, and often that space limitations prohibit. It's a



way larger facilities can fill surplus capacity during slower times. Businesses need flexibility, and any added revenue sources are invaluable, especially with recent events.

SB2321 levels the playing field and creates more flexibility in the brewing industry by clearing up direct-to-consumer shipping in the state. Breweries outside of the state are already allowed to ship to consumers in North Dakota. We feel that the playing field should be level for in-state breweries as well. SB2321 further levels the playing field for breweries in the state by allowing them to apply for 40 event permits per year, equal to the number that wineries and distilleries are currently allowed. All sources of revenue are crucial to on-premise locations looking to keep their doors open.

SB2321 is critical to the survival and growth of the brewing industry in North Dakota. Five breweries went out of business in 2020. We need to ensure the industry is strong in North Dakota, and SB2321 helps make that a reality. I urge you to support the passage of SB2321. Thank you for your time.

Sincerely

Mike Frohlich  
Founder/Brewmaster  
Laughing Sun Brewing Company



North Dakota Senate Committee on Industry, Business and Labor  
Senator Jerry Klein, Chair  
Senator Doug Larsen, Vice Chair  
Monday, February 8th, 2021

**STRONG SUPPORT SB 2321** - A BILL for an Act to amend and reenact sections 5-01-14 and 5-01-21 of the North Dakota Century Code, relating to microbrew pubs and brewer taprooms

**Written Testimony of Mark Bjornstad**  
**Drekker Brewing Company, Co-Founder & President**  
**North Dakota Brewers Guild, Member**

Chairman Klein, Vice Chairman Larsen and members of the Senate Industry, Business and Labor Committee,

My name is Mark Bjornstad and I am the Co-Founder and President of Drekker Brewing Company in Fargo, North Dakota and I am a member of the North Dakota Brewers Guild. I am here to share my strong support for Senate Bill 2321.

Drekker Brewing is licensed as a Taproom Brewer and is currently the largest brewery in the state of North Dakota, brewing over 8,000 barrels per year. We specialize in creative and experimental beers with many being listed amongst the highest rated beers in the world and winning numerous awards annually. In 2020 we brewed 125 different beers and 80 of them were brand new. Our brewery is a major attraction in Fargo where we draw hundreds of people from all over the region and surrounding states every week to line up for our beer releases and events. To us, the Taproom Brewer license was the best way to focus on our brand, make our brewery a destination and get our beers out into the world through multiple different distribution opportunities. We currently distribute our beers to twelve states and several countries across Europe.

Since our brewery was opened in 2014, the craft beer industry has grown and changed continuously. This requires we advance our products and the business models we utilize to sell them. Senate Bill 2321 is needed to address multiple areas where consistency is lacking and where changes are needed to allow North Dakota breweries to adequately adapt to the changing business and brewing industry climate. I am asking you to support this bill and it's efforts to:

- Resolve package size inconsistencies across different laws.

- Allow contract brewing and alternating proprietorship relationships as they are defined and regulated by the Federal Government.
- Allow North Dakota breweries to ship directly to consumers within North Dakota as is already allowed for out-of-state breweries.
- Increase the allowed Festival Event permits from 20 to 40 per year.

Different package size allowances and restrictions have developed over the years through multiple different laws and amendments. It is our intention, and at the request of the North Dakota Tax Department, to address these inconsistencies and provide a more clear set of regulations. This is also incredibly confusing and frustrating to our customers across North Dakota. These differences between brewpubs and taproom breweries provide no consumer protection and only limit commerce and inhibit growth.

Contract brewing is an issue that is particularly important to myself and Drekker Brewing. Contract brewing is an arrangement between two fully licensed breweries where the contractor brewery utilizes excess capacity to brew beer for the contractee brewery, who has a demand or need beyond their own capacity. Simply expanding a brewery's capacity is not always possible or reasonable. During our last expansion it took seven months from the time we ordered and paid for tanks for them to arrive. In addition, it took another 2 months for beer to be produced out of those tanks totalling nine months to respond to increased demand. This is even more painful considering this was during a pandemic when our brewery was experiencing intermittent shutdowns and precaution restrictions. Had we been able to contract brew, we could have had that beer on our dock in two months, and every month after that. This is an arrangement that is licensed and regulated by the Federal Government and currently allowed in every single state except North Dakota. North Dakota law does not explicitly prohibit contract brewing but rather through a disputed interpretation by the North Dakota Tax Department.

In 2017 Drekker Brewing began plans to build our new brewery but we needed to meet demand much faster than we could build a whole new facility. We approached the Tax Department with our intentions and need to begin contract brewing. They felt there may be an issue with entering into this arrangement with another North Dakota brewery because providing our recipe was giving them a "thing of value". We did not agree with this interpretation but followed their recommendation to look for an out-of-state contract brewery to fulfill this need. We selected a contract brewer in Florida and began brewing beer under contract and upon making our announcement we were informed by the Tax Office that if any of this beer entered the State of North Dakota they would file criminal charges against us and take any actions against our licenses they felt was necessary. To this day I do not understand the degree to which the tax department opposed this arrangement and after several years of discussion we were asked to clarify this with legislation. I am here today to do just that and ask that you support this bill and clearly define contract brewing arrangements within the State Law so we may grow and meet our demand under all of the avenues allowed to us and every other brewery across the country. This not only helps growing breweries in North Dakota but also helps breweries with excess capacity, fulfills orders from our wholesale partners furthering their business, meets our customers demands and provides increased tax revenue for the State of North Dakota. There is no loser in allowing North Dakota breweries to contract brew.

