

ALCOHOLIC BEVERAGES

CHAPTER 90

HOUSE BILL NO. 1449

(Representatives Mock, Boschee, Louser, Wagner, Warrey)
(Senators Kessel, Larsen, Meyer)

AN ACT to amend and reenact subsection 2 of section 5-01-14, section 5-01-19, and subsection 3 of section 5-01-21 of the North Dakota Century Code, relating to event permits for microbrew pubs, domestic distilleries, and brewer taproom licensees, and the domestic farm product requirement for domestic distilleries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 5-01-14 of the North Dakota Century Code is amended and reenacted as follows:

2. The tax commissioner may issue a special event permit for not more than forty ~~day events~~ per calendar year to a microbrew licensee ~~which allows~~ allowing the licensee, ~~subject to local ordinance,~~ to give free samples of beer manufactured by the licensee, sell beer manufactured by the glass or in closed containers, or dispense beer manufactured by the licensee, at a ~~designated trade show, convention, festival, fundraiser, or other related special event hosted by a nonprofit organization unaffiliated with the licensee, or a similar event approved by the tax commissioner. This subsection is subject to local ordinances off-premises events.~~

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

5-01-19. Domestic distillery.

1. The tax commissioner may issue a domestic distillery license to the owner or operator of a distillery that is located within this state ~~which uses a majority of North Dakota farm products to manufacture and sell spirits produced on the premises.~~ A domestic distillery license may be issued and renewed for an annual fee of one hundred dollars. This fee is in lieu of all other license fees required by this title. The tax commissioner may not issue the domestic distillery license until the applicant has established that the applicant has applied for and obtained the necessary federal registrations and permits, as required under the Internal Revenue Code of 1986 [26 U.S.C. 5001 et seq.] and the federal Alcohol Administration Act [27 U.S.C. 203], for the operation of a distilled spirits plant.
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 [94635 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 eight a.m. 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 event permits for not more than forty ~~event 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 off-premises events. A domestic distillery may not engage in any wholesaling activities. Except as provided by section 5-01-19.1, 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.

3. A domestic distillery may obtain a domestic distillery license and a retailer license allowing the onpremises sale of alcoholic beverages at a restaurant owned by the licensee and located on property contiguous to the domestic distillery. A domestic distillery also may own or operate a winery.
4. A domestic distillery is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all spirits sold by the licensee at retail or to a retail licensee, including all spirits shipped directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the year following the year sales were made. The report must provide the detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require that the report be submitted in an electronic format approved by the tax commissioner.

SECTION 3. AMENDMENT. Subsection 3 of section 5-01-21 of the North Dakota Century Code is amended and reenacted as follows:

3. The tax commissioner may issue special event permits for not more than forty ~~day~~ events per calendar year to a brewer taproom licensee allowing the licensee, subject to local ordinance, to give free samples of its beer, sell its beer by the glass or in closed containers, or dispense beer manufactured by the licensee, ~~at a designated trade show, convention, festival, fundraiser or other related special event hosted by a nonprofit organization unaffiliated with the brewer taproom licensee, or a similar event approved by the tax commissioner~~ off-premises events.

Approved March 20, 2023

Filed March 21, 2023

CHAPTER 91

SENATE BILL NO. 2363

(Senators Barta, Kessel, Meyer)
(Representatives Cory, Louser, Richter)

AN ACT to amend and reenact subsection 3 of section 5-02-06 of the North Dakota Century Code, relating to prohibitions on access to a brewer taproom for an individual under twenty-one years of age; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 5-02-06 of the North Dakota Century Code is amended and reenacted as follows:

3. a. At the discretion of the owner of the licensed premises, an individual under twenty-one years of age may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:

- (1) Is accompanied by a parent or guardian;
- (2) Is not seated at or within three feet [0.91 meters] of the bar counter; and
- (3) Does not enter or remain in the designated area after ten p.m.

- b. At the discretion of the owner of a brewer taproom licensed under section 5-01-21, an individual under twenty-one years of age may be permitted to enter and remain in the brewer taproom if:

- (1) The brewer taproom is connected to or contracts with an establishment, including a mobile food unit, at which food is prepared and available for purchase to be consumed in the brewer taproom and which is connected to or located at the brewer taproom and receives the majority of its gross sales from the sale of food; and

- (2) The individual:

- (a) Is accompanied by the individual's parent or guardian;
- (b) Is not seated at or within three feet [0.91 meters] of the bar counter; and
- (c) Does not enter or remain in the brewer taproom after ten p.m. or during any time that food is not available for consumption as provided in paragraph 1.

- c. An individual under twenty-one years of age may be permitted to remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the designated area in which alcoholic beverages are

opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if the individual is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an individual twenty-one years of age or older and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.

- d. For purposes of this subsection, "mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable from which a vendor prepares, cooks, sells, or serves food or beverages for immediate consumption.

Approved April 4, 2023

Filed April 5, 2023