

2011 HOUSE FINANCE AND TAXATION

HB 1099

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB1099
January 10, 2011
12684

☐ Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A Bill relating to procedures available to the tax commissioner in case of seizure of tobacco products, reporting and remittance of use tax collected during odd-numbered years, the definition of state for motor vehicle excise tax reciprocity purposes, and cooperative agreements for the exchange of motor fuels tax information.

Minutes:

Mr. Myles Vosberg, Director of the Tax Administration Division of the Office of State Tax Commissioner: Support. See attached testimony (#1).

Representative Steven L. Zaiser: In regards to section 4 where you said you were clarifying the language, you eliminated other states and then left it more generic. Why not just say other states and other Canadian provinces? To me, that would be more clear and concise.

Mr. Vosberg: Basically what we did was add "internationally" and remove the states so that it applies for both states. We could have drafted it differently but it's just a matter of style. I think the effect we wanted to get is there.

Representative Lonny B. Winrich: I thought you said House Bill 1082? We're dealing with HB 1099.

Mr. Vosberg: I'm sorry it is HB 1099.

Chairman Wesley R. Belter: No further testimony on HB 1099. Hearing closed on HB 1099.

Representative Glen Froseth: I move the amendment.

Representative Bette Grande: Seconded the motion.

A roll call vote was taken: **Aye 14 Nay 0 Absent 0**

Motion carries.

Representative Lonny B. Winrich: Recommend a Do Pass.

Representative Bette Grande: Seconded.

A roll call was taken: **14 Yes 0 No 0 Absent** **Motion passed.**

Carrier: Representative Lonny B. Winrich

FISCAL NOTE
Requested by Legislative Council
03/10/2011

Amendment to: Engrossed
HB 1099

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Engrossed HB 1099 with Senate Amendments provides clarifying language and minor changes to various tax provisions for administrative purposes. There is no fiscal impact.

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

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

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

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

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

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	03/10/2011

FISCAL NOTE

Requested by Legislative Council
12/21/2010

Bill/Resolution No.: HB 1099

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

HB 1099 provides clarifying language and minor changes to various tax provisions for administrative purposes. There is no fiscal impact.

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

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

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

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

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

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/05/2011

January 11, 2011

VR
1/14/11
1063

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1099

Page 1, line 1, after "reenact" insert "section 5-03-06,"

Page 1, line 2, replace the second "and" with a comma

Page 1, line 2, after "57-43.1-44" insert ", and 57-43.2-37"

Page 1, line 3, after the first "to" insert "direct sales of alcoholic beverages,"

Page 1, line 5, remove "and"

Page 1, line 6, after "information" insert ", and cooperative agreements for the exchange of special fuels tax information"

Page 1, after line 7, insert:

"SECTION 1. AMENDMENT. Section 5-03-06 of the North Dakota Century Code is amended and reenacted as follows:

5-03-06. Examination by tax commissioner - Penalty for improper returns.

The state tax commissioner may at any reasonable time make an examination of the books and premises of any retailer, wholesaler, manufacturer, domestic winery, domestic distillery, microbrew pub, direct shipper, or other person to determine if such person has fully complied with all statutes and rules pertaining to the person's business. If any manufacturer, wholesaler, domestic winery, domestic distillery, ~~or~~ microbrew pub, or direct shipper liable for any taxes imposed by this chapter fails to pay such tax on the date payment is due, there must be added to the tax a penalty of five percent of the total amount of the tax or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay, except the first month after the return or tax became due. Any manufacturer, wholesaler, domestic winery, domestic distillery, ~~or~~ microbrew pub, or direct shipper failing to furnish reports when required must be assessed a penalty of one hundred dollars for each day such reports are delinquent. The state tax commissioner may forgive all or part of any penalty for good cause shown. The tax commissioner shall give notice of the determination to the person liable for tax. If the determination of tax due relates to an incorrect or insufficient return filed by a taxpayer, notice of the determination must be given not later than three years after the last day on which the return was due or three years after the return was filed, whichever is later. If it is determined upon audit by the tax commissioner that the tax due was twenty-five percent or more above the amount reported on the return, notice of determination of tax due must be given not later than six years after the last day on which the return was due or six years after the return was filed, whichever was later. Notice of determination of tax due for any reporting period for which a taxpayer failed to file a return must be given not later than six years after the due date of the return, but if fraudulent information is given in a return or the failure to file a return is due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax, the time limitation provided in this section for giving notice of the determination of tax due does not apply. If any manufacturer, wholesaler, domestic winery, domestic distillery, ~~or~~ microbrew pub, or direct shipper files a fraudulent return, there must be added to the tax an amount equal to the tax evaded or attempted to be evaded and such manufacturer, wholesaler, domestic winery, domestic