Another item this bill seeks to clarify is direct shipment of beer to consumers within the State of North Dakota. Currently out-of-state breweries are allowed to direct ship to residents of North Dakota but an in-state brewery isn't afforded this same opportunity. This is a perplexing situation where the US Constitution Commerce clause is being violated in reverse. The commerce clause of the US Constitution is intended to encourage interstate commerce and prevent a State from enacting laws that would favor their in-state companies and inhibit out-of-state companies. In this instance, North Dakota has chosen to favor out-of-state companies and prohibit their in-state companies from engaging in the same commerce model. That is an unfathomable situation the founding fathers would never have even imagined. A State willfully allowing out-of-state companies to sell products in a manner they won't allow to an in-state company. I can only hope this was an oversight in previous law and something we can resolve here. This issue has become all the more important during the current pandemic when companies across the country are shifting business models and engaging in e-commerce to sell their products and reach customers that are no longer allowed or able to come to them directly. This bill will allow North Dakota breweries to function in the same manner out-of-state breweries are currently allowed to sell beer in North Dakota and allow us another avenue to sell our products as we fight to survive as businesses and as an industry during this global pandemic.

The last issue I wish to speak on regarding this bill is Festival Event permits. These licenses are utilized by breweries so we can take our products across the state to industry expositions, festivals and gatherings. These events provide the opportunity to share our products, educate customers on North Dakota breweries and the brewing process, explain our usage of North Dakota agriculture products and eventually sell those products to new customers. Currently North Dakota breweries are allowed 20 Festival permits annually, half of what is provided to wineries and distillers. This was an arbitrary number arrived at by some prediction of how permits would be used and the possible demand for these types of events and has created an inconsistency between different alcohol producers in the state. Since this law was originally written the North Dakota brewing scene has grown along with consumer interest in learning more about North Dakota made products and seeking a connection with the state's agriculture and food and beverage production industries. These licenses are absolutely essential for us to market our products and participate in these festivals and gatherings, however we are severely limited by the current restriction. We have to constantly turn down opportunities and ration these licenses throughout the year. This bill increases the number of licenses we are allowed from 20 to 40 annually and I strongly ask for your support on this measure.

I sincerely hope you will consider these items and the needs they address for the North Dakota brewing industry. It is a pleasure to speak before you and I thank you for this opportunity.

Respectfully,

Mark Bjornstad  
Drekker Brewing Company, Co-Founder & President  
North Dakota Brewers Guild, Member

## Testimony SB 2321

Mr. Chairman and Members of the Committee,

My name is Eric Johnson and I represent Atypical Brewery & Barrelworks in Minot. While we are in full support of SB 2321 in its entirety and urge a “do pass”. I would like to use my time to focus on the section that would allow for direct to consumer/online sales. As one of the smaller breweries in the state, as well as a brewery that specializes in a relatively niche arm of Craft Beer, this section of the bill would help us tremendously. Allowing for the online sales and direct delivery of product to a person’s home would allow every brewery to expand their customer base in a very meaningful way.

The reasons I believe that you should support this bill are 3-fold. The first reason is based on keeping a level playing field. Currently wineries in the state are allowed direct to customer sales, while breweries are not. This would simply bring this aspect of alcohol sales into alignment across the various alcohol types. We can all agree consistency is most fair.

Secondly, I believe this bill should be passed because it is keeping North Dakota First. As it stands, beer from out of state can be shipped direct to customers within North Dakota. In allowing this influx of outside beer, while simultaneously restricting in state breweries from doing the same thing; It only works to hurt ND breweries by allowing those dollars to go to out of state breweries. There are even apps now that are nothing more than direct to customer beer shipping hubs. If ND breweries hope to compete in this evolving landscape, this aspect of the bill is essential.

Lastly this bill should pass because this section would have very little, if any, impact on the 3-tier system. With the onus of paying shipping costs falling to the customers, we can mostly assume that people will not be purchasing huge quantities of beer by this method. To a distributor, the volume of beer to be moved in such a way will be pittance. But to a brewery, such as ourselves, that is orders of magnitude smaller than a distributor, in terms of barrelage sold, this bill still has the potential to have a big impact for us. A secondary benefit on this line of thought, would be the potential for increased tourism. If out of state customers can try ND beer by ordering it shipped direct, we would hope that there is potential to attract those customers to plan a “Beercation” into the state.

The potential for SB 2321 to benefit ND breweries is immense and presents few, if any, drawbacks. I believe that the clear answer is to vote do pass, in favor of SB 2321. Mr. Chairman and members of the Committee, I thank you for your time. I am happy to answer any questions you might have.



## SB 2321

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

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

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

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

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

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

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

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

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

Thank you.

