

2025 SENATE INDUSTRY AND BUSINESS

SB 2136

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2136
1/15/2025

A bill relating to wholesaler and brewer relations.

9:30 a.m. Chairman Barta called the meeting to order.

Members present: Chairman Barta, Vice-Chairman Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Financial provision broadness
- Pre-existing agreements with wholesalers
- Wholesaler independence
- Codification of existing language
- Successor brewer clarification
- Wholesaler choice
- Information confidentiality
- Platform autonomy

9:30 a.m. Senator Klein introduced SB 2136.

9:32 a.m. Todd Kranda Attorney at Kelsh Law Firm appearing on behalf of Anheuser-Busch, testified in favor of SB 2136.

9:37 a.m. Dennis Pathroff, North Dakota Beer Distributors Association, testified in favor and submitted testimony #28957.

9:42 a.m. Hunter Jerome, President of ND Beer Distributors Association, testified in favor of SB 2136.

9:51 a.m. Chairman Barta closed the hearing on SB 2136.

9:52 a.m. Senator Kessell made a motion to Do Pass on SB 2136.

9:53 a.m. Senator Klein seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 5-0-0.

Senator Kessel will carry the bill.

9:55 a.m. Chairman Barta closed the hearing.

Audrey Oswald, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2136 ([25.0781.01000](#))

Industry and Business Committee (Sen. Barta, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2136 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

Testimony in Support of SB 2136

Dennis Pathroff

Lobbyist, North Dakota Beer Distributors Association

Senate Industry and Business Committee

January 15, 2025

Good morning, Chairman Barta and committee members,

My name is Dennis Pathroff, and I am a lobbyist with the GA Group, representing the **North Dakota Beer Distributors Association**.

Our association is composed of North Dakota's family-owned beer distributors. Collectively, our members employ over 500 North Dakotans, pay approximately \$32 million in annual wages, and contribute around \$1 million annually to support charities and local events.

The beer distributors strongly support SB 2136, which addresses two key areas:

First, SB 2136 strengthens the law on wholesaler independence. State and federal law requires manufacturers and wholesalers to be separate and independent. However, manufacturers have increasingly pressured wholesalers to adopt or avoid specific e-commerce platforms. These platforms are essential for facilitating transactions between retailers and wholesalers, allowing retailers to browse catalogs, submit orders, and manage invoices.

Mandating or prohibiting the use of a specific platform undermines wholesaler independence. Without independence, wholesalers could be stuck between warring manufacturers with, for example, one manufacturer requiring use of a certain platform and another threatening to terminate if the wholesaler uses that same platform. Independence is paramount because it makes it possible to provide tremendous choice for consumers – from the big brewers to the new brewers just accessing the market.

Additionally, this bill adds clarifying language to protect a wholesaler's confidential financial information. Specifically, a brewer may not demand financial details associated with the purchase, sale, or distribution of a competitor's brand. This is another important wholesaler independence issue.

Second, SB 2136 clarifies the law on successor brewers. Traditionally, brewers have purchased other brewers. Now, however, private equity firms are entering the market. Some of these private equity firms have claimed that because they are not already in the business of brewing, states' successor brewer statutes and franchise laws don't apply to them.

In effect, this would allow a private equity firm to steal the good will the distributor has built in the brewer's brands.

To address this concern, SB 2136 removes language that could be construed to apply only to a brewer and makes clear that the law applies to ANY purchaser of a brewer. With this change, our statute will more closely align with the language in South Dakota, Minnesota, Nebraska, and other states.

Mr. Chairman, I would now like to introduce Hunter Jerome, General Manager of Jerome Distributing and President of the North Dakota Beer Distributors Association. Hunter will provide further insights into the importance of this legislation for our state's family-owned beer distributors.

Thank you, Chairman Barta and committee members.

2025 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2136

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2136
3/11/2025

A BILL for an Act to amend and reenact sections 5-04-02 and 5-04-14 of the North Dakota Century Code, relating to wholesaler and brewer relations.