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distillery, or microbrew pub, or direct shipper is also guilty of a class C felony. All such taxes and civil penalties may be collected by assessment or distraint, and no court of this state may enjoin the collection of any such tax or civil penalty. No wholesaler may purchase alcoholic beverages from a manufacturer after notice from the state tax commissioner that such manufacturer has failed to file required reports with the tax commissioner's office. Any manufacturer, wholesaler, domestic winery, domestic distillery, or microbrew pub, or direct shipper may have its license suspended or revoked for violation of any of the provisions of this title after a hearing conducted similar to that prescribed by this law."

Page 2, line 29, after "Cooperative" insert "motor vehicle fuels"

Page 2, line 29, overstrike "between states"

Page 3, line 19, overstrike "which"

Page 3, line 20, after "has" insert "that"

Page 3, line 22, remove "tax"

Page 3, line 24, remove "tax"

Page 3, after line 29, insert:

"**SECTION 6. AMENDMENT.** Section 57-43.2-37 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-37. Cooperative special fuels ~~agreements-between-states~~.

1. The director may enter ~~into~~ cooperative agreements ~~with other states~~ for exchange of information and auditing of users of special fuels used in fleets of motor vehicles operated or intended to operate interstate or internationally. An agreement or amendment to an agreement is not effective until filed in writing with the director.
2. An agreement under this section may provide for determining the base state for users, users' records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying reporting requirements and periods including defining the uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of special fuel taxes and penalties to another jurisdiction, and other provisions as will facilitate the administration of the agreement.
3. The director may, as required by the terms of the agreement, forward ~~to officers of another state~~ any information in the director's or commissioner's possession relative to the manufacture, receipt, sale, use, transportation, or shipment of special fuels by any person. The director may disclose ~~to officers of another state~~ the location of officers, motor vehicles, and other real and personal property of users of special fuels.
4. An agreement may provide for ~~each state to audit the records of persons based in the state~~ audits of users of special fuels used in fleets of motor vehicles operated or intended to operate interstate or internationally, to determine if the special fuel taxes due ~~each state~~ are properly reported and paid. ~~Each state shall forward the~~ The findings of the audits performed

on persons ~~based in the state, to each state in which the person has~~ that have a taxable use of special fuels may be shared among parties to a cooperative agreement. For persons not based in this state and who have taxable use of special fuel in this state, the director or the commissioner may serve the audit findings ~~received from another state,~~ in the form of an assessment, on the person as though an audit was conducted by the director or the commissioner.

5. Any agreement entered under this section does not preclude the director or the commissioner from auditing the records of any person covered by the provisions of this chapter.
6. The provisions of any agreement entered into under this section prevail over any conflicting rules adopted by the director or the commissioner."

Renumber accordingly

Date: 1-10-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1099

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Froseth Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Verbal:

Aye 14

Nay 0

Absent 0

Date: 1-10-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1099

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Froseth ^{Winrich} Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh	✓	
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich	✓	
Bette Grande	✓		Steven L. Zaiser	✓	
Patrick Hatlestad	✓				
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Winrich

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

REPORT OF STANDING COMMITTEE

HB 1099: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1099 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "section 5-03-06,"

Page 1, line 2, replace the second "and" with a comma

Page 1, line 2, after "57-43.1-44" insert ", and 57-43.2-37"

Page 1, line 3, after the first "to" insert "direct sales of alcoholic beverages,"

Page 1, line 5, remove "and"

Page 1, line 6, after "information" insert ", and cooperative agreements for the exchange of special fuels tax information"

Page 1, after line 7, insert:

"SECTION 1. AMENDMENT. Section 5-03-06 of the North Dakota Century Code is amended and reenacted as follows:

5-03-06. Examination by tax commissioner - Penalty for improper returns.