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

Testimony Prepared for the  
Senate IBL Committee  
February 8, 2021  
By: Angie Pelton, NDBG

RE : Senate Bill 2321

Good morning Chairman Klein and committee members. For the record my name is Angie Pelton with the North Dakota Brewers Guild and Stonehome Brewing Co. Thank you for the opportunity to speak on the behalf of the North Dakota Brewers Guild in support of Senate Bill 2321.

The Brewing industry in North Dakota has been changing the way consumers think about the way they consume Alcohol here in the state. It is no longer about the big name, light easy drinking beer. They are now looking to support local business, they have embraced the creativity of talented North Dakotans. They enjoy sitting in the local brewery enjoying beer made right here in North Dakota

We have been Privileged to work closely with the Distributors to ensure that our beer gets in the hands of many North Dakotans, and across the country, since the brewing industry is constantly changing, we need to be diligent in adjusting laws to keep us on the same playing field as wineries, distilleries and nearby states. Distributors and Breweries working together to ensure the growth of North Dakota Beer.

Thank you for your time and the North Dakota Brewers Guild urges a Do Pass Recommendation



North Dakota Senate Committee on Industry, Business and Labor

Senator Jerry Klein, Chair

Senator Doug Larsen, Vice Chair

Monday, February 8th, 2021

**STRONG SUPPORT SB 2321** - A BILL for an Act to amend and reenact sections 5-01-14 and 5-01-21 of the North Dakota Century Code, relating to microbrew pubs and brewer taprooms

**Written Testimony of Jesse Feigum**

**Drekker Brewing Company, Co-Founder**

**North Dakota Brewers Guild, Board Member & Treasurer**

Chairman Klein, Vice Chairman Larsen and members of the Senate Industry, Business and Labor Committee,

My name is Jesse Feigum and I'm the Co-Founder and Head of Nerdery at Drekker Brewing Company in Fargo and a board member and treasurer of the North Dakota Brewers Guild. Thank you for this opportunity to voice my strong support for Senate Bill 2321.

Many others will testify about some of the important provisions in this bill, such as cleaning up the packaging size restrictions for brewpubs, in-state direct shipping to consumers, and contract brewing, but I'd like to specifically talk about the issue of event & festival permits.

These licenses are utilized by breweries so we can take our products to industry expositions, festivals and community gatherings across the state where we might have the opportunity to share our products, educate customers on North Dakota breweries and the brewing process, explain our usage of North Dakota agriculture products and eventually sell those products to new customers.

Currently North Dakota breweries are allowed 20 Festival permits annually, half of what is provided to wineries and distillers. This was an arbitrary number arrived at by some prediction of how permits would be used and the increased demand for these types of events has highlighted the inconsistency between different alcohol producers in the state. Since this law was originally written the North Dakota brewing scene has grown significantly along with consumer interest in learning more about North Dakota made products and seeking a connection with the state's agriculture and food and beverage production industries.

These event licenses are currently used for things like farmer's markets, street fairs, town festivals, Pride of Dakota events, and other community events where locally grown and

produced products are sampled and sold. So these are absolutely essential for us to market our products and participate in these festivals and gatherings, however we are severely limited by the current restriction. We have to constantly turn down opportunities and ration these licenses throughout the year to make sure we don't run out of permits and miss an opportunity later in the year.

The tax office handles all of the applications and nothing would change in regards to their approval process or their eligibility guidelines. Senate Bill 2321 would just give breweries the same opportunities that wineries and distilleries currently have in North Dakota by increasing the number of licenses we are allowed from 20 to 40 annually and I strongly ask for your support on this measure.

Respectfully,

Jesse Feigum  
Drekker Brewing Company, Co-Founder  
North Dakota Brewers Guild, Board Member & Treasurer



#5814

**North Dakota Grain Growers Association  
Testimony in Support of SB 2321  
Senate Industry, Business and Labor  
Committee  
February 8, 2021**

Chairman Klein, members of the Senate Industry, Business and Labor Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association (NDGGA). NDGGA, through our contracts with the North Dakota Wheat Commission and the North Dakota Barley Council, engages in domestic policy issues on the state and federal level on behalf of North Dakota wheat and barley farmers. I am providing testimony for you today on behalf of NDGGA in support of SB 2321.

Chairman Klein, members of the Senate Industry, Business and Labor Committee, value added agriculture has been one of the many themes that has resonated in the 67<sup>th</sup> Legislative Assembly. Nothing represents the success of value-added agriculture more than the microbrewing industry in North Dakota. I have marveled for quite some time how brewpubs and taprooms in this state have utilized North Dakota agricultural products and have created top quality products to serve to their customers. Unrelated to this bill but just as important to the microbrewing industry and value-added agriculture is the story of Two Track Malting in Lincoln, North Dakota, which supplies malt to many microbreweries in the state and the region. This allows North Dakota microbreweries in the ability to use home grown barley in the brewing process. It is success stories like that which the North Dakota Legislature can be proud of.

