

# ALCOHOLIC BEVERAGES

## CHAPTER 75

HOUSE BILL NO. 1420  
(Representatives Whalen, Mahoney)  
(Senators Keller, Maxson)

### ALCOHOLIC BEVERAGE SELLERS

AN ACT to create and enact two new sections to chapter 5-01, a new subsection to section 5-01-01, a new subsection to section 5-02-02, two new subsections to section 5-03-01, and a new section to chapter 5-03 of the North Dakota Century Code, relating to violations of alcoholic beverage laws and alcoholic beverage license applicants; to amend and reenact sections 5-01-11, 5-03-02, 5-03-05, 5-03-06, subsection 3 of section 5-04-01, and section 5-04-14 of the North Dakota Century Code, relating to alcoholic beverage laws; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 5-01-01 of the North Dakota Century Code is created and enacted as follows:

"Microbrew pub" means a brewer that brews twenty-five or fewer barrels of beer per week and sells beer produced or manufactured on the premises for consumption on or off the premises, or serves beer produced or manufactured on the premises for purposes of sampling the beer.

SECTION 2. AMENDMENT. Section 5-01-11 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-01-11. Unfair competition - Penalty. ~~No A manufacturer may engage in may not have any financial interest in any wholesale alcoholic beverage business; nor may any. A manufacturer or wholesaler have any financial interest in may not have any financial interest in any retail alcoholic beverage establishment nor and may not furnish any such retailer with anything of value. A retailer may not have any financial interest in any manufacturer, supplier, or wholesaler. A wholesaler may:~~

1. Extend normal commercial credits to retailers for industry products sold to them. The state treasurer may determine by regulation the definition of "normal commercial credits" for each segment of the industry.
2. Furnish retailers with beer containers and equipment for dispensing of tap beer if the expense does not exceed fifty dollars per tap per calendar year.
3. Furnish outside signs to retailers if the sign cost does not exceed one hundred dollars exclusive of costs of erection and repair.

4. Furnish miscellaneous materials to retailers not to exceed one hundred dollars per year. "Miscellaneous materials" not subject to this limitation include any indoor point-of-sale items for retail placement. Point-of-sale items include back bar signs, pool table lights, neon window signs, and items of a similar nature. The point-of-sale items must be limited to two hundred fifty dollars per retail account from the wholesaler for each of the wholesaler's brewers or suppliers. The state treasurer may, to keep current with market conditions, adjust the limitation amount for the point-of-sale items on an annual basis upon consultation with representatives of the alcohol beverage industry.

Any wholesaler, retailer, or manufacturer violating this section, or any rule adopted to implement this section, and any retailer receiving benefits thereby, is guilty of a class A misdemeanor. This section does not apply to a microbrew pub.

SECTION 3. A new section to chapter 5-01 of the North Dakota Century Code is created and enacted as follows:

Microbrew pubs - Licensing - Taxes. A microbrew pub shall obtain a brewer license and a retailer license as required under this title. A microbrew pub may not engage in any wholesaling activities. A microbrew pub is liable for taxes imposed pursuant to section 5-03-07, in addition to any other taxes imposed on brewers and retailers. A microbrew pub is not precluded from retailing beer it purchases from a wholesaler.

SECTION 4. A new section to chapter 5-01 of the North Dakota Century Code is created and enacted as follows:

Penalty. Any person who violates any provision of this title, or any rule adopted to implement this title, is guilty of a class B misdemeanor, unless the penalty is provided for elsewhere.

SECTION 5. A new subsection to section 5-02-02 of the North Dakota Century Code is created and enacted as follows:

The applicant may not have any financial interest in any wholesale alcoholic beverage business.

SECTION 6. Two new subsections to section 5-03-01 of the North Dakota Century Code are created and enacted as follows:

The applicant may not have any financial interest in any retail alcoholic beverage business.

The provisions of this section relating to warehousing do not apply to a wholesaler of beer located in an adjoining state that permits wholesalers licensed in North Dakota to deliver beer to retailers without warehousing in that state.

SECTION 7. AMENDMENT. Section 5-03-02 of the North Dakota Century Code is amended and reenacted as follows:

5-03-02. Fees. The fee for an annual wholesale liquor license is one thousand dollars. The fee for an annual wholesale beer license is two hundred dollars. Fees must be reduced twenty-five percent for each full

quarter of a year elapsed between the first day of the year for which the license is issued and the date on which the application for the license is filed with the state treasurer. When an application clearly indicates that the applicant does not desire to exercise the privileges granted by the license applied for until on or after the beginning of the quarterly period following the quarterly period in which the application is filed with the department, the fees must be reduced twenty-five percent for each full quarter of a year elapsing between the first day of the year for which the license is issued and the date indicated on the application. A license may not be issued for any period for a fee less than one-half of the annual license fee.

