

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1345
(Representative Kretschmar)

AN ACT to amend and reenact section 5-02-02 of the North Dakota Century Code, relating to the qualifications of a licensee for a retail alcoholic beverage license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-02 of the North Dakota Century Code is amended and reenacted as follows:

5-02-02. Qualifications for license. ~~No~~ A retail license may not be issued to any person unless the applicant files a sworn application, accompanied by the required fee, showing the following qualifications:

1. The applicant, other than an organization, must be a legal resident of the United States ~~and a resident of this state~~ and be a person of good moral character.
2. If the applicant is:
 - a. A corporation, then:
 - (1) The manager of the licensed premises and the officers and directors must be legal residents of the United States and persons of good moral character; and
 - (2) The shareholders:
 - (a) Who are individuals, must be legal residents of the United States and of good moral character; and
 - (b) Which are organizations, must meet the requirements of this section for applicants which are organizations.

Corporate applicants must first be properly registered with the secretary of state.

- b. A limited liability company, then:
 - (1) The manager of the licensed premises and the managers and governors must be legal residents of the United States and of good moral character.
 - (2) The members:
 - (a) Who are individuals, must be legal residents of the United States and of good moral character; and
 - (b) Which are organizations, must meet the requirements of this section for applicants that are organizations.
 - (3) The applicant must first be properly registered with the secretary of state.
- c. A limited partnership, then:
 - (1) The manager of the licensed premises must be a legal resident of the United States and of good moral character.

- (2) The general partners and limited partners:
 - (a) If individuals, must be legal residents of the United States and of good moral character; and
 - (b) If organizations, must meet the requirements of this section for applicants that are organizations.
- (3) The applicant must first be properly registered with the secretary of state.
- d. A general partnership, then:
 - (1) The manager of the licensed premises must be a legal resident of the United States and of good moral character; and
 - (2) The partners:
 - (a) Who are individuals, must be legal residents of the United States and of good moral character; and
 - (b) Which are organizations, must meet the requirements of this section for applicants that are organizations.
- e. A limited liability partnership, then:
 - (1) The manager of the licensed premises must be a legal resident of the United States and of good moral character; and
 - (2) The partners:
 - (a) Who are individuals, must be legal residents of the United States and of good moral character; and
 - (b) Which are organizations, must meet the requirements of this section for applicants that are organizations.

Limited liability partnership applicants must first be properly registered with the secretary of state.

- 3. The applicant or manager must not have been convicted of an offense determined by the attorney general to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer, or, following conviction of any offense, is determined not to be sufficiently rehabilitated under section 12.1-33-02.1.
- 4. The building in which business is to be conducted must meet local and state requirements regarding the sanitation and safety.
- 5. The applicant for a state license must have first secured a local license.
- 6. The attorney general, or local governing body, may require the applicant to set forth such other information in the application as necessary to enable them to determine if a license should be granted.
- 7. The applicant may not have any financial interest in any wholesale alcoholic beverage business.
- 8. As a condition precedent to a background check, the attorney general may require the applicant to pay, in advance, an estimated additional fee necessary to defray the actual cost of a background check of a person for whom adequate background information sources are not readily available. The estimated additional fee must be placed in the

attorney general's refund fund for use to defray the actual expenses of the background check. The remainder of the funds must be returned to the person within thirty days of the conclusion of the background check. In addition, the attorney general may require the applicant or such other person subject to a background check to execute a written consent if needed by the attorney general to obtain background or criminal history information.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1345.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 45 Nays 2 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State