*"You Raise; We Represent"*

Phone: 701-282-9361 | Fax: 701-404-5187 | 1002 Main Ave W. #3 West Fargo, N.D. 58078

Chairman Klein, members of the Senate Industry, Business and Labor Committee, SB 2321 seeks to allow brewpubs and taprooms the same business model as domestic wineries and distilleries in this state. This is a jobs bill, it's a consumer's bill, it's a charitable contributions bill and it's a pro-business bill. The North Dakota Grain Growers Association is a proud associate member of the North Dakota Brewers Guild and we are proud supporters of SB 2321. Therefore the North Dakota Grain Growers Association would respectfully request that the Senate Industry, Business and Labor Committee give SB 2321 a Do Pass recommendation and would urge the full Senate to concur.

# 2021 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Fort Union Room, State Capitol

SB 2321  
2/10/2021

relating to microbrew pubs and brewer taprooms
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**Chair Klein** opened the meeting at 9:01 a.m. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

### Discussion Topics:

- Wording in Bill
- Simplifying of Bill

**Senator Larsen** moved to adopt Amendment 21.1037.01001 [9:02].

**Senator Burckhard** seconded the motion [9:02].

[9:02]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion passed: 6-0-0

**Senator Larsen** moved a DO PASS AS AMENDED [9:03].

**Senator Burckhard** seconded the motion [9:03].

[9:03]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion passed: 6-0-0

**Senator Larsen** will carry the bill [9:04].

**Chair Klein** closed the meeting at 9:05 a.m.

*Isabella Grotberg, Committee Clerk*



February 8, 2021

SK  
2/11/21  
ldj

PROPOSED AMENDMENTS TO SENATE BILL NO. 2321

Page 4, line 1, remove "an"

Page 4, line 2, replace "alternating proprietorship or" with "a"

Page 4, line 5, remove "an alternating"

Page 4, line 6, replace "proprietorship or" with "a"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2321: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2321 was placed on the Sixth order on the calendar.

Page 4, line 1, remove "an"

Page 4, line 2, replace "alternating proprietorship or" with "a"

Page 4, line 5, remove "an alternating"

Page 4, line 6, replace "proprietorship or" with "a"

Renumber accordingly

**2021 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2321**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2321  
3/10/2021

<b>Microbrew pubs &amp; Brewer taprooms.</b>
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(10:01) Chairman Lefor called the hearing to order.

Representatives	Attendance	Representatives	Attendance
Chairman Lefor	P	Rep Ostlie	P
Vice Chairman Keiser	P	Rep D Ruby	P
Rep Hagert	P	Rep Schauer	A
Rep Kasper	P	Rep Stemen	P
Rep Louser	P	Rep Thomas	P
Rep Nehring	P	Rep Adams	P
Rep O'Brien	P	Rep P Anderson	P

### Discussion Topics:

- Contract filling
- Agriculture impact
- Laws standardization & leveling the playing field

Sen Larsen~District 34-Mandan. Attachment # 8556.

Scott Meske~ND Brewers Guild. Attachment #8477.

Mike Frohlich~Laughing Sun Brewing Company. Attachment # 8237.

Dan Wogsland~Executive Director-ND Grain Growers Association. Attachment #8467.

Janet Seaworth~Executive Secretary & Legal Counsel-ND Beer Distributors Association.  
Attachment # 8558.

Chairman Lefor closes the hearing.

Rep Nehring moved a Do Pass.

Rep Louser second.

<b>Representatives</b>	<b>Vote</b>
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	Y
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	Y
Rep Schauer	A
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	Y

Vote roll call taken Motion carried 13-0-1 & Rep Nehring is the carrier.

**Additional written testimony:** Attachments #8495 & 8481.

(10:31) End time.

*Ellen LeTang, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2321, as engrossed: Industry, Business and Labor Committee (Rep. Lefor, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2321 was placed on the Fourteenth order on the calendar.

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

My name is Doug Larsen, Senator from Mandan's District 34.

I don't intend to make you microbrewery beer experts, but I do want to talk a bit about the two different systems or types we have in the state, I will also be talking about the three main things that this bill will do for the industry.

The two types are Tap Rooms and Brewpubs.

Tap rooms function to allow a brewery to make beer and serve/sell only their product. If we went to a place like Buffalo Commons, located in the fine city of Mandan—you would be tap room. The only beer that my constituent could offer you would be what they have made on premise. If could were offered, it would be from an outside vendor—a food truck or some type of vendor.

They allowed to make up to 25,000 barrels of beer per year. A barrel of beer 31 gallons and would make two traditional kegs of beer or 15.5 gallon kegs. They are allowed to self-distribute up to 10K barrels per year. They are allowed to sell 'off-sale' up to a quantity of 5.16 gallons per day or what is commonly referred to as a 1/6-barrel keg. These are the same height as the more commonly known keg—only smaller in diameter.

Whereas a Brewpub is allowed to function more like a garden variety bar. They are allowed to sell other beer for instance, they are allowed to have a kitchen and sell food. An example of a brewpub would be Laughing Sun in District ?? of Bismarck.

The brewpub is allowed to make up to 10,000 barrels of beer, is not allowed to distribute, and can sell off-sale up to 3 gallons per day. The quantity has been further defined as to up to a case of beer per day per person. These quantities found their beginning with the idea of the growler. Many years ago, a 1-gallon growler (or jug) was a common size that a customer would purchase and take home. Through advances in packaging, the growler is less common.