SECTION 8. AMENDMENT. Section 5-03-05 of the North Dakota Century Code is amended and reenacted as follows:

5-03-05. Treasurer to enact regulations - Appeal. The state treasurer, pursuant to chapter 28-32, shall adopt rules and regulations governing retailers, wholesalers, and manufacturers necessary to carry out the provisions of this title and to ensure efficient collection of beer and liquor taxes. Such regulations will have the force of law thirty days after the date of mailing to the persons affected by such regulations. All decisions of the state treasurer are subject to court review.

SECTION 9. AMENDMENT. Section 5-03-06 of the North Dakota Century Code is amended and reenacted as follows:

5-03-06. Examination by treasurer - Penalty for improper returns. The state treasurer may at any reasonable time make an examination of the books and premises of any retailer, wholesaler, manufacturer, microbrew pub, or other person to determine if such ~~wholesaler~~ person has fully complied with all statutes and regulations pertaining to his wholesale the person's business. If any wholesaler or microbrew pub 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 five percent per month of the total amount of the tax unpaid from the due date of payment until paid. Any wholesaler or microbrew pub failing to furnish reports when required must be assessed a penalty of one hundred dollars for each day such reports are delinquent. The state treasurer may forgive all or part of any penalty for good cause shown. If any wholesaler or microbrew pub 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 wholesaler or microbrew pub 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 treasurer that such manufacturer has failed to file required reports with his office. Any wholesaler or microbrew pub may have his 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.

SECTION 10. A new section to chapter 5-03 of the North Dakota Century Code is created and enacted as follows:

Hearing on alleged violations - Denial of license. On licenses that are renewable annually, the state treasurer may not revoke or suspend a license or deny a renewal prior to conducting a hearing in accordance with chapter 28-32.

SECTION 11. AMENDMENT. Subsection 3 of section 5-04-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Brewer" means every licensed brewer or importer of beer located within or without this state who enters into an agreement with any beer wholesaler licensed to do business in this state.

SECTION 12. AMENDMENT. Section 5-04-14 of the North Dakota Century Code is amended and reenacted as follows:

5-04-14. Sale of brewer. Except for good cause, as defined by section 5-04-04, the purchase of a brewer as defined in section 5-04-01, where the purchaser continues in business as a brewer, shall obligate the new brewer to all terms and conditions of the agreement in effect on the date of purchase. "Purchase", for the purposes of this chapter, includes, but is not limited to, the sale of stock, sale of assets, merger, lease, transfer, or consolidation.

Approved April 8, 1991  
Filed April 8, 1991

## CHAPTER 76

HOUSE BILL NO. 1319  
(Representatives Oban, Gorder)  
(Senators Evanson, Marks)

### ALCOHOL CONSUMPTION BY MINORS

AN ACT to amend and reenact section 5-01-08 of the North Dakota Century Code, relating to prohibiting minors from consuming alcohol.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Persons under twenty-one years of age prohibited from purchasing, consuming, or possessing alcoholic beverages or entering licensed premises - Penalty - Exceptions - Referrals to addiction facilities. Except as permitted in this section and section 5-02-06, any person under twenty-one years of age purchasing, or attempting to purchase alcoholic beverages, consuming alcoholic beverages other than during a religious service, being under the influence of alcoholic beverages, or being in possession of alcoholic beverages, or furnishing money to any person for such purchase, or entering any licensed premises where alcoholic beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian, or in accordance with section 5-02-06, or if the person is a law enforcement officer entering the premises in the performance of official duty, is guilty of a class B misdemeanor. The court may, under this section, refer the person to an outpatient addiction facility licensed by the state department of ~~health and consolidated laboratories~~ human services for evaluation and appropriate counseling or treatment.

Approved March 25, 1991  
Filed March 26, 1991

## CHAPTER 77

### SENATE BILL NO. 2482

(Senators Maxson, Stenehjem, Lindgren)  
(Representatives Tollefson, Clayburgh, Kretschmar)

## SPECIAL EVENT PERMITS

AN ACT to amend and reenact sections 5-02-01.1, 5-02-05.1, and 5-02-05.2 of the North Dakota Century Code, relating to permits for special events and the definition of restaurant.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

5-02-01.1. Special permit authorized - Penalty. The local governing body may by special permit authorize an on sale, off sale, or on or off sale alcoholic beverage licensee to engage in the sale of alcoholic beverages at special events designated by the permit. A fee for the local special permit may be set by ordinance or resolution at not more than twenty-five dollars. The permit may not be valid for a period greater than three consecutive fourteen days, and may include Sundays. The local governing body may establish rules as it may deem proper to regulate and restrict the operation of a special permit. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or the conditions of a special permit is guilty of a class B misdemeanor.

