

**2023 HOUSE FINANCE AND TAXATION**

**HB 1504**

# 2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee  
Room JW327E, State Capitol

HB 1504  
2/6/2023

A bill relating an alcoholic beverage tax credit for qualified microbrew pubs and brewer taproom licensees for barley purchases and an income tax credit for qualified brewers for barley purchases.

**Chairman Headland** opened the hearing at 9:59AM.

**Members present:** Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Steiner, Representative Toman, Representative Finley-DeVillie, and Representative Ista. Members absent: Representative Grueneich.

**Discussion Topics:**

- Microbrew pubs tax credits
- Qualified barley purchases
- Barley production
- Tax credit caps

**Representative Hagert** verbally introduced the bill in support and distributed a proposed amendment 23.0860.02001 (#19270).

**Ted Powers, Government Affairs Director with Anheuser-Busch**, introduced by Todd Kranda, lobbyist for Kelsch Ruff Kranda Nagle and Ludwig, testified in support (#19191).

**Scott Meske, representing North Dakota Brewers Guild**, verbally testified in support.

**Chairman Headland** closed the hearing at 10:26AM.

**Chairman Headland** opened the meeting at 10:40AM.

**Representative Hagert moved the amendment 23.0860.02001.**

**Representative Olson seconded the motion.**

**Roll call vote:**

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y

Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	N
Representative Nathan Toman	N

**Motion carried 12-2-0**

**Representative Dockter moved to further amend on page 2, line 10, strike “\$250,000” and replace with “\$50,000”. (19630)**

**Representative D. Anderson seconded the motion.**

**Roll call vote:**

<b>Representatives</b>	<b>Vote</b>
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	N
Representative Nathan Toman	N

**Motion carried 12-2-0**

**Representative Olson moved a Do Not Pass as Amended.**

**Representative Steiner seconded the motion.**

**Roll call vote:**

<b>Representatives</b>	<b>Vote</b>
Representative Craig Headland	Y
Representative Jared Hagert	N
Representative Dick Anderson	N
Representative Glenn Bosch	Y
Representative Jason Dockter	N

Representative Lisa Finley-DeVille	N
Representative Jay Fisher	Y
Representative Jim Grueneich	N
Representative Patrick Hatlestad	N
Representative Zachary Ista	N
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y

**Motion failed 7-7-0**

**Representative Hagert moved a Do Pass as Amended.**

**Representative D. Anderson seconded the motion.**

**Roll call vote:**

<b>Representatives</b>	<b>Vote</b>
Representative Craig Headland	N
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	N
Representative Jason Dockter	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	N
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	N
Representative Zachary Ista	Y
Representative Mike Motschenbacher	N
Representative Jeremy Olson	N
Representative Vicky Steiner	N
Representative Nathan Toman	N

**Motion failed 6-8-0**

**Representative Olson moved a Do Not Pass as Amended.**

**Representative Steiner seconded the motion.**

**Roll call vote:**

<b>Representatives</b>	<b>Vote</b>
Representative Craig Headland	Y
Representative Jared Hagert	N
Representative Dick Anderson	N
Representative Glenn Bosch	Y
Representative Jason Dockter	N
Representative Lisa Finley-DeVille	N

Representative Jay Fisher	Y
Representative Jim Grueneich	N
Representative Patrick Hatlestad	N
Representative Zachary Ista	N
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y

**Motion failed 7-7-0**

**Chairman Headland** adjourned at 10:53AM.

*Mary Brucker, Committee Clerk*

February 7, 2023

27-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1504

Page 1, line 1, remove "a new section to chapter 5-03 and"

Page 1, line 2, after "57-38" insert "and a new subdivision to subsection 7 of section 57-38-30.3"

Page 1, line 2, remove "an alcoholic beverage tax credit for"

Page 1, line 3, remove "qualified microbrew pubs and brewer taproom licensees for barley purchases and"

Page 1, remove lines 7 through 23

Page 2, remove lines 1 and 2

Page 2, line 5, after "credit" insert "for brewers"

Page 2, line 8, after "57-38-30" insert "and 57-38-30.3"