There are three primary things that this bill will accomplish

1. First it will allow for contract brewing. Contract brewing would allow a brewer to use another facility to brew their beer. Examples of this might be equipment breaking or some type of other limitation at the requestors facility. The brewed beer quantities would count against the brewer that is having it brewed—not the facility that is doing the brewing.

This was assumed to be allowed during the last session, however the tax department has requested that 'clarifying language' be added. There does not seem to be any resistance to clarifying the language or the idea of contract brewing.

2. The second thing the bill will accomplish is increasing the amount that the brew pub and tap room are allowed to sell via 'off-sale.' This bill would standardize the amount to 5.16 gallons or a 1/6-barrel keg. This would increase the quantity from 3 to 5.16 gallons. Growlers are no longer popular and personal kegerators are tending market. They do not make a 3-gallon keg—your options are either 5.16 or 15.5 gallons. No change would be seen on the 'tap room' only standardizing the container size for off sale between a tap room and brew pub.
3. Currently both tap rooms and brew pubs are allowed to purchase 20 event permits per year whereas distilleries and wineries are allowed 40 per year. An event might be something like "Arts in the Park," "Buggies and Blues," or similar community or business venture. This bill will increase that to 40. Though they are not 'using' all of them presently, decisions are being made from time to time of what to do and not because of the limitation.

The point of this bill to add clarifying language recommended by the tax department as it pertains to contract brewing and standardizing – standardizing sizes between the brew pub and tap house into sizes that are currently being used as well as number of events allowed between the members of the industry.

I urge a DP and will stand for questions, however—more informed people are scheduled to speak next.





**STATEMENT IN SUPPORT OF SENATE BILL 2321**

**March 9, 2021**

Chairman Lefor and Members of the House Industry, Business & Labor Committee:

On behalf of the 23 brewpubs, taprooms and members of the North Dakota Brewers Guild, we urge the Committee to recommend a DO PASS vote on Senate Bill 2321. The testimony you received and the fact sheet on the details of the bill explain why we asked for this bill, and the benefits it would bring to the craft brewing industry in North Dakota.

According to the Tax Department records, in 2020, craft breweries in North Dakota produced 18,145 barrels of beverage. If it takes 1.4 pounds of barley to make one gallon of beer, equating to about 406 tons of barley used, much of which is home grown North Dakota barley. We recognize not every ND craft brewery uses North Dakota barley exclusively, but the agriculture impact is clear. Guild members are impacted by the agriculture industry and vice versa, generating more than \$200 million of annual economic impact in our cities and state.

Again, we respectfully request the Committee to give favorable passage to SB 2321, supporting the Senate's strong 46-1 vote last month. As always, we invite Committee Members to schedule a tour and a briefing at one of our North Dakota Brewers Guild Members to learn how this industry continues to support tourism and the economy of our State.

3/9/2021

• • •

Mike Frohlich  
Laughing Sun Brewing Company  
1023 E Front Ave, Bismarck ND 58504



Chairmen Lefor and Members of the House IBL Committee,

I am submitting testimony in support of Senate Bill 2321. This bill represents a community of brewers across the state, making their communities better places to live, providing jobs, supporting farmers, growers, and maltsters across the state. We use a local maltster in Lincoln, that partners with farmers near Goodrich, Belfield, and Dickinson for 98% of our beer production. Just a small example of the synergy of the industry in North Dakota, that contributes more than \$250 million dollars to the economy of the state.

We opened in 2012 in downtown Bismarck. In 2013, we licensed as a taproom after legislation passed in the 2013 session. As a taproom, we were allowed to sell up to 5.16 gallon containers out the door to consumers. In 2018, we expanded to a new, larger location with a canning line, BBQ restaurant, catering business, and a second BBQ restaurant in Mandan. We had to license back as a brewpub because our second location did not have a brewery attached, and as a taproom, we were not allowed to own another retail alcohol establishment. With that license change, we had to limit our sales to three gallons. In 2019, a change was made to eliminate the minimum container size, but a discrepancy was created when the limit went to 288 ounces, or three gallons. Those ounces do not match the three gallon limit. This has created a lot of confusion with our customers and with the tax department. SB2321 makes this language consistent across the taproom brewer and brewpub licenses, eliminating confusion for all, allowing both licenses to sell up to 5.16 gallon container sizes.

This past year has been challenging for the taproom and brewpub industry, with restrictions on seating capacities, in-store dining, and limitations on hours of operation. Our beer production shifted entirely to cans during the spring and summer of 2020. During times like these, we learned to pivot, offer online takeout options, third-party delivery sources, and focus on our canning operations. Smaller breweries don't always have the option to put their product in cans.

SB2321 specifically lays out contract brewing language in century code. If a smaller brewer was allowed to contract another brewery to brew and package their beer at a larger facility, that could be the difference in surviving a pandemic. It can be a way to grow your business without the massive investments in equipment required, and often that space limitations prohibit. It's a



way larger facilities can fill surplus capacity during slower times. Businesses need flexibility, and any added revenue sources are invaluable, especially with recent events.