8:46 a. m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, T. Brown, Christy, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Member Absent: Representative C. Brown

Discussions Topics:

- Wholesaler independence/dependance
- Investment/private equity groups
- Retailers, Wholesalers, Brewers
- Product catalogs
- Brewer distribution contracts

8:46 a.m. Senator Jerry Klein, District 14, Fessenden, ND, introduced and testified.

8:48 a.m. Dennis Pathroff, Lobbyist, GA Group, representing ND Beer Distributors Association, testified in favor and submitted testimony #40104.

8:53, Hunter Jerome, General Manager, Jerome Distributing, ND Beer Wholesalers testified in favor.

9:05 a.m. Todd D. Kranda, Anheuser Busch Lobbyist 58, Kelsch Ruff Kranda Nagle & Ludwig Law Firm, testified in favor and submitted testimony, (Adam Kazda, Director, State Government Affairs, Anheuser-Busch) #39898.

9:08 a.m. Scott Meske, Lobbyist 270, ND Brewers Guild testified in favor.

9:10 a.m. Representative Schauer moved Adopt Amendment LC #25.0781.01001, #40468.

9:10 a.m. Representative Bahl seconded the motion.

Voice vote.

Motion passed.

9:10 a.m. Representative Schauer moved Do Pass as amended.

9:10 a.m. Representative Ostlie seconded the motion

Representatives	Vote
Representative Jonathan Warrey	Y
Representative Mitch Ostlie	Y
Representative Jorin Johnson	Y
Representative Landon Bahl	Y
Representative Collette Brown	AB
Representative Timothy Brown	Y
Representative Lisa Finley-DeVille	Y
Representative Karen Grindberg	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Mike Schatz	Y
Representative Austin Schauer	Y
Representative Daniel R. Vollmer	Y

Motion passed 13-0-1.

9:12 a.m. Representative T. Brown will carry the bill.

9:12 a.m. Chairman Warrey closed the meeting.

Diane Lillis, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2136

Introduced by

Senators Klein, Barta, Kessel

Representatives Hagert, Warrey

3-11-25
1082
fB

- 1 A BILL for an Act to amend and reenact sections 5-04-02 and 5-04-14 of the North Dakota
2 Century Code, relating to wholesaler and brewer relations.

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

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

6 **5-04-02. Inducement or coercion prohibited.**

7 ~~No~~A brewer may not:

- 8 1. Induce or coerce, or attempt to induce or coerce, anya beer wholesaler to accept
9 delivery of anyan alcoholic beverage or any other commodity which has not been
10 ordered by the beer wholesaler.
- 11 2. Induce or coerce, or attempt to induce or coerce, anya beer wholesaler to enter anyan
12 agreement or take anyan action that would violate anya law or rule of this state by
13 threatening to amend, cancel, terminate, or refuse to renew anyan agreement existing
14 between a brewer and a beer wholesaler.
- 15 3. Require a wholesaler to assent to anya condition, stipulation, or provision limiting the
16 wholesaler's right to sell any other brewer's product anywhere in this state, provided
17 the sale of another brewer's product does not materially impair the quality of service or
18 quantity of sales of the existing brand or brands of the brewer seeking to impose the
19 condition, stipulation, or provision.

- 1 4. Require a wholesaler to submit specific, confidential information regarding, including
2 ~~financial information associated with the purchase, sale, or distribution of~~ competitive
3 brands, as a condition of renewal or continuation of an agreement.
- 4 5. Fail to provide each wholesaler of its brands with a written contract ~~which~~that
5 conforms to this chapter and embodies the brewer's agreement with each wholesaler.
- 6 6. Require a wholesaler to use or prohibit a wholesaler from using a
7 business-to-business electronic commerce platform.