Page 2, line 8, replace "fifteen" with "five"

Page 2, remove line 9

Page 2, line 10, replace "this state if the beer was subject to the tax in section 5-03-07" with "cost of the barley purchased from a farmer or supplier in this state. The maximum credit allowed for each eligible brewer under this section for the taxable year is fifty thousand dollars"

Page 2, line 11, replace ", a brewer" with ":

a. Brewer"

Page 2, line 11, remove "licensed"

Page 2, line 11, remove "or importer"

Page 2, line 11, after "beer" insert "licensed under chapter 5-01 or a supplier of beer licensed under chapter 5-03 which is"

Page 2, line 12, remove "who enters an agreement with any beer wholesaler"

Page 2, line 13, remove "licensed to do business in this state"

Page 2, after line 13, insert:

"b. "Purchase" does not include any expense incurred by the purchaser to complete the sale, including:

(1) Transportation or delivery costs;

(2) Service fees;

(3) Taxes; or

(4) Any other expense incurred by the purchaser that is necessary to complete the sale."

2-7-23

Page 2, line 18, replace "To apply for the credit, the" with "A passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the passthrough entity level must be allowed to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

5. The"

Page 2, line 18, remove "annually"

Page 2, line 18, remove "sign and"

Page 2, line 18, after "file" insert "the following information for purposes of verification of eligibility for the credit under this section"

Page 2, line 18, remove "tax"

Page 2, remove line 19

Page 2, line 20, replace "applicant's qualifications for the credit under this section and any" with "brewer's return:"

- a. The name and address of each barley farmer or supplier from which the brewer purchased barley;
- b. The brewer's license number issued under chapter 5-01 or 5-03;
- c. The brewer's total annual purchases of barley;
- d. The total amount of barley purchased from a farmer or supplier located in this state; and
- e. Any"

Page 2, remove lines 22 through 24

Page 2, after line 26, insert:

**"SECTION 2.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

North Dakota barley tax credit for brewers under section 1 of this Act."

Renumber accordingly

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Room JW327E, State Capitol

HB 1504  
2/7/2023

A bill relating to an alcoholic beverage tax credit for qualified microbrew pubs and brewer taproom licensees for barley purchases and an income tax credit for qualified brewers for barley purchases.

**Chairman Headland** opened the meeting at 10:01AM.

**Members present:** Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Steiner, Representative Toman, Representative Finley-DeVilley, and Representative Ista. No members absent.

**Discussion Topics:**

- Committee vote

**Representative Olson** moved a **Do Not Pass as Amended**.

**Representative Ista** seconded the motion.

**Roll call vote:**

<b>Representatives</b>	<b>Vote</b>
Representative Craig Headland	Y
Representative Jared Hagert	N
Representative Dick Anderson	N
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVilley	Y
Representative Jay Fisher	Y
Representative Jim Grueneich	N
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y

**Motion carried 11-3-0**

**Representative Olson** is the bill carrier.

House Finance and Taxation Committee  
HB 1504  
February 7, 2023  
Page 2

**Chairman Headland** adjourned at 10:03PM.

*Mary Brucker, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1504: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1504 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "a new section to chapter 5-03 and"

Page 1, line 2, after "57-38" insert "and a new subdivision to subsection 7 of section 57-38-30.3"

Page 1, line 2, remove "an alcoholic beverage tax credit for"

Page 1, line 3, remove "qualified microbrew pubs and brewer taproom licensees for barley purchases and"

Page 1, remove lines 7 through 23

Page 2, remove lines 1 and 2

Page 2, line 5, after "**credit**" insert "**for brewers**"

Page 2, line 8, after "57-38-30" insert "and 57-38-30.3"

Page 2, line 8, replace "fifteen" with "five"

Page 2, remove line 9

Page 2, line 10, replace "this state if the beer was subject to the tax in section 5-03-07" with "cost of the barley purchased from a farmer or supplier in this state. The maximum credit allowed for each eligible brewer under this section for the taxable year is fifty thousand dollars"

Page 2, line 11, replace "a "brewer"" with ":

a. "Brewer"