SB2321 levels the playing field and creates more flexibility in the brewing industry by clearing up direct-to-consumer shipping in the state. Breweries outside of the state are already allowed to ship to consumers in North Dakota. We feel that the playing field should be level for in-state breweries as well. SB2321 further levels the playing field for breweries in the state by allowing them to apply for 40 event permits per year, equal to the number that wineries and distilleries are currently allowed. All sources of revenue are crucial to on-premise locations looking to keep their doors open.

SB2321 is critical to the survival and growth of the brewing industry in North Dakota. Five breweries went out of business in 2020. We need to ensure the industry is strong in North Dakota, and SB2321 helps make that a reality. I urge you to support the passage of SB2321. Thank you for your time.

Sincerely

Mike Frohlich  
Founder/Brewmaster  
Laughing Sun Brewing Company



**North Dakota Grain Growers Association  
Testimony in Support of SB 2321  
House Industry, Business and Labor  
Committee  
March 9, 2021**

Chairman Lefor, members of the House Industry, Business and Labor Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association (NDGGA). NDGGA, through our contracts with the North Dakota Wheat Commission and the North Dakota Barley Council, engages in domestic policy issues on the state and federal level on behalf of North Dakota wheat and barley farmers. I am providing testimony for you today on behalf of NDGGA in support of SB 2321.

Chairman Lefor, members of the House Industry, Business and Labor Committee, value added agriculture has been one of the many themes that has reverberated in the 67<sup>th</sup> Legislative Assembly. Nothing represents the success of value-added agriculture more than the microbrewing industry in North Dakota. I have marveled for quite some time how brewpubs and taprooms in this state have utilized North Dakota agricultural products and have created top quality products to serve to their customers. Unrelated to this bill but just as important to the microbrewing industry and value-added agriculture is the story of Two Track Malting in Lincoln, North Dakota, which supplies malt to many microbreweries in the state and the region. This allows North Dakota microbreweries the ability to use home grown barley in their brewing process. It is success stories like that which the North Dakota Legislature can be proud of.

*"You Raise; We Represent"*

Phone: 701-282-9361 | Fax: 701-404-5187 | 1002 Main Ave W. #3 West Fargo, N.D. 58078

Chairman Lefor, members of the House Industry, Business and Labor Committee, SB 2321 seeks to allow brewpubs and taprooms the same business model as domestic wineries and distilleries in this state. This is a jobs bill, it's a consumer's bill, it's a charitable contributions bill and it's a pro-business bill. The North Dakota Grain Growers Association is a proud associate member of the North Dakota Brewers Guild and we are proud supporters of SB 2321. Therefore the North Dakota Grain Growers Association would respectfully request that the House Industry, Business and Labor Committee give SB 2321 a Do Pass recommendation and would urge the full House to concur.

SB 2321

Testimony before the House Industry, Business and Labor Committee  
March 10, 2021

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

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

While we have some concerns about the provisions in SB 2321, primarily related to allowing brew pubs to sell sixth barrel kegs, we were more concerned about HB 1265 that was heard before your committee and has since been withdrawn. That bill contained a similar provision allowing brew pubs to sell sixth barrel kegs, but it also would have allowed brew pubs to act as distributors, which we could not support and which we now know the Brewers Guild does not support.

We met with the Brewers Guild and shared our concerns about both bills. We agreed with the Guild that SB 2321 should be the focus of their efforts.

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

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

physical brewing presence in the state and the beer produced pursuant to contract is included in the total barrels produced by the contractee. That is important, so as to not allow brew pubs and small brewers to morph into large production brewers with all of the special privileges reserved for small producers.

- SB 2321 allows brew pubs and small brewers 20 additional special event permits per year. While some may consider that unfair to retailers, that issue is probably best addressed by retailers.

Thank you.

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





North Dakota House Committee on Industry, Business and Labor  
Representative Mike Lafor, Chair  
Representative George Keiser, Vice Chair  
Wednesday, March 10th, 2021

**STRONG SUPPORT SB 2321** - A BILL for an Act to amend and reenact sections 5-01-14 and 5-01-21 of the North Dakota Century Code, relating to microbrew pubs and brewer taprooms

**Written Testimony of Mark Bjornstad**  
**Drekker Brewing Company, Co-Founder & President**  
**North Dakota Brewers Guild, Member**

Chairman Lafor, Vice Chairman Keiser and members of the House Industry, Business and Labor Committee,

My name is Mark Bjornstad and I am the Co-Founder and President of Drekker Brewing Company in Fargo, North Dakota and I am a member of the North Dakota Brewers Guild. I am here to share my strong support for Senate Bill 2321.

Drekker Brewing is licensed as a Taproom Brewer and is currently the largest brewery in the state of North Dakota, brewing over 8,000 barrels per year. We specialize in creative and experimental beers with many being listed amongst the highest rated beers in the world and winning numerous awards annually. In 2020 we brewed 125 different beers and 80 of them were brand new. Our brewery is a major attraction in Fargo where we draw hundreds of people from all over the region and surrounding states every week to line up for our beer releases and events. To us, the Taproom Brewer license was the best way to focus on our brand, make our brewery a destination and get our beers out into the world through multiple different distribution opportunities. We currently distribute our beers to twelve states and several countries across Europe.