The state tax commissioner may at any reasonable time make an examination of the books and premises of any retailer, wholesaler, manufacturer, domestic winery, domestic distillery, microbrew pub, direct shipper, or other person to determine if such person has fully complied with all statutes and rules pertaining to the person's business. If any manufacturer, wholesaler, domestic winery, domestic distillery, or microbrew pub, or direct shipper liable for any taxes imposed by this chapter fails to pay such tax on the date payment is due, there must be added to the tax a penalty of five percent of the total amount of the tax or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay, except the first month after the return or tax became due. Any manufacturer, wholesaler, domestic winery, domestic distillery, or microbrew pub, or direct shipper failing to furnish reports when required must be assessed a penalty of one hundred dollars for each day such reports are delinquent. The state tax commissioner may forgive all or part of any penalty for good cause shown. The tax commissioner shall give notice of the determination to the person liable for tax. If the determination of tax due relates to an incorrect or insufficient return filed by a taxpayer, notice of the determination must be given not later than three years after the last day on which the return was due or three years after the return was filed, whichever is later. If it is determined upon audit by the tax commissioner that the tax due was twenty-five percent or more above the amount reported on the return, notice of determination of tax due must be given not later than six years after the last day on which the return was due or six years after the return was filed, whichever was later. Notice of determination of tax due for any reporting period for which a taxpayer failed to file a return must be given not later than six years after the due date of the return, but if fraudulent information is given in a return or the failure to file a return is due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax, the time limitation provided in this section for giving notice of the determination of tax due does not apply. If any manufacturer, wholesaler, domestic winery, domestic distillery, or microbrew pub, or direct shipper files a fraudulent return, there must be added to the tax an amount equal to the tax evaded or attempted to be evaded and such manufacturer, wholesaler, domestic winery, domestic distillery, or microbrew pub, or direct shipper is also guilty of a class C felony. All such taxes and civil penalties may be collected by assessment or distraint, and no court of this state may enjoin the

collection of any such tax or civil penalty. No wholesaler may purchase alcoholic beverages from a manufacturer after notice from the state tax commissioner that such manufacturer has failed to file required reports with the tax commissioner's office. Any manufacturer, wholesaler, domestic winery, domestic distillery, or microbrew pub, or direct shipper may have its license suspended or revoked for violation of any of the provisions of this title after a hearing conducted similar to that prescribed by this law."

Page 2, line 29, after "Cooperative" insert "motor vehicle fuels"

Page 2, line 29, overstrike "between states"

Page 3, line 19, overstrike "which"

Page 3, line 20, after "has" insert "that"

Page 3, line 22, remove "tax"

Page 3, line 24, remove "tax"

Page 3, after line 29, insert:

"**SECTION 6. AMENDMENT.** Section 57-43.2-37 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-37. Cooperative special fuels agreements ~~between states~~.

1. The director may enter into cooperative agreements ~~with other states~~ for exchange of information and auditing of users of special fuels used in fleets of motor vehicles operated or intended to operate interstate or internationally. An agreement or amendment to an agreement is not effective until filed in writing with the director.
2. An agreement under this section may provide for determining the base ~~state~~ for users, users' records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying reporting requirements and periods including defining the uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of special fuel taxes and penalties to another jurisdiction, and other provisions as will facilitate the administration of the agreement.
3. The director may, as required by the terms of the agreement, forward ~~to officers of another state~~ any information in the director's or commissioner's possession relative to the manufacture, receipt, sale, use, transportation, or shipment of special fuels by any person. The director may disclose ~~to officers of another state~~ the location of officers, motor vehicles, and other real and personal property of users of special fuels.
4. An agreement may provide for ~~each state to audit the records of persons based in the state~~ audits of users of special fuels used in fleets of motor vehicles operated or intended to operate interstate or internationally, to determine if the special fuel taxes due ~~each state~~ are properly reported and paid. ~~Each state shall forward the~~ findings of the audits performed on persons based in the state, ~~to each state in which the person has that have~~ a taxable use of special fuels may be shared among parties to a cooperative agreement. For persons not based in this state and who have taxable use of special fuel in this state, the director or the commissioner may serve the audit findings ~~received from another state~~, in the form of an assessment, on the person as though an audit was conducted by the director or the commissioner.

5. Any agreement entered under this section does not preclude the director or the commissioner from auditing the records of any person covered by the provisions of this chapter.

6. The provisions of any agreement entered into under this section prevail over any conflicting rules adopted by the director or the commissioner."