Page 2, line 11, remove "licensed"

Page 2, line 11, remove "or importer"

Page 2, line 11, after "beer" insert "licensed under chapter 5-01 or a supplier of beer licensed under chapter 5-03 which is"

Page 2, line 12, remove "who enters an agreement with any beer wholesaler"

Page 2, line 13, remove "licensed to do business in this state"

Page 2, after line 13, insert:

"b. "Purchase" does not include any expense incurred by the purchaser to complete the sale, including:

(1) Transportation or delivery costs;

(2) Service fees;

(3) Taxes; or

(4) Any other expense incurred by the purchaser that is necessary to complete the sale."

Page 2, line 18, replace "To apply for the credit, the" with "A passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the passthrough entity level must be allowed to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity."

5. The"

Page 2, line 18, remove "annually"

Page 2, line 18, remove "sign and"

Page 2, line 18, after "file" insert "the following information for purposes of verification of eligibility for the credit under this section"

Page 2, line 18, remove "tax"

Page 2, remove line 19

Page 2, line 20, replace "applicant's qualifications for the credit under this section and any" with "brewer's return:"

- a. The name and address of each barley farmer or supplier from which the brewer purchased barley;
- b. The brewer's license number issued under chapter 5-01 or 5-03;
- c. The brewer's total annual purchases of barley;
- d. The total amount of barley purchased from a farmer or supplier located in this state; and
- e. Any"

Page 2, remove lines 22 through 24

Page 2, after line 26, insert:

**"SECTION 2.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

North Dakota barley tax credit for brewers under section 1 of this Act."

Renumber accordingly

**TESTIMONY**

**HB 1504**

**Testimony in Support of  
HOUSE BILL NO. 1504  
Finance and Taxation Committee  
February 6, 2023**

Chairman Headland and members of the House Finance and Taxation Committee:

My name is Ted Powers, Director of Government Affairs at Anheuser-Busch. I am here in support of HB 1504. I am submitting this testimony through our Anheuser-Busch lobbyist, Todd D. Kranda (#58), who is an attorney with the Kelsch Ruff Kranda Nagle & Ludwig Law Firm in Mandan.

Anheuser-Busch has approximately 40% of the beer market in the U.S., and most of you are probably familiar with our brands like Budweiser, Bud Light, Michelob Ultra or Busch Light. With that market share comes significant purchases of barley, and as you are well aware barley is significant crop in ND. Because of that, we contract with about 250 barley farmers in North Dakota with well over 10 million bushels under contract. Because of the significance of our purchases here, we have two grain elevators in the state, in West Fargo and Sutton. Approximately 8-10 million bushels go through there each year. Those elevators primarily serve our malt plant in Moorhead, Minnesota.

In addition to direct contracts with farmers, we also purchase from 3<sup>rd</sup>-party malting companies, some of the more significant being Malteurop, Rahr Malting and Briess Malt. Each of these differ in terms of reliance on North Dakota barley. For example, Rahr malting has a barley procurement and distribution facility in Taft, North Dakota. Taken as a whole with direct contracts and 3<sup>rd</sup>-party purchases, a very rough estimate is that in recent years about 30% of total Anheuser-Busch U.S. barley purchases come from North Dakota farms.

HB 1504 would provide a small credit for any brewer hitting the threshold of 40% of the total barley used being from North Dakota. Given the robust barley crop that is produced in North Dakota each year, it would be a tangible form of support by the state for the farmers that produce this excellent crop, and it would provide a small but direct incentive for a brewer like Anheuser-Busch to utilize as much ND barley feasible. And of course, on the flip side there would be no cost to the state if no brewer were able to hit this 40% threshold.

With that I urge you to support **HB 1504**. I urge you to give **HB 1504** a **DO PASS** recommendation. I thank you for your time and am happy to answer any questions.

23.0860.02001  
Title.

Prepared by the Legislative Council staff for  
Representative Hagert  
February 3, 2023

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Renumber accordingly

23.0860.02002  
Title.03000

Adopted by the House Finance and Taxation  
Committee

February 7, 2023

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Re-number accordingly