Since our brewery was opened in 2014, the craft beer industry has grown and changed continuously. This requires we advance our products and the business models we utilize to sell them. Senate Bill 2321 is needed to address multiple areas where consistency is lacking and where changes are needed to allow North Dakota breweries to adequately adapt to the changing business and brewing industry climate. I am asking you to support this bill and it's efforts to:

- Resolve package size inconsistencies across different laws.



- Allow contract brewing and alternating proprietorship relationships as they are defined and regulated by the Federal Government.
- Allow North Dakota breweries to ship directly to consumers within North Dakota as is already allowed for out-of-state breweries.
- Increase the allowed Festival Event permits from 20 to 40 per year.

Different package size allowances and restrictions have developed over the years through multiple different laws and amendments. It is our intention, and at the request of the North Dakota Tax Department, to address these inconsistencies and provide a more clear set of regulations. This is also incredibly confusing and frustrating to our customers across North Dakota. These differences between brewpubs and taproom breweries provide no consumer protection and only limit commerce and inhibit growth.

Contract brewing is an issue that is particularly important to myself and Drekker Brewing. Contract brewing is an arrangement between two fully licensed breweries where the contractor brewery utilizes excess capacity to brew beer for the contractee brewery, who has a demand or need beyond their own capacity. Simply expanding a brewery's capacity is not always possible or reasonable. During our last expansion it took seven months from the time we ordered and paid for tanks for them to arrive. In addition, it took another 2 months for beer to be produced out of those tanks totalling nine months to respond to increased demand. This is even more painful considering this was during a pandemic when our brewery was experiencing intermittent shutdowns and precaution restrictions. Had we been able to contract brew, we could have had that beer on our dock in two months, and every month after that. This is an arrangement that is licensed and regulated by the Federal Government and currently allowed in every single state except North Dakota. North Dakota law does not explicitly prohibit contract brewing but rather through a disputed interpretation by the North Dakota Tax Department.

In 2017 Drekker Brewing began plans to build our new brewery but we needed to meet demand much faster than we could build a whole new facility. We approached the Tax Department with our intentions and need to begin contract brewing. They felt there may be an issue with entering into this arrangement with another North Dakota brewery because providing our recipe was giving them a "thing of value". We did not agree with this interpretation but followed their recommendation to look for an out-of-state contract brewery to fulfill this need. We selected a contract brewer in Florida and began brewing beer under contract and upon making our announcement we were informed by the Tax Office that if any of this beer entered the State of North Dakota they would file criminal charges against us and take any actions against our licenses they felt was necessary. To this day I do not understand the degree to which the tax department opposed this arrangement and after several years of discussion we were asked to clarify this with legislation. I am here today to do just that and ask that you support this bill and clearly define contract brewing arrangements within the State Law so we may grow and meet our demand under all of the avenues allowed to us and every other brewery across the country. This not only helps growing breweries in North Dakota but also helps breweries with excess capacity, fulfills orders from our wholesale partners furthering their business, meets our customers demands and provides increased tax revenue for the State of North Dakota. There is no loser in allowing North Dakota breweries to contract brew.

Another item this bill seeks to clarify is direct shipment of beer to consumers within the State of North Dakota. Currently out-of-state breweries are allowed to direct ship to residents of North Dakota but an in-state brewery isn't afforded this same opportunity. This is a perplexing situation where the US Constitution Commerce clause is being violated in reverse. The commerce clause of the US Constitution is intended to encourage interstate commerce and prevent a State from enacting laws that would favor their in-state companies and inhibit out-of-state companies. In this instance, North Dakota has chosen to favor out-of-state companies and prohibit their in-state companies from engaging in the same commerce model. That is an unfathomable situation the founding fathers would never have even imagined. A State willfully allowing out-of-state companies to sell products in a manner they won't allow to an in-state company. I can only hope this was an oversight in previous law and something we can resolve here. This issue has become all the more important during the current pandemic when companies across the country are shifting business models and engaging in e-commerce to sell their products and reach customers that are no longer allowed or able to come to them directly. This bill will allow North Dakota breweries to function in the same manner out-of-state breweries are currently allowed to sell beer in North Dakota and allow us another avenue to sell our products as we fight to survive as businesses and as an industry during this global pandemic.

The last issue I wish to speak on regarding this bill is Festival Event permits. These licenses are utilized by breweries so we can take our products across the state to industry expositions, festivals and gatherings. These events provide the opportunity to share our products, educate customers on North Dakota breweries and the brewing process, explain our usage of North Dakota agriculture products and eventually sell those products to new customers. Currently North Dakota breweries are allowed 20 Festival permits annually, half of what is provided to wineries and distillers. This was an arbitrary number arrived at by some prediction of how permits would be used and the possible demand for these types of events and has created an inconsistency between different alcohol producers in the state. Since this law was originally written the North Dakota brewing scene has grown along with consumer interest in learning more about North Dakota made products and seeking a connection with the state's agriculture and food and beverage production industries. These licenses are absolutely essential for us to market our products and participate in these festivals and gatherings, however we are severely limited by the current restriction. We have to constantly turn down opportunities and ration these licenses throughout the year. This bill increases the number of licenses we are allowed from 20 to 40 annually and I strongly ask for your support on this measure.

