

**2023 SENATE INDUSTRY AND BUSINESS**

**SB 2319**

# 2023 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

SB 2319  
1/23/2023

A bill relating to microbrew pub and brewer taproom licenses.
---

9:01AM Vice Chairman Kessel called the meeting to order.

Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Boehm, Senator Klein.

### **Discussion Topics:**

- Tap room vs micro brew pubs
- Licenses

9:01 AM Chairman D. Larsen introduced SB 2319 and testified in favor. #15411

9:16 AM Scott Meske, ND Brewers Guild, testified in favor of SB 2319. #15011

9:30 AM David Domer, ND brewer, Gideons Brewing Co., testified in favor of SB 2319.  
(verbal)

9:34 AM Dee Wald, General Council, ND Office of the Tax Commissioner, testified neutral,  
(verbal only)

9:38 AM Vice Chairman Kessel closed the hearing on SB 2319.

### **Additional written testimony:**

Kirby Kruger # 15170

Mike Frohlich # 14937

*Brenda Cook, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

SB 2319  
1/23/2023

A bill relating to microbrew pub and brewer taproom licenses.

10:01 AM Chairman D. Larsen called the committee work to order.

Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Klein, Senator Boehm.

### Discussion Topics:

- Committee action

10:02 AM Senator Klein moved to adopt an amendment to SB 2319. LC 23.0789.01001

10:02 AM Senator Kessel seconded the motion.

Roll call vote:

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Vote: 5-0-0- TO ADOPT AMENDMENT TO SB 2319.

10:03 AM Senator Klein moved to DO PASS AS AMENDED SB 2319. Senator Boehm seconded the motion.

Roll call vote:

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Vote: 5-0-0- DO PASS SB 2319 AS AMENDED. Senator D. Larsen will carry the bill.

10:03 AM Chairman D. Larsen adjourned.

*Brenda Cook, Committee Clerk*

23.0789.01001  
Title.02000

Adopted by the Senate Industry and Business  
Committee

January 23, 2023

*DR*  
*1/21*  
*1-23-2023*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2319

Page 1, line 7, overstrike "days" and insert immediately thereafter "events"

Page 1, line 16, overstrike "days" and insert immediately thereafter "events"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2319: Industry and Business Committee (Sen. Larsen, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2319 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 7, overstrike "days" and insert immediately thereafter "events"

Page 1, line 16, overstrike "days" and insert immediately thereafter "events"

Renumber accordingly

**2023 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2319**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2319  
3/22/2023

Relating to microbrew pub and brewer taproom licenses.

Chairman Louser called meeting to order 8:47 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

### Discussion Topics:

- Days off presence
- Licenses types

### In Favor:

Senator Doug Larson, District 34, Mandan ND (no written testimony)  
Scott Meske, representing ND Brewers Guild, #26279  
Mike Froehlich, President, ND Brewers Guild, Owner of Laughing Sun Brewery, (no written testimony)

Representative Ruby moved do NOT pass.  
Representative Thomas seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	N
Representative Ben Koppelman	AB
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 12-1-1

House Industry, Business and Labor Committee

SB 2319

03/22/2023

Page 2

Representative Dakane will carry the bill.

Chairman Louser adjourned the meeting 9:02 AM

*Diane Lillis, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2319, as engrossed: Industry, Business and Labor Committee (Rep. Louser, Chairman) recommends DO NOT PASS (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING).** Engrossed SB 2319 was placed on the Fourteenth order on the calendar.

**TESTIMONY**

**SB 2319**

1/23/2023



Mike Frohlich  
Laughing Sun Brewing Company  
Bismarck, ND 58504

Senator Doug Larsen  
Industry, Business, and Labor Committee

**Chairman Larsen & Members of the Senate IBL Committee,**

I am writing this letter in support of SB 2319 to fix event language in state century code relating to off-site events for breweries and taprooms. Laughing Sun Brewing Company has been denied multiple permits over the years due to the Tax Department determination that they did not meet the requirements of the definition of a festival or non-profit fundraiser. State century code allows wineries and distilleries to participate in 40 events at off-site premises without distinction of a festival or fundraiser. Brewpubs and Taprooms should be on a level playing field with other alcohol manufacturers in the state.