8 **SECTION 2. AMENDMENT.** Section 5-04-14 of the North Dakota Century Code is amended
9 and reenacted as follows:

10 **5-04-14. Sale of brewer.**

11 Except for good cause, as defined by section 5-04-04, the purchase of a brewer as defined
12 in section 5-04-01, ~~when the purchaser continues in business as a brewer,~~ shall obligate the
13 ~~new brewer~~purchaser to all terms and conditions of the agreement in effect on the date of
14 purchase. "Purchase", for the purposes of this chapter, includes the sale of stock, sale of
15 assets, merger, lease, transfer, or consolidation.

**REPORT OF STANDING COMMITTEE
SB 2136**

Industry, Business and Labor Committee (Rep. Warrey, Chairman) recommends **AMENDMENTS** ([25.0781.01001](#)) and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2136 was placed on the Sixth order on the calendar.



**Testimony in Support of
Senate Bill 2136 - As Amended
House Industry Business and Labor Committee**

Chairman Warrey and House Industry Business and Labor Committee Members, for the record my name is Adam Kazda, Director of State Government Affairs, appearing on behalf of Anheuser-Busch, in support of SB 2136, as amended. I am submitting this testimony through our Anheuser-Busch contract lobbyist, Todd D. Kranda, who is an attorney at Kelsch Ruff Kranda Nagle & Ludwig law firm in Mandan.

Anheuser-Busch expresses its support for SB 2136, which has passed the North Dakota Senate, and now is being considered by your committee with an amendment.

SB 2136 removes the ability of a brewer to require or prohibit distributor from utilizing a competing brewer's business-to-business e-commerce platform, and by doing so, creates a level playing field amongst brewers. SB 2136 also prohibits a brewer from forcing its distributors to utilize any specific business-to-business e-commerce platform – reinforcing that those decisions are made by distributors, not brewers.

Due to the benefits SB 2136 will provide to distributors, brewers, and North Dakota consumers, on behalf of Anheuser-Busch, I respectfully urge the House Industry, Business, and Labor Committee to support SB 2136, as amended, and give SB 2136, as amended, a favorable **Do Pass Recommendation**.

Thank you for your leadership and public service, and for this opportunity to provide support for SB 2136, as amended. If you have any questions, please do not hesitate to reach out.

Adam Kazda
Director, State Government Affairs
Anheuser-Busch
Email: Adam.Kazda@Anheuser-Busch.com
Phone: (314) 255-9489

Testimony in Support of SB 2136

Dennis Pathroff

Lobbyist, North Dakota Beer Distributors Association

House Industry and Business Committee

March 11, 2025

Good morning, Chairman Warrey and committee members,

My name is Dennis Pathroff, and I am a lobbyist with the GA Group, representing the **North Dakota Beer Distributors Association**.

Our association is composed of North Dakota's 16 family-owned beer distributors. Collectively, our members employ over 500 North Dakotans, pay approximately \$32 million in annual wages, and contribute around \$1 million annually to support charities and local events. Several of our Fargo, Grand Forks, Bismarck, and western North Dakota based distributors are here today in the audience.

The beer distributors strongly support SB 2136, which addresses two key areas:

First, SB 2136 strengthens the law on wholesaler independence. State and federal law requires manufacturers and wholesalers to be separate and independent. However, manufacturers have increasingly pressured wholesalers to adopt or avoid specific e-commerce platforms. These platforms are essential for facilitating transactions between retailers and wholesalers, allowing retailers to browse catalogs, submit orders, and manage invoices.

Mandating or prohibiting the use of a specific platform undermines wholesaler independence. Without independence, wholesalers could be stuck between warring manufacturers with, for example, one manufacturer requiring use of a certain platform and another threatening to terminate if the wholesaler uses that same platform. Independence is paramount because it makes it possible to provide tremendous choice for consumers – from the big brewers to the new brewers just accessing the market.

Looking at version 25.0781.1001, the amendment that has been passed out, this e-commerce platform language is on page 2, lines 6-7, providing a brewer may not "[r]equire a wholesaler to use or prohibit a wholesaler from using a business-to-business electronic commerce platform."

