

Sixty-ninth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1466

Introduced by

Representatives Dockter, Berg, O'Brien, Toman

Senators Larson, Mathern

1 A BILL for an Act to amend and reenact section 5-01-01 and subsection 2 of section 5-01-19.2
2 of the North Dakota Century Code, relating to the definitions of a domestic and manufacturing
3 distillery and satellite locations.

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

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

7 **5-01-01. Definitions.**

8 In this title:

- 9 1. "Alcohol" means neutral spirits distilled at or above one hundred ninety degrees proof,
10 whether or not such product is subsequently reduced, for nonindustrial use.
- 11 2. "Alcoholic beverages" means any liquid suitable for drinking by human beings, which
12 contains one-half of one percent or more of alcohol by volume.
- 13 3. "Beer" means any malt beverage containing one-half of one percent or more of alcohol
14 by volume and includes an alcoholic beverage made by the fermentation of malt
15 substitutes, including rice, grain of any kind, glucose, sugar, or molasses, which has
16 not undergone distillation.
- 17 4. "Bottle or can" means any container, regardless of the material from which made,
18 having a capacity less than a bulk container for use for the sale of malt beverages at
19 retail.
- 20 5. "Direct shipper" means a person that is licensed by the commissioner and ships or
21 causes to be shipped alcoholic beverages directly into this state to a consumer for the
22 consumer's personal use and not for resale.

- 1 6. "Distilled spirits" means any alcoholic beverage that is not beer, wine, sparkling wine,
2 or alcohol.
- 3 7. "Domestic distillery" means a distillery that produces twenty-five thousand gallons or
4 less of distilled spirits per year.
- 5 8. "In bulk" means in containers having a capacity not less than one-sixth barrel for use
6 for the sale of malt beverages at retail.
- 7 ~~8-9.~~ "Licensed alcohol carrier" means a person licensed to transport or deliver alcoholic
8 beverages to a consumer without first having the alcoholic beverage delivered through
9 a wholesaler licensed in this state.
- 10 ~~9-10.~~ "Licensed logistics shipper" means a person that provides fulfillment house services,
11 including warehousing, packaging, distribution, order processing, or shipment of
12 alcoholic beverages on behalf of a licensed direct shipper and by way of a licensed
13 alcohol carrier.
- 14 ~~40-11.~~ "Licensed premises" means the premises on which beer, liquor, or alcoholic beverages
15 are normally sold or dispensed and must be delineated by diagram or blueprint which
16 must be included with the license application or the license renewal application.
- 17 ~~41-12.~~ "Liquor" means any alcoholic beverage except beer.
- 18 ~~42-13.~~ "Local governing body" means the governing entity of a city, county, or federally
19 recognized Indian tribe in this state.
- 20 ~~43-14.~~ "Local license" means a city, county, or tribal retail alcoholic beverage license issued
21 by the appropriate local governing body.
- 22 15. "Manufacturing distillery" means a distillery that produces more than twenty-five
23 thousand gallons of distilled spirits per year.
- 24 ~~44-16.~~ "Microbrew pub" means a brewer that brews ten thousand or fewer barrels of beer per
25 year and sells beer produced or manufactured on the premises for consumption on or
26 off the premises or serves beer produced or manufactured on the premises for
27 purposes of sampling the beer.
- 28 ~~45-17.~~ "Organization" means a domestic or foreign corporation, general partnership, limited
29 partnership, or limited liability company.
- 30 18. "Satellite location" means an offsite location owned or leased by a manufacturing
31 distillery to conduct retail operations.

1 ~~46:19.~~ "Sparkling wine" means wine made effervescent with carbon dioxide.

2 ~~47:20.~~ "Supplier" means an alcoholic beverage manufacturer, importer, marketer, or
3 wholesaler selling alcoholic beverages to a wholesaler licensed in this state for
4 purposes of resale.

5 ~~48:21.~~ "Tribal licensee" means a person issued a local license by the governing body of a
6 federally recognized Indian tribe in this state for the retail sale of alcoholic beverages
7 within the exterior tribal reservation boundaries.

8 ~~49:22.~~ "Twenty-one years of age" means it is after eight a.m. on the date twenty-one years
9 after a person's date of birth.

10 ~~20:23.~~ "Wine" means the alcoholic beverage obtained by fermentation of agricultural products
11 containing natural or added sugar or such beverage fortified with brandy and
12 containing not more than twenty-four percent alcohol by volume.

13 **SECTION 2. AMENDMENT.** Subsection 2 of section 5-01-19.2 of the North Dakota Century
14 Code is amended and reenacted as follows:

15 2. A manufacturing distillery may sell spirits produced by that distillery at off sale, in retail
16 lots, and not for resale, and may sell or direct ship its spirits to persons inside or
17 outside the state in a manner consistent with the laws of the place of the sale or
18 delivery in total quantities not in excess of ~~twenty-five thousand~~ one hundred fifty
19 thousand gallons [~~946355~~67812 liters] in a calendar year.

20 a. Direct sales within this state are limited to two and thirty-eight hundredths gallons
21 [9 liters] or less per month per person for personal use and not for resale. The
22 packaging must conform with the labeling requirements in section 5-01-16. A
23 licensee may dispense free samples of the spirits offered for sale. Subject to local
24 ordinance, sales at off sale may be made on Sundays between twelve noon and
25 twelve midnight.

26 b. A manufacturing distillery may hold events inside its premises and at its satellite
27 location. The tax commissioner may issue event permits for not more than forty
28 event days per calendar year to a manufacturing distillery to allow the
29 manufacturing distillery, subject to local ordinance, to give free samples of its
30 product and to sell its product by the glass or in closed containers at ~~on-premises-~~
31 events on the premises, off the premises, and at its satellite location.

1 c. A manufacturing distillery may not engage in any wholesaling activities. Except
2 as provided by section 5-01-19.1, all sales and deliveries of spirits to any other
3 retail licensed premises in this state may be made only through a licensed North
4 Dakota liquor wholesaler. However, a manufacturing distillery may sell distilled
5 spirits to a domestic winery if the distilled spirits were produced from products
6 provided to the manufacturing distillery by the domestic winery.