Below are two examples of the state tax commissioner's office denial of event permits.

**Example 1: Permit denied for a Capital City Sporting Clays Event**

I am reviewing the permit request submitted for Laughing Sun Brewing for the Fun Day Bustin' Clays event. This event does not meet the definition set forth in Century Code statute a "trade show, convention, festival, fundraiser, or other related special event hosted by a nonprofit organization unaffiliated with the licensee." Your product can be served at this event if the Capital City Sporting Clays organization purchases your product and they serve it at the event. We are unable to approve a special event permit for you to serve your product at this event.

Best Regards,  
Dana

**Example 2: Permit denied for the River City Sports Show**



This is one of those events where it is not a festival, trade show, fundraiser or convention. It is a promotional event being held by a certain business, essentially advertising their products on a given day on their premises. It is not affiliated with a non-profit, as has been the case with most of your other events that we have allowed. The other vendors present appear to be manufacturers that have their products available at that business. The inclusion of your business in the lineup appears to be for refreshment purposes.

What has changed over the last year is the many and varied events that have been presented to us. We understand that it has been a struggle for a lot of small businesses out there and any opportunity to get your name out there is of benefit. However, the privileges of being a microbrew pub or taproom don't extend to participating as a "pop-up" bar at any event/location outside of your business premises. This has been something we have had to look at with increased scrutiny.

Amanda Filipek

Supervisor, Wholesale & Oil Taxes

NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER

Passage of SB2319 would simplify state century code, make it consistent across alcoholic beverage manufacturers, and eliminate the need for the tax commissioner's office to interpret state code, providing a level and consistent event permitting process. I ask that you vote in support of SB2319. Thank you for your time and attention to this matter, supporting small businesses across the state.

Sincerely,

Mike Frohlich

Founder/Brewmaster

Laughing Sun Brewing Company



**Promoting and Protecting the Interests of the North  
Dakota Craft Brewing Community since 2013**

**January 23, 2023**

**Testimony in SUPPORT of Senate Bill 2319**

Chairman Larsen and Members of the Committee:

I'm Scott Meske, representing the North Dakota Brewers Guild and on behalf of the membership we respectfully ask for your support for Senate Bill 2319. The Code language we are requesting is a simple fix regarding event permitting for the brewpubs and taprooms who wish to participate in off-site events in their communities.

Century Code Chapter 5-01-14 relating to Microbrew Pub Licenses and Chapter 5-01-21 relating to Brewer Taproom License allows the tax commissioner to approve up to 40 event permits per year at which licensed craft brewers may provide samples or sell their beer. The Code then goes on to define some of what those events may be. This has caused some confusion amongst producers, and sometimes the tax commissioner's office. This should not be a difficult process.

Whereas, in the Century Code relating to craft wineries and distilleries in North Dakota, it merely states "up to 40 off premise events." Period. No other definitions required.

To clear up the Code, and hopefully to smooth the approval process, we are asking that the Code language in the brewpub and taproom Chapters mirror that of our fellow craft beverages in North Dakota. We are not asking for more permits, or special exemptions. This language does not permit any "work around" of the three tier system, and still requires producers to work with a local retailer and the local distributor to legally move the beer from taproom to the event.