I sincerely hope you will consider these items and the needs they address for the North Dakota brewing industry. It is a pleasure to speak before you and I thank you for this opportunity.

Respectfully,

Mark Bjornstad  
Drekker Brewing Company, Co-Founder & President  
North Dakota Brewers Guild, Member



North Dakota House Committee on Industry, Business and Labor  
Representative Mike Lafor, Chair  
Representative George Keiser, Vice Chair  
Wednesday, March 10th, 2021

**STRONG SUPPORT SB 2321** - A BILL for an Act to amend and reenact sections 5-01-14 and 5-01-21 of the North Dakota Century Code, relating to microbrew pubs and brewer taprooms

**Written Testimony of Jesse Feigum**  
**Drekker Brewing Company, Co-Founder**  
**North Dakota Brewers Guild, Board Member & Treasurer**

Chairman Lafor, Vice Chairman Keiser and members of the House Industry, Business and Labor Committee,

My name is Jesse Feigum and I'm the Co-Founder and Head of Nerderly at Drekker Brewing Company in Fargo and a board member and treasurer of the North Dakota Brewers Guild. Thank you for this opportunity to voice my strong support for Senate Bill 2321.

Many others will testify about some of the important provisions in this bill, such as cleaning up the packaging size restrictions for brewpubs, in-state direct shipping to consumers, and contract brewing, but I'd like to specifically talk about the issue of event & festival permits.

These licenses are utilized by breweries so we can take our products to industry expositions, festivals and community gatherings across the state where we might have the opportunity to share our products, educate customers on North Dakota breweries and the brewing process, explain our usage of North Dakota agriculture products and eventually sell those products to new customers.

Currently North Dakota breweries are allowed 20 Festival permits annually, half of what is provided to wineries and distillers. This was an arbitrary number arrived at by some prediction of how permits would be used and the increased demand for these types of events has highlighted the inconsistency between different alcohol producers in the state. Since this law was originally written the North Dakota brewing scene has grown significantly along with consumer interest in learning more about North Dakota made products and seeking a connection with the state's agriculture and food and beverage production industries.

These event licenses are currently used for things like farmer's markets, street fairs, town festivals, Pride of Dakota events, and other community events where locally grown and

produced products are sampled and sold. So these are absolutely essential for us to market our products and participate in these festivals and gatherings, however we are severely limited by the current restriction. We have to constantly turn down opportunities and ration these licenses throughout the year to make sure we don't run out of permits and miss an opportunity later in the year.

The tax office handles all of the applications and nothing would change in regards to their approval process or their eligibility guidelines. Senate Bill 2321 would just give breweries the same opportunities that wineries and distilleries currently have in North Dakota by increasing the number of licenses we are allowed from 20 to 40 annually and I strongly ask for your support on this measure.

Respectfully,

Jesse Feigum  
Drekker Brewing Company, Co-Founder  
North Dakota Brewers Guild, Board Member & Treasurer

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2321  
3/15/2021

<b>Microbrew pubs &amp; brewer taprooms.</b>
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(3:32) Chairman Lefor called the hearing to order.

Representatives	Attendance	Representatives	Attendance
Chairman Lefor	P	Rep Ostlie	P
Vice Chairman Keiser	P	Rep D Ruby	P
Rep Hagert	P	Rep Schauer	P
Rep Kasper	P	Rep Stemen	P
Rep Louser	P	Rep Thomas	P
Rep Nehring	P	Rep Adams	P
Rep O'Brien	P	Rep P Anderson	P

### Discussion Topics:

- Committee work

Rep Louser moved to reconsider.

Rep Nehring second.

Voice vote Motion carried.

Rep Nehring moved to adopt amendment 21.1037.02001. Attachment #9311.

Rep Louser second.

Voice vote Motion carried.

Rep Nehring moved a Do Pass as Amended.

Rep Adams second.

<b>Representatives</b>	<b>Vote</b>
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	Y
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	Y
Rep Schauer	Y
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	Y

Vote roll call taken Motion carried 14-0-0 & Rep Nehring is the carrier.

(3:35) End time.

*Ellen LeTang, Committee Clerk*

March 15, 2021

JP  
3/15/21

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2130

Page 1, line 1, after "to" insert "create and enact section 26.1-36-01.1 of the North Dakota Century Code, relating to the scope of health insurance mandates; and to"

Page 1, after line 3, insert:

"**SECTION 1.** Section 26.1-36-01.1 of the North Dakota Century Code is created and enacted as follows:

**26.1-36-01.1. Scope - Accident and health insurance policy mandates.**

Unless expressly provided otherwise, an accident and health insurance policy health coverage mandate under this chapter does not apply to an accident and health insurance policy that is a high-deductible health plan under 26 U.S.C. 223 if the mandate would cause the policy to fail to qualify as a high-deductible health plan under this federal law."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2321, as engrossed: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2321 was placed on the Sixth order on the calendar.**

Page 2, line 7, after "sold" insert "to each person"

Renumber accordingly



21.1037.02001  
Title.

Prepared by the Legislative Council staff for  
Representative Ertelt  
March 15, 2021

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2321

Page 2, line 7, after "sold" insert "to each person"

Renumber accordingly