SECTION 2. AMENDMENT. Section 5-02-05.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-02-05.1. Special Sunday event alcoholic beverage permit - Penalty.

1. Any city or county may issue a special Sunday ~~event~~ alcoholic beverage permit to a private club, lodge, restaurant, motel, or hotel, ~~as defined under city ordinances or county resolutions and~~ licensed as a retail alcoholic beverage establishment under chapter 5-02; or to a publicly owned or operated facility ~~that serves as the headquarters for a state, multistate, or national event of a bona fide organization recognized by the governing body of the city or county in which the event is held~~. A county may not issue a permit under this section to a private club, lodge, restaurant, motel, or hotel located within the geographical boundaries of a city.
2. The authority for issuing such special permit rests solely with the governing body of the city or county. A special permit may be granted only upon proper application to and approval by the governing body, and must include payment of a fee determined by the governing body. A special permit granted by the city or county ~~is~~ may be effective for more than one Sunday only.

3. Under the special permit, alcoholic beverages may be distributed and dancing may be permitted in ~~those rooms of~~ the private club, lodge, restaurant, motel, hotel, or publicly owned or operated facility ~~which have been specifically reserved for event activities.~~ A city or county may permit dancing and the distribution of alcoholic beverages between the hours of twelve noon on the specified Sunday and one a.m. on Monday. The general public may be permitted to participate in the consumption of alcoholic beverages distributed under the authority ~~and conditions~~ of the special permit. The private club, lodge, restaurant, motel, hotel, or publicly owned or operated facility granted the special permit shall enforce the requirements of this section ~~and the conditions established by the governing body of the city or county under the permit.~~
4. The special Sunday event alcoholic beverage permit may not be granted to allow the distribution of alcoholic beverages at gatherings or meetings which, in the opinion of the governing body of the city or county, are primarily local in nature.
- 5- Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section ~~or the conditions of a special permit,~~ or who furnishes information required by this section which is false or misleading, is guilty of a class A misdemeanor.
5. For purposes of this chapter, unless the context otherwise indicates, "restaurant" means a commercial establishment that is licensed to engage in the sale of alcoholic beverages at retail pursuant to this chapter, and which has a city, county, or state restaurant license and has paid the appropriate city food and lodging taxes for a continuous six-month period before the application for the permit, or which derives fifty percent or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.

SECTION 3. AMENDMENT. Section 5-02-05.2 of the North Dakota Century Code is amended and reenacted as follows:

5-02-05.2. Local approval of Sunday beer and wine sales by eating establishments - Fee. The local governing body may provide in any on sale liquor or beer license the right of an eating establishment to dispense and sell beer and wine in conjunction with the sale of prepared meals on Sunday between the hours of twelve noon and nine p.m. for consumption only in that part of the eating establishment habitually used for the serving of prepared meals. As used in this section, "eating establishment" means a restaurant or other commercial establishment that is licensed to engage in the sale of alcoholic beverages at retail pursuant to this chapter, and which has a city, county, or state restaurant license and has paid the appropriate city food and lodging taxes for a continuous six-month period before the application for the permit, or which derives fifty percent or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages. Where this provision is made in an on sale license, the governing body may require the licensee to pay an additional annual fee of not more than one hundred fifty dollars.

Approved March 11, 1991  
Filed March 11, 1991

## CHAPTER 78

SENATE BILL NO. 2174  
(Committee on Industry, Business and Labor)  
(At the request of the Attorney General)

### REINSTATEMENT FEES FOR CERTAIN LICENSES

AN ACT to amend and reenact section 5-02-04, subsection 2 of section 43-31-14, sections 53-04-02 and 57-36-02 of the North Dakota Century Code, relating to license reinstatement fees for state beer or liquor licenses, detection of deception examiner licenses, amusement game or device licenses, and tobacco distributor and dealer's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-04 of the North Dakota Century Code is amended and reenacted as follows:

5-02-04. State license fee. The fee for an annual state beer or liquor license is fifty dollars each, except in cities over five hundred population at the last federal decennial census, the fee is one hundred dollars for each license. The fee for an annual state license will be charged on a calendar-year basis. License fees will be prorated from the first day of the month in which license is issued up to the last day of the month in which such license expires, except that no license fee will be less than twenty-five dollars. A reinstatement fee of one hundred dollars is required in addition to the annual license fee for each license renewal applied for after December thirty-first.

SECTION 2. AMENDMENT. Subsection 2 of section 43-31-14 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The annual license fee is thirty-five dollars, and is due and payable on or before October first of each year. A reinstatement fee of fifty dollars is required in addition to the annual license fee for each license renewal applied for after September thirtieth.

\* SECTION 3. AMENDMENT. Section 53-04-02 of the North Dakota Century Code is amended and reenacted as follows:

53-04-02. Annual license required - Fee. A person may not operate, lease, or distribute an amusement game or device without first having obtained an annual license.