Renumber accordingly

2011 SENATE FINANCE AND TAXATION

HB 1099

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB 1099
3/8/2011
Job Number 15073

☐ Conference Committee

A. R. Miller

Explanation or reason for introduction of bill/resolution:

Relating to direct sales of alcoholic beverages, procedures available to the tax commissioner in case of seizure of tobacco products, reporting and remittance of use tax collected during odd numbered years, the definition of state for motor vehicle excise tax reciprocity purposes

Minutes:

Written Testimony Attached

Chairman Cook opened the hearing on HB 1099.

Myles Vosberg, Tax Department – (See attached testimony A in favor of HB 1099)

Chairman Cook – Section 2, you have been all these years required to sell confiscated cigarettes. How many have you sold last year?

Myles Vosberg, Tax Department – We haven't sold any and the number that we have confiscated is very low. I think about 100 packages in the last 7 years.

Chairman Cook – Did you sell those 100?

Myles Vosberg, Tax Department – We did not. I think we still have them.

Senator Burckhard – With all of these changes and amendments, this has zero to do with local wineries skipping the middle man and selling direct to the retailer. There is nothing about that in here is there?

Myles Vosberg, Tax Department – The special event permits do allow domestic distilleries and wineries to sell directly to the public. It does not make any change as far as selling to retailers.

Senator Triplett – Just in the sense of your new proposed amendments, do you think this topic has gotten an adequate hearing in the Appropriations Committee or some other committee previously so that the people who really care do know what's happening here?

Myles Vosberg, Tax Department – There was no one at the hearing yesterday in Appropriations. We did provide a copy of our amendment to all the wineries and distilleries. We have had discussion with them. We told them when the hearing was going to be and if they wanted something else or to discuss that, that they had that opportunity to do that.

Senator Triplett – So all of the people most intimately involved have had actual notice.

Myles Vosberg, Tax Department – We believe so.

Chuck Fleming, Department of Agriculture – One of our portfolios is the Pride of Dakota Program. As you've heard our Pride of Dakota Program has really expanded. Not only do we have our 4 major cities, we've now expanded to Dickinson for our show, we now are going to Williston in May for a show, we put on a fantastic wine festival this year, so we are very aggressive in promoting this brand new industry. Our office was indicating in previous testimony that the commissioner supports this amendment. I've advised all of the wineries when discussion was, the Tax Department expressed concern about the amendment that was in SB 2009 that did not involve the Tax Department. We concurred with the language you have here to change the dates to events and to exempt Pride of Dakota days. All of the wineries are aware of this amendment and I asked them if they had wanted to push further beyond that, that they should be here today. None of them are so I think they are very satisfied with this increase. They've got a tough job trying to build a new industry. I think there is 51 acres of grapes in North Dakota. They have been very aggressive in fruit wines as well. The Tax Commissioner and the Agricultural Commissioner agreed to the amendments that you have before you. The wineries are in support of it and those of us that are intimately involved in the Pride of Dakota Program support the amendment that was offered by the Tax Department.

Chairman Cook asked for testimony opposed to HB 1099. No one came forward.

Chairman Cook asked for neutral testimony for HB 1099. No one came forward.

Chairman Cook closed the hearing on HB 1099.

Senator Triplett – I will move the amendment as proposed by the Tax Department.

Seconded by **Vice Chairman Miller**.

Chairman Cook – All in favor of the motion to amend HB 1099 signify by saying yea. Opposed? (6-0-1)

Vice Chairman Miller – I'll move a Do Pass as Amended.

Seconded by **Senator Triplett**.

Chairman Cook – Ask the clerk to take the roll. (6-0-1)

Carried by **Chairman Cook**.

March 8, 2011

JB
3-8-11
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1099

Page 1, line 1, after "reenact" insert "subsection 2 of section 5-01-17, subsection 2 of section 5-01-19,"

Page 1, line 3, after "to" insert "special events permits for domestic wineries and domestic distilleries,"

Page 1, line 3, replace "sales" with "shipments"

Page 1, after line 9, insert:

"SECTION 1. AMENDMENT. Subsection 2 of section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. The ~~state-tax~~ commissioner may issue special events permits for not more than twenty ~~daysevents~~ per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at a designated trade show, convention, festival, or a similar event approved by the ~~state tax~~ commissioner. To participate in a pride of Dakota event sponsored by the department of agriculture, a domestic winery shall obtain a special events permit. Participation by a domestic winery in a pride of Dakota event sponsored by the department of agriculture does not count against the twenty special events limitation. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the ~~state-tax~~ commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

SECTION 2. AMENDMENT. Subsection 2 of section 5-01-19 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year. Direct

2 of 2

sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. A domestic distillery may hold events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue special events permits for not more than twenty ~~day~~events per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at a designated trade show, convention, festival, or similar event approved by the tax commissioner. To participate in a pride of Dakota event sponsored by the department of agriculture, a domestic distillery shall obtain a special events permit from the tax commissioner. Participation by a domestic distillery in a pride of Dakota event sponsored by the department of agriculture does not count against the twenty special events limitation. A domestic distillery may not engage in any wholesaling activities. All sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales."

