

HOUSE BILL NO. 1190
with Senate Amendments
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Introduced by

Representatives D. Ruby, Becker, Boschee, Johnston, Kasper

Senators Heckaman, Hogue, Krebsbach, J. Roers

1 A BILL for an Act to amend and reenact sections 5-01-17 and 5-01-20 of the North Dakota
2 Century Code, relating to domestic winery licenses and direct sales by licensed wineries.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 5-01-17 of the North Dakota Century Code is amended
5 and reenacted as follows:

6 **5-01-17. Domestic winery license.**

7 1. The tax commissioner may issue a domestic winery license to the owner or operator of
8 a winery located within this state to produce wine. ~~The percentage of ingredients by~~
9 ~~volume, excluding water, of wine produced by a domestic winery which must be grown~~
10 ~~and produced in this state must be at least ten percent in the second year of licensure,~~
11 ~~twenty percent in the third year of licensure, thirty percent in the fourth year of~~
12 ~~licensure, forty percent in the fifth year of licensure, and fifty-one percent in the sixth~~
13 ~~and subsequent years of licensure. Domestic wineries may be granted an exemption~~
14 ~~from the ingredient utilization requirement whenever the state tax commissioner~~
15 ~~determines, upon the commissioner's own motion or at the request of a domestic~~
16 ~~winery, that weather conditions, pest infestations, plant disease epidemics, or other~~
17 ~~natural causes have reduced the quantity or quality of produce grown in this state to~~
18 ~~an extent that renders compliance with the ingredient utilization requirement infeasible.~~
19 ~~The exemption is effective for one year unless the tax commissioner issues a new~~
20 ~~exemption.~~ A domestic winery may purchase, at wholesale or retail, brandy for use of
21 onpremises fortification. A domestic winery license may be issued and renewed for an
22 annual fee of one hundred dollars, which is in lieu of all other license fees required by
23 this title.

- 1 2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail
2 lots, and not for resale, and may sell or direct ship its wine to persons inside or outside
3 of the state in a manner consistent with the laws of the place of the sale or delivery in
4 total quantities not in excess of twenty-five thousand gallons [94635 liters] in a
5 calendar year; glassware; wine literature and accessories; and cheese, cheese
6 spreads, and other snack food items. A licensee may dispense free samples of the
7 wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be
8 made on Sundays between twelve noon and twelve midnight. The tax commissioner
9 may issue special events permits for not more than ~~twenty~~forty events per calendar
10 year to a domestic winery allowing the winery, subject to local ordinance, to give free
11 samples of its wine and to sell its wine by the glass or in closed containers, at off-
12 premises events. ~~To participate in a pride of Dakota event sponsored by the~~
13 ~~department of agriculture, a domestic winery shall obtain a special events permit.~~
14 ~~Participation by a domestic winery in a pride of Dakota event sponsored by the~~
15 ~~department of agriculture does not count against the twenty special events limitation.~~ A
16 domestic winery may not engage in any wholesaling activities. All sales and deliveries
17 of wines to any other retail licensed premises in this state may be made only through a
18 licensed North Dakota liquor wholesaler. For any month in which a domestic winery
19 has made sales to a North Dakota wholesaler, that domestic winery shall file a report
20 with the tax commissioner no later than the last day of each calendar month reporting
21 sales made during the preceding calendar month. When the last day of the calendar
22 month falls on a Saturday, Sunday, or legal holiday, the due date is the first working
23 day thereafter.
- 24 3. A domestic winery may obtain a domestic winery license and a retailer license allowing
25 the onpremises sales of alcoholic beverages at a restaurant owned by the licensee
26 and located on property contiguous to the winery.
- 27 4. A domestic winery may purchase wine in bulk from within and outside the state,
28 excluding label approved containers and not to exceed four thousand gallons [15142
29 liters] per calendar year.
- 30 5. A domestic winery is subject to section 5-03-06 and shall report and pay annually to
31 the tax commissioner the wholesaler taxes due on all wines sold by the licensee at

1 retail, including all wines shipped directly to consumers as set forth in sections 5-03-07
2 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the
3 year following the year sales were made. When the fifteenth of January falls on a
4 Saturday, Sunday, or legal holiday, the due date is the first working day thereafter. The
5 report must provide such detail and be in a format as prescribed by the tax
6 commissioner. The tax commissioner may require that the report be submitted in an
7 electronic format approved by the tax commissioner.

8 **SECTION 2. AMENDMENT.** Section 5-01-20 of the North Dakota Century Code is amended
9 and reenacted as follows:

10 **5-01-20. Direct sale by licensed wineries.**

- 11 1. A licensed winery that produces no more than ~~fifty~~twenty-five thousand gallons
12 [~~18927194635~~ liters] of wine per year may sell and deliver, onsite or offsite, the wine
13 produced by the winery directly to licensed retailers. The licensed winery may sell and
14 deliver wine onsite to a licensed retailer who presents the retailer's license or a
15 photocopy of the license. The winery may deliver the wine offsite if the winery:
- 16 a. Uses the winery's equipment, trucks, and employees to deliver the wine;
 - 17 b. Contracts with a licensed distributor to ship and deliver the wine to the retailer; or
 - 18 c. Contracts with a common carrier to ship and deliver the wine to the retailer
19 directly from the winery or the winery's bonded warehouse.
- 20 2. The shipments delivered by a winery's equipment, trucks, and employees in a year
21 may not exceed four thousand five hundred cases. A case may not exceed
22 2.38 gallons [9 liters].
- 23 3. Individual shipments delivered by common carrier may not exceed three cases a day
24 for each licensed retailer. The shipments delivered by a common carrier in a year may
25 not exceed ~~four~~three thousand five hundred cases. A case may not exceed
26 2.38 gallons [9 liters].