Licenses are of two types. An operator's license entitles the licensee to operate, lease, or distribute machines at locations not owned or managed by the licensee. The operator shall affix to each machine an operator's number provided by the attorney general. The operator shall have a business office within the state and a valid sales tax permit. A location license must be secured by an individual for any establishment managed or owned by

\* NOTE: Section 53-04-02 was also amended by section 1 of Senate Bill No. 2381, chapter 544.



that person. A location license entitles the licensee to have not more than ten machines at one location managed or owned by that individual. An individual is not entitled to more than one location license. The location license must be displayed on or near the machines.

The annual fee for an operator's license is seven hundred fifty dollars for not more than one hundred machines, and two thousand dollars for more than one hundred machines. The annual fee for a location license is twenty-five dollars per machine.

A reinstatement fee of one hundred dollars for an operator license renewal and fifty dollars for a location license renewal is required in addition to the annual license fee for each license renewal applied for after June thirtieth.

\* SECTION 4. AMENDMENT. Section 57-36-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-36-02. Distributors and dealers to be licensed. Each person engaged in the business of selling cigarettes, cigarette papers, snuff, cigars, or tobacco in this state, including any distributor or dealer, must secure a license from the attorney general before engaging or continuing to engage in business. A separate application and license is required for each distributor at each outlet or place of business within the state, and a separate dealer's license is required for each retail outlet when a person owns or controls more than one place of business dealing in cigarettes, cigarette papers, snuff, cigars, or tobacco. No retailer will be granted a distributor's license except a retailer who, in the usual course of business, performed a distributor's or wholesaler's function for at least one year prior to filing the license application. The application prescribed by the attorney general must include the name and address of the applicant, the address and place of business, the type of business, and other information as required for the proper administration of this chapter. Each application for a wholesale or distributor's outlet license must be accompanied by a fee of twenty-five dollars and a surety bond approved by the attorney general in the sum of not less than one thousand dollars or more than five thousand dollars. Each application for a dealer's outlet license must be accompanied by a fee of fifteen dollars. A reinstatement fee of fifty dollars is required in addition to the annual license fee for each license renewal applied for after June thirtieth. The total reinstatement fee may not exceed five hundred dollars for any one licensee in any fiscal year. Stamps or insignia provided for in this chapter may be sold to and affixed only in North Dakota by licensed distributors. Licensed dealers may sell, buy, or have in their possession only cigarettes upon which stamps or insignia were previously affixed. A distributor's license does not authorize the holder to make retail sales. Each license issued must be prominently displayed on the premises covered by the license.

Approved March 14, 1991  
Filed March 15, 1991

\* NOTE: Section 57-36-02 was also amended by section 2 of House Bill No. 1208, chapter 665.

CHAPTER 79

HOUSE BILL NO. 1408  
(Williams, Payne, Carlson)

ALCOHOL SALES ON ELECTION DAY

AN ACT to amend and reenact section 5-02-05 of the North Dakota Century Code, relating to dispensing alcoholic beverages on an election day.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-02-05. Dispensing prohibited on certain days - Penalty. Except as permitted by sections 5-02-05.1 and 5-02-05.2, any person who dispenses or permits the consumption of alcoholic beverages on licensed premises after one a.m. on Sundays, before eight a.m. on Mondays, or between the hours of one a.m. and eight a.m. on all other days of the week, or who dispenses alcoholic beverages or permits consumption of alcoholic beverages on licensed premises on Christmas Day, after one a.m. on Good Friday or Thanksgiving Day, or after six p.m. on Christmas Eve, ~~or between the hours of one a.m. and eight p.m. on the day of any statewide special, primary, or general election~~ is guilty of a class A misdemeanor.

Approved April 2, 1991  
Filed April 4, 1991

## CHAPTER 80

SENATE BILL NO. 2450  
(Senator Langley)  
(Representatives Coats, Whalen)

### ALCOHOLIC BEVERAGE BRAND REGISTRATION

AN ACT to create and enact a new section to chapter 5-03 of the North Dakota Century Code, to provide for brand registration of alcoholic beverages; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 5-03 of the North Dakota Century Code is created and enacted as follows:

Brand registration - Penalty. Before any brand of alcoholic beverage may be offered for sale in this state, the primary source of supply for the brand must register the brand annually with the state treasurer. Only registered brands may be sold or transported within the state. Only licensed wholesalers may purchase registered brands from the primary source of supply. A brand is defined as having the same characteristics as required by the bureau of alcohol, tobacco and firearms of the United States treasury department for certification of label or bottle approval. A violation of this section is a class B misdemeanor.

The state treasurer may adopt rules and prescribe the necessary forms to administer this section.

Approved April 3, 1991  
Filed April 4, 1991