I'd note that upon surveying our members, 1/3 are using a brewer sponsored e-commerce platform, 1/3 are using a third-party platform, and 1/3 are not using an e-commerce platform. Wholesalers should be able to use or not use the e-commerce platform that works best for them and their customers.

Also, in section 1 of the bill, as introduced, the bill included language regarding a wholesaler's confidential financial information. The wholesalers have come to an agreement with a large brewer to remove that specific language, which you'll see on page 2, lines 1-2 of version 25.0781.1001.

Second, SB 2136 clarifies the law on successor brewers. Traditionally, brewers have purchased other brewers. Now, however, private equity firms are entering the market. Some of these private equity firms have claimed that because they are not already in the business of brewing, states' successor brewer statutes and franchise laws don't apply to them.

In effect, this would allow a private equity firm to steal the good will the distributor has built in the brewer's brands.

To address this concern, SB 2136 removes language that could be construed to apply only to a brewer and makes clear that the law applies to ANY purchaser of a brewer. You'll see this language in section 2 of the bill on page 2, lines 12-13. With this change, our statute will more closely align with the language in South Dakota, Minnesota, Nebraska, and other states.

Mr. Chairman, I would now like to introduce Hunter Jerome, General Manager of Jerome Distributing and President of the North Dakota Beer Distributors Association. Hunter will provide further insights into the importance of this legislation for our state's family-owned beer distributors.

Thank you, Chairman Warrey and committee members.

25.0781.01001
Title.

Prepared by the Legislative Council
staff for Senator Klein
February 7, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2136

Introduced by

Senators Klein, Barta, Kessel

Representatives Hagert, Warrey

- 1 A BILL for an Act to amend and reenact sections 5-04-02 and 5-04-14 of the North Dakota
- 2 Century Code, relating to wholesaler and brewer relations.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

6 **5-04-02. Inducement or coercion prohibited.**

7 ~~No~~A brewer may not:

- 8 1. Induce or coerce, or attempt to induce or coerce, ~~any~~a beer wholesaler to accept
- 9 delivery of ~~any~~an alcoholic beverage or ~~any~~ other commodity which has not been
- 10 ordered by the beer wholesaler.
- 11 2. Induce or coerce, or attempt to induce or coerce, ~~any~~a beer wholesaler to enter ~~any~~an
- 12 agreement or take ~~any~~an action that would violate ~~any~~a law or rule of this state by
- 13 threatening to amend, cancel, terminate, or refuse to renew ~~any~~an agreement existing
- 14 between a brewer and a beer wholesaler.
- 15 3. Require a wholesaler to assent to ~~any~~a condition, stipulation, or provision limiting the
- 16 wholesaler's right to sell any other brewer's product anywhere in this state, provided
- 17 the sale of another brewer's product does not materially impair the quality of service or
- 18 quantity of sales of the existing brand or brands of the brewer seeking to impose the
- 19 condition, stipulation, or provision.

- 1 4. Require a wholesaler to submit specific, confidential information ~~regarding, including,~~
2 ~~financial information associated with the purchase, sale, or distribution of~~ competitive
3 brands, as a condition of renewal or continuation of an agreement.
- 4 5. Fail to provide each wholesaler of its brands with a written contract ~~which that~~
5 conforms to this chapter and embodies the brewer's agreement with each wholesaler.
- 6 6. Require a wholesaler to use or prohibit a wholesaler from using a
7 business-to-business electronic commerce platform.

8 **SECTION 2. AMENDMENT.** Section 5-04-14 of the North Dakota Century Code is amended
9 and reenacted as follows:

10 **5-04-14. Sale of brewer.**

11 Except for good cause, as defined by section 5-04-04, the purchase of a brewer as defined
12 in section 5-04-01, ~~when the purchaser continues in business as a brewer,~~ shall obligate the
13 ~~new brewer purchaser~~ to all terms and conditions of the agreement in effect on the date of
14 purchase. "Purchase", for the purposes of this chapter, includes the sale of stock, sale of
15 assets, merger, lease, transfer, or consolidation.