Renumber accordingly

Date: 3-8-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1099

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Triplett Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman			Jim Dotzenrod		
Joe Miller – Vice Chairman			Connie Triplett		
Randy Burckhard					
David Hogue					
Dave Oehlke					

Total (Yes) 6 No 0

Absent 1

Floor Assignment _____

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

Verbal vote

Date: 3-8-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1099

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Miller Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman	X		Jim Dotzenrod	X	
Joe Miller – Vice Chairman	X		Connie Triplett	X	
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke					

Total (Yes) 6 No 0

Absent 1

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE

HB 1099, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1099 was placed on the Sixth order on the calendar.

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Page 1, line 3, after "to" insert "special events permits for domestic wineries and domestic distilleries,"

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Page 1, after line 9, insert:

"SECTION 1. AMENDMENT. Subsection 2 of section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. The state-tax commissioner may issue special events permits for not more than twenty ~~days~~ events per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at a designated trade show, convention, festival, or a similar event approved by the state tax commissioner. To participate in a pride of Dakota event sponsored by the department of agriculture, a domestic winery shall obtain a special events permit. Participation by a domestic winery in a pride of Dakota event sponsored by the department of agriculture does not count against the twenty special events limitation. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the state-tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

SECTION 2. AMENDMENT. Subsection 2 of section 5-01-19 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale

may be made on Sundays between twelve noon and twelve midnight. A domestic distillery may hold events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue special events permits for not more than twenty ~~days~~ events per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at a designated trade show, convention, festival, or similar event approved by the tax commissioner. To participate in a pride of Dakota event sponsored by the department of agriculture, a domestic distillery shall obtain a special events permit from the tax commissioner. Participation by a domestic distillery in a pride of Dakota event sponsored by the department of agriculture does not count against the twenty special events limitation. A domestic distillery may not engage in any wholesaling activities. All sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales."

Renumber accordingly

2011 TESTIMONY

HB 1099

**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
HOUSE FINANCE AND TAXATION COMMITTEE**

HOUSE BILL 1099

January 10, 2011

Chairman Belter, members of the House Finance and Taxation Committee, I am Myles Vosberg, Director of the Tax Administration Division of the Office of State Tax Commissioner and I am here today to testify in support of House Bill 1099.

BACKGROUND

This bill was introduced by the Tax Commissioner to address administrative issues encountered by our Department. These changes, which apply to tobacco products tax, use tax, motor vehicle excise tax, motor vehicle and special fuels taxes, and alcohol taxes will have no fiscal impact. The changes are intended to remove obsolete language, clarify administrative processes or make current processes more consistent with other similar taxes.

EXPLANATION OF THE BILL

Section 1- Seized cigarette and tobacco products. Under current law, the Tax Commissioner must sell seized cigarette or tobacco products. The quality and safety of seized products is unknown and we believe the sale of these products could potentially subject the state of North Dakota to liability if any of the products are tainted. Therefore, the Commissioner recommends these products be destroyed rather than sold to consumers.

Section 2 – Obsolete language regarding sales tax return due dates. During the 2009 legislative session the legislature, at the request of the Tax Commissioner, repealed a provision in the sales tax law that accelerated the due date of the May monthly sales tax return (due on June 30) at the end of each biennium. The early due date was a component of both the sales and the use tax statutes; however, only the sales tax law was amended. Section 2 of the bill will remove the obsolete language from the use tax law.

Section 3 – Credit for Motor Vehicle Excise Tax paid to another state. Vehicles that are licensed and titled in North Dakota are subject to motor vehicle excise tax. If tax was legally paid to another state because the vehicle was purchased or used in another state before coming to North Dakota, our law provides credit (reduced the amount of tax due), by the amount of tax paid to the other state. This amendment clarifies that “state” includes a

territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Section 4 – Information sharing agreements. The motor vehicle fuels and special fuels laws allow the director of the Department of Transportation and the Tax Commissioner to enter into information sharing agreements with other states that will assist administration of the fuel tax laws and ensure compliance. The amendment in Section 4 clarifies that information may be shared with Canadian providences for purposes of administering the motor vehicle fuels tax.