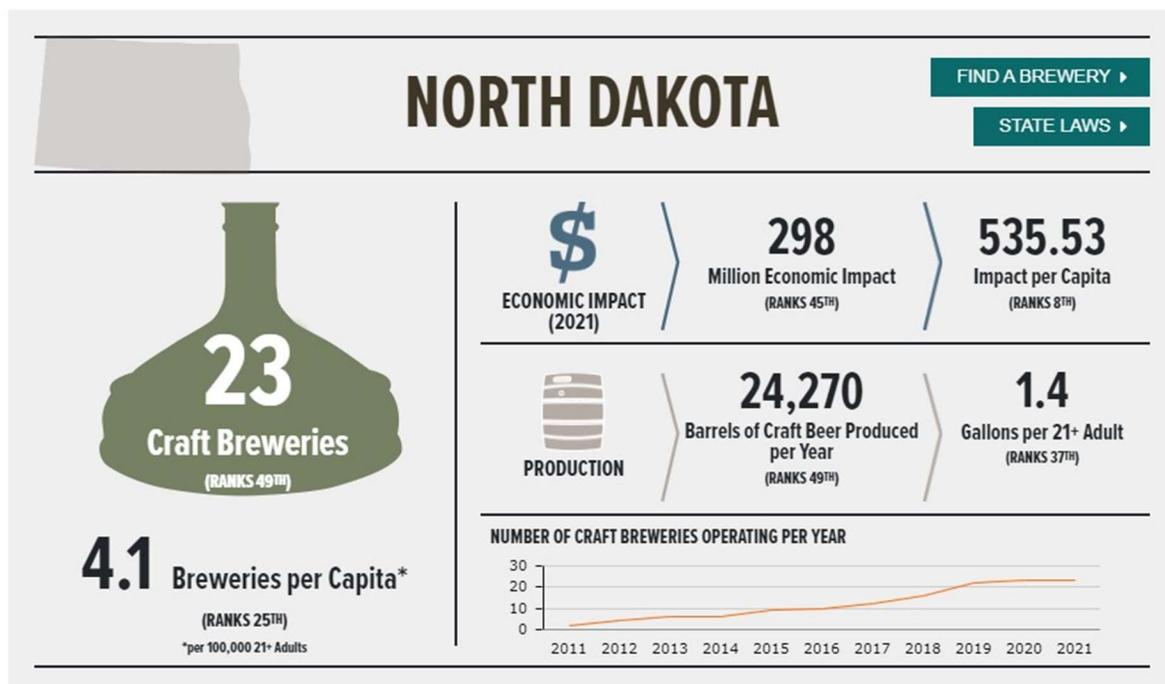


## Promoting and Protecting the Interests of the North Dakota Craft Brewing Community since 2013

I would like to point out to the Committee that with 23 licensed brewpubs and taprooms in North Dakota, we rank 49<sup>th</sup> in the nation in terms of craft beer production, despite growing the best barley and grains in the country. The craft beverage industry requires a hefty investment, strong marketing, and a commitment to producing quality products. In the past several years, we have lost a few producers, and have gained a couple new ones as well. These small businesses are a true value-added agriculture product, bringing economic development, tourism and tax revenue to the communities in which they reside.

Cleaning up the regulatory environment, without circumventing the three-tiered regulatory system, is one way the State can support these small businesses.

The North Dakota Brewers Guild requests a DO PASS on SB 2319.



Senate Bill 2319  
House Industry and Business Committee  
Chairman Doug Larsen  
23 January 2023

Chairman Larsen and member of the Senate Industry and Business committee, my name is Kirby Kruger, I am a Bismarck, North Dakota resident and constituent of District 35. I am providing written testimony in support of Senate Bill 2319. This bill will expand the types of events where licensed microbrewers can dispense their brews. I think that this bill is a win for the microbrewers and a win for people like me, who enjoy sampling locally brewed beer while attending various events. I respectfully ask the committee to give this bill a do pass recommendation. Thank you for giving me the opportunity to submit my testimony.

Good Morning Vice Chairman Kessel and members of the Senate Industry and Business Committee. For the record, I am Senator Doug Larsen of District 34 in Mandan.

Senate Bill 2319 is being brought to you on behalf of Microbrew, and Tap Rooms of North Dakota.

Before I get into bill itself, I would like to a minute or two to explain the difference between a Tap room and a Microbrew Pub

- A “Tap Room” is essentially allowed to make beer and serve/sell only their product. If we went to a place like Black Leg Brewery, located in a barn on the Black Leg Ranch—you would be tap room. The only beer they could offer you would be what they have made on premise. Using 2021 production numbers, the Black Leg Brewery produced about 6,000 gallons—if you traveled east to Fargo and went to the Drekker Brewery you would find a much larger operation that in the same year produced more than a quarter of a million gallons (278,321).
- A “Microbrew” Pub is allowed to function more like a garden variety bar. They are allowed to sell other beer for instance, they are allowed to have a kitchen and sell food. An example of a brewpub would be Laughing Sun in Bismarck or Stonehome Brewing which has sites in both Watford City and Bismarck.

If this bill were brought to us by a department, it might be called a “red tape reduction” bill. It simply removes a list of examples as to what might be considered an event and a matches the verbiage of what an event is considered to be for a winery and distillery. North Dakota currently has 8 registered distilleries and a number of wineries to go along with our 10 brewpubs and 10 taprooms.

Section 1 addresses microbrewers and Section 2 addresses taprooms.

When I am trying to understand something new, I like examples. If you were to asked by someone to give an example of an event that a taproom room or microbrew participates in in the local area I might give an example of the Bismarck street fair or an event call the Buggies and Blues hosted in Mandan. This would not be meant to suggest that these are the only types of

events. Our language in this part of the century code has been interrupted differently by different people and it appears to me that some see it as a list of possibilities and others as exclusive.

If we flip to section 5-01-17.2 of our century code we would see that as it pertains to wineries:

- **The tax commissioner may issue special events permits for not more than forty events per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at off-premises events.**

Brewing Beer is not an inexpensive endeavor and competition is high. This bill simply makes it easier for TR and Micros to participate in events that they are invited to by the event's organizer.

I encourage a Do Pass on SB 2319 and will stand for any questions ... though the experts are in the room.



**Promoting and Protecting the Interests of the North  
Dakota Craft Brewing Community since 2013**

**March 22, 2023**

**Testimony in SUPPORT of Senate Bill 2319**

Chairman Louser and Members of the Committee:

I'm Scott Meske, representing the North Dakota Brewers Guild and on behalf of the membership we respectfully ask for your support for Senate Bill 2319. The Code language we are requesting is a simple fix regarding event permitting for the brewpubs and taprooms who wish to participate in off-site events in their communities.

Century Code Chapter 5-01-14 relating to Microbrew Pub Licenses and Chapter 5-01-21 relating to Brewer Taproom License allows the tax commissioner to approve up to 40 event permits per year at which licensed craft brewers may provide samples or sell their beer. The Code then goes on to define some of what those events may be. This has caused some confusion amongst producers, and sometimes the tax commissioner's office. This should not be a difficult process.

Whereas, in the Century Code relating to craft wineries and distilleries in North Dakota, it merely states "up to 40 off premise events." Period. No other definitions required.

To clear up the Code, and hopefully to smooth the approval process, we are asking that the Code language in the brewpub and taproom Chapters mirror that of our fellow craft beverages in North Dakota. We are not asking for more permits, or special exemptions. This language does not permit any "work around" of the three tier system, and still requires producers to work with a local retailer and the local distributor to legally move the beer from taproom to the event.



## Promoting and Protecting the Interests of the North Dakota Craft Brewing Community since 2013

I would like to point out to the Committee that with 23 licensed brewpubs and taprooms in North Dakota, we rank 49<sup>th</sup> in the nation in terms of craft beer production, despite growing the best barley and grains in the country. The craft beverage industry requires a hefty investment, strong marketing, and a commitment to producing quality products. In the past several years, we have lost a few producers, and have gained a couple new ones as well. These small businesses are a true value-added agriculture product, bringing economic development, tourism and tax revenue to the communities in which they reside.

Cleaning up the regulatory environment, without circumventing the three-tiered regulatory system, is one way the State can support these small businesses.

The North Dakota Brewers Guild requests a DO PASS on SB 2319.