PROPOSED AMENDMENT TO HOUSE BILL 1099. Included with this testimony is a proposed amendment, which includes language that was inadvertently omitted at the time HB1099 was drafted. The Tax Commissioner requests the House Finance and Taxation Committee to adopt the proposed amendment as part of House Bill 1099.

Amendment Section 1 – Direct shipper and manufacturer penalty provisions. This amendment adds “direct shippers” and “manufacturers” to the list of alcoholic beverage related businesses subject to audit and also subject to penalty for the failure to report or pay taxes as required by law. No additional requirements are placed on these businesses; the language only clarifies that these businesses are subject to audit and that penalty may apply for failure to file or remit tax as required by statute.

Amendment Section 2 – Information sharing agreements. The information sharing agreement language in Section 4 of HB1099 applies to motor vehicle fuel tax. This amendment adds the same language to the special fuels tax law in § 57-43.2-37. The existing information sharing agreement language in the motor vehicle fuel chapter and the special fuels chapter is identical except for the name of the fuel types.

CONCLUSION

The changes found in House Bill 1082, including the proposed amendment, are intended to clarify the law, codify existing administrative practices, and make administrative practices more uniform among tax types. The Tax Commissioner respectfully requests that you give favorable consideration to House Bill 1082. Thank you for your consideration.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1099

Page 1, line 1, after "reenact" insert "section 05-03-06,"

Page 1, line 2, after "57-40.2-07," replace "and sections" with "section", after "57-40.3-09"

replace "and" with ", section", and after "57-43.1-44" insert ", and section 57-43.2-37"

Page 1, line 3, after the first "to" insert "direct sales of alcoholic beverages,"

Page 1, line 5, remove "and"

Page 1, line 6, after "information" insert ", and cooperative agreements between states for the exchange of special fuels tax information"

Page 1, after line 7, insert:

"SECTION 1. AMENDMENT. Section 05-03-06 of the North Dakota Century Code is amended and reenacted as follows:

5-03-06. Examination by tax commissioner - Penalty for improper returns.

The state tax commissioner may at any reasonable time make an examination of the books and premises of any retailer, wholesaler, manufacturer, domestic winery, domestic distillery, microbrew pub, direct shipper, or other person to determine if such person has fully complied with all statutes and rules pertaining to the person's business. If any manufacturer, wholesaler, domestic winery, domestic distillery, ~~or~~ microbrew pub, or direct shipper liable for any taxes imposed by this chapter fails to pay such tax on the date payment is due, there must be added to the tax a penalty of five percent of the total amount of the tax or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay, except the first month after the return or tax became due. Any manufacturer, wholesaler, domestic winery, domestic distillery, ~~or~~ microbrew pub, or direct shipper failing to furnish reports when required must be assessed a penalty of one hundred dollars for each day such reports are delinquent. The state tax commissioner may forgive all or part of any penalty for good cause shown. The tax commissioner shall give notice of the determination to the person liable for tax. If the determination of tax due relates to an incorrect or insufficient return filed by a taxpayer, notice of the determination must be given not later than three years after the last day on which the return was due or three years after the return was filed, whichever is later. If it is determined upon audit by the tax commissioner that the tax due was twenty-five percent or more above the amount reported on the return, notice of determination of tax

due must be given not later than six years after the last day on which the return was due or six years after the return was filed, whichever was later. Notice of determination of tax due for any reporting period for which a taxpayer failed to file a return must be given not later than six years after the due date of the return, but if fraudulent information is given in a return or the failure to file a return is due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax, the time limitation provided in this section for giving notice of the determination of tax due does not apply.

If any manufacturer, wholesaler, domestic winery, domestic distillery, ~~or microbrew pub,~~ or direct shipper files a fraudulent return, there must be added to the tax an amount equal to the tax evaded or attempted to be evaded and such manufacturer, wholesaler, domestic winery, domestic distillery, ~~or microbrew pub,~~ or direct shipper is also guilty of a class C felony. All such taxes and civil penalties may be collected by assessment or distraint, and no court of this state may enjoin the collection of any such tax or civil penalty. No wholesaler may purchase alcoholic beverages from a manufacturer after notice from the state tax commissioner that such manufacturer has failed to file required reports with the tax commissioner's office. Any manufacturer, wholesaler, domestic winery, domestic distillery, ~~or microbrew pub,~~ or direct shipper may have its license suspended or revoked for violation of any of the provisions of this title after a hearing conducted similar to that prescribed by this law."

Page 3, after line 29, insert:

"SECTION 6. AMENDMENT. Section 57-43.2-37 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-37. Cooperative agreements between states.

1. The director may enter into cooperative agreements ~~with other states~~ for exchange of information and auditing of users of special fuels used in fleets of motor vehicles operated or intended to operate interstate or internationally. An agreement or amendment to an agreement is not effective until filed in writing with the director.
2. An agreement under this section may provide for determining the base state for users, users' records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles,

determining if bonding is required, specifying reporting requirements and periods including defining the uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of special fuel taxes and penalties to another jurisdiction, and other provisions as will facilitate the administration of the agreement.

3. The director may, as required by the terms of the agreement, forward to ~~officers of another state~~ any information in the director's or commissioner's possession relative to the manufacture, receipt, sale, use, transportation, or shipment of special fuels by any person. The director may disclose to ~~officers of another state~~ the location of officers, motor vehicles, and other real and personal property of users of special fuels.
4. An agreement may provide for ~~each state to audit the records of persons based in the state~~ audits of users of special fuels used in fleets of motor vehicles operated or intended to operate interstate or internationally, to determine if the special fuel taxes due each state are properly reported and paid. ~~Each state shall forward the~~ The findings of the audits performed on persons based in the state; to each state in which the person has have a taxable use of special fuels may be shared among parties to a cooperative agreement. For persons not based in this state and who have taxable use of special fuel in this state, the director or the tax commissioner may serve the audit findings ~~received from another state~~, in the form of an assessment, on the person as though an audit was conducted by the director or the tax commissioner.
5. Any agreement entered under this section does not preclude the director or the commissioner from auditing the records of any person covered by the provisions of this chapter.
6. The provisions of any agreement entered into under this section prevail over any conflicting rules adopted by the director or the commissioner.”

Renumber accordingly

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**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
SENATE FINANCE AND TAXATION COMMITTEE**

HOUSE BILL 1099

March 8, 2011

Chairman Cook, members of the Senate Finance and Taxation Committee, I am Myles Vosberg, Director of the Tax Administration Division of the Office of State Tax Commissioner and I am here today to testify in support of House Bill 1099.

BACKGROUND

This bill was introduced by the Tax Commissioner to address administrative issues encountered by our Department. These changes, which apply to alcohol taxes, tobacco products tax, use tax, motor vehicle excise tax, and fuels taxes, will have no fiscal impact. The changes are intended to remove obsolete language, clarify administrative processes or make current processes more consistent with other similar taxes. I also have for your consideration one proposed amendment to the wholesale alcohol tax laws.

EXPLANATION OF THE BILL

Section 1 – Direct shipper and manufacturer penalty provisions. Section 1 adds “direct shippers” and “manufacturers” to the list of alcoholic beverage related businesses subject to audit and also subject to penalty for the failure to report or pay taxes as required by law. No additional requirements are placed on these businesses; the language only clarifies that these businesses are subject to audit and that penalty may apply for failure to file or remit tax as required by statute.

Section 2 – Seized cigarette and tobacco products. Under current law, the Tax Commissioner must sell seized cigarette or tobacco products. The quality and safety of seized products is unknown and we believe the sale of these products could potentially subject the state of North Dakota to liability if any of the products are tainted. Therefore, the Commissioner recommends these products be destroyed rather than sold to consumers.

Section 3 – Obsolete language regarding sales tax return due dates. During the 2009 legislative session the legislature, at the request of the Tax Commissioner, repealed a provision in the sales tax law that accelerated the due date of the May monthly sales tax return (due on June 30) at the end of each biennium. The early due date was a component of both the

sales and the use tax statutes; however, only the sales tax law was amended. Section 3 of the bill will remove the obsolete language from the use tax law.

Section 4 – Credit for Motor Vehicle Excise Tax paid to another state. Vehicles that are licensed and titled in North Dakota are subject to motor vehicle excise tax. If tax was legally paid to another state because the vehicle was purchased or used in another state before coming to North Dakota, our law provides credit (reduced the amount of tax due), by the amount of tax paid to the other state. This amendment clarifies that “state” includes a territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Section 5 & 6 – Information sharing agreements. The motor vehicle fuels and special fuels laws allow the director of the Department of Transportation and the Tax Commissioner to enter into information sharing agreements with other states to assist in administration of the fuel tax laws and help ensure compliance. The amendments in Sections 5 & 6 state that information may be shared with other countries for purposes of administering fuel taxes. Section 5 of HB1099 applies to motor vehicle fuels and Section 6 applies to special fuels.

PROPOSED AMENDMENT TO HOUSE BILL 1099.

Included with this testimony is a proposed amendment to the statutes that regulate domestic wineries and domestic distilleries. Under current law the Tax Commissioner may, subject to local ordinance, issue a limited number of special event permits to a domestic winery or distillery. The permit allows the domestic winery or distillery to give free samples of its products and to sell product by the glass or in closed containers at the event. An event is defined as a “trade show, convention, festival, or similar event approved by the tax commissioner.”

During the first half of this legislative session, the budget for the Department of Agriculture, Senate Bill 2009, was amended to authorize the Agriculture Commissioner to also issue special event permits for the purpose of promoting the North Dakota wine and spirits industries. The Tax Commissioner’s Office has two main concerns with the amendment to SB 2009. First, the Tax Commissioner is responsible for the regulatory functions of domestic wineries and domestic distilleries in the state. Allowing two agencies to authorize special event permits is inefficient and may prevent the Tax Commissioner from having complete information on the wineries or distilleries obtaining permits. Secondly, the

language in the amendment places no restriction on the number of permits that may be issued by the Agriculture Commissioner; thereby, effectively eliminating any limit to the number of special events in which a winery or distillery may participate.

To resolve this issue, the Tax Commissioner discussed the issue with the Agriculture Commissioner's Office and offered an amendment to the Education and Environment Division of the House Appropriations Committee at yesterday's hearing for Senate Bill 2009. Our proposed amendment strikes the language in the Department of Agriculture's budget that allows that agency to issue permits to domestic wineries and distilleries for special events. To accomplish the original intent of the amendment in SB2009, I offer to you today another amendment that expands the current permits available to the domestic wineries and distilleries. The current limit for permits is increased from twenty days to twenty events and any Pride of Dakota event sponsored by the Department of Agriculture is not counted against the twenty events allowed.

Based on comments we have received from the industry, multiple day events quickly consume the twenty days currently allowed. We believe changing "days" to "events" and not counting the Pride of Dakota events will help resolve this concern.

CONCLUSION

The changes found in House Bill 1099 are intended to clarify the law, codify existing administrative practices, and make administrative practices more uniform among tax types. In addition, amending the special event permit function will provide additional opportunities for the domestic winery and distillery industries. The Tax Commissioner respectfully requests that you give favorable consideration to House Bill 1099 and our proposed amendment. Thank you for your consideration.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1099

Page 1, line 1, after "reenact" insert "subsection 2 of section 5-01-17, subsection 2 of section 5-01-19,"

Page 1, line 3, after "to" insert "special events for domestic wineries and domestic distilleries," and replace "sales" with "shipments"

Page 1, after line 8, insert:

"SECTION 1. AMENDMENT. Subsection 2 of section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. The ~~state~~ tax commissioner may issue special events permits for not more than twenty ~~days~~ events per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at a designated trade show, convention, festival, or a similar event approved by the ~~state~~ tax commissioner. A domestic winery must obtain a special events permit in order to participate in a pride of Dakota event sponsored by the department of agriculture. Participation by a domestic winery in a pride of Dakota event sponsored by the department of agriculture shall not count against the twenty special events limitation. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the ~~state~~ tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls

on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

SECTION 2. AMENDMENT. Subsection 2 of section 5-01-19 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. A domestic distillery may hold events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue special events permits for not more than twenty days events per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at a designated trade show, convention, festival, or similar event approved by the tax commissioner. A domestic distillery must obtain a special events permit from the tax commissioner in order to participate in a pride of Dakota event sponsored by the department of agriculture. However, participation by a domestic distillery in a pride of Dakota event sponsored by the department of agriculture shall not count against the twenty special events limitation. A domestic distillery may not engage in any wholesaling activities. All sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales.”

Renumber accordingly