A BILL for an Act to amend and reenact section 5-01-14 and 5-01-21 of the North Dakota Century Code, relating to the sale and transfer of alcoholic beverages by microbrew pubs and brewer taprooms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-14 of the North Dakota Century Code is amended and reenacted as follows:


A microbrew pub shall obtain a brewer license and a retailer license as required under this title. A microbrew pub may manufacture on the licensed premises, store, transport, sell to wholesale malt beverage licensees, and export no more than ten thousand barrels of malt beverages annually; sell malt beverages manufactured on the licensed premises; and sell alcoholic beverages regardless of source to consumers for consumption on the microbrew pub's licensed premises. A microbrew pub may not engage in any wholesaling activities. All sales and delivery of malt beverages to any other retail licensed premises may be made only through a wholesale malt beverage licensee, except a microbrew pub may transfer malt beverages the microbrew pub manufactures between microbrew pubs it owns. Beer manufactured on the licensed premises and sold by a microbrew pub directly to the consumer for consumption on or off the premises is subject to the taxes imposed pursuant to section 5-03-07, in addition to any other taxes imposed on brewers and retailers. A microbrew pub is required to file a monthly sales report with the tax commissioner by the fifteenth day of the month following the month in which the sales are made. The report must be prepared and submitted in a form and manner as prescribed by the tax commissioner. A microbrew pub is not precluded from retailing beer it purchases from a wholesaler. Complimentary samples of beer may not be in an amount exceeding sixteen ounces [.47 liter] per patron. Licenses under this section entitle the
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microbrew pub to sell beer manufactured on the premises for off-premises consumption, in
brewery-sealed containers of not less than one-half gallon [1.89 liters] and not more than three-
gallons [11.36 liters]. This section may not be superseded under chapters 11-09.1 and 40-05.1.
The tax commissioner may issue special events permits for not more than twenty events per
calendar year to a microbrew pub allowing the microbrew pub, subject to local ordinance, to
give free samples of its beer and to sell its beer by the glass or in closed containers, at
off-premises events.

SECTION 2. AMENDMENT. Section 5-01-21 of the North Dakota Century Code is amended
and reenacted as follows:


1. The tax commissioner may issue multiple brewer taproom licenses to the owner or
operator of a brewery producing no more than twenty-five thousand barrels of malt
beverages annually. A brewer with multiple taproom licenses must produce malt
beverages at each location and the total amount of malt beverages produced at all
locations combined may not exceed twenty-five thousand barrels of malt beverages
annually. Each brewer taproom license may be issued and renewed for an annual fee
of five hundred dollars, which is in lieu of all other state license fees required by this
title. All provisions of this chapter which apply to a retail license must apply to a license
issued under this section unless the provision is explicitly inconsistent with this
section.

2. A brewer holding a brewer taproom license may:

a. Manufacture on the licensed premises, store, transport, sell, and export no more
than twenty-five thousand barrels of malt beverages annually.

b. Sell malt beverages manufactured on the licensed premises for consumption on
the premises of the brewery or a restaurant owned by the licensee and located
on property contiguous to the brewery.

c. Sell beer manufactured on the licensed premises for off premises consumption in
brewery-sealed containers of not less than twelve ounces [0.36 liters] and not-
more than 5.16 gallons [19.53 liters].

d. Sell and deliver beer produced by the brewery to licensed beer wholesalers.
e. Dispense free samples of beer offered for sale. Complimentary samples of beer may not be in an amount exceeding sixteen ounces [.47 liter] per patron.

f. Sell and deliver beer produced by the brewery to licensed retailers within the state, but only if:

(1) The brewer uses the brewer's own equipment, trucks, and employees to deliver the beer;

(2) Individual deliveries, other than draft beer, are limited to the case equivalent of eight barrels per day to each licensed retailer;

(3) The total amount of beer sold or delivered directly to all retailers does not exceed ten thousand barrels per year; and

(4) A common carrier is not used to ship or deliver the brewery's product to the public or to licensed retailers. All other sales and deliveries of beer to licensed retailers in this state may be made only through a wholesaler licensed in this state.

g. Transfer malt beverages the brewer manufactures between brewery taprooms the brewer owns.

3. The tax commissioner may issue special event permits for not more than twenty days per calendar year to a brewer taproom licensee allowing the licensee, subject to local ordinance, to give free samples of its beer and to sell its beer by the glass or in closed containers, at a designated trade show, convention, festival, or a similar event approved by the tax commissioner.

4. For any month in which a brewery has made sales to a wholesaler licensed in this state, that brewery shall file a report with the tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after that day.

5. A brewer taproom licensee is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all beer sold by the licensee at retail or to a retail licensee, including all beer sold directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the year following the year sales were made. When the
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fifteenth of January falls on a Saturday, Sunday, or legal holiday, the due date is the
first working day after that day. The report must provide the detail and be in a format
as prescribed by the tax commissioner. The tax commissioner may require the report
be submitted in an electronic format approved by the tax commissioner.

A brewer may have multiple taproom licenses, but may not have an ownership interest
in whole or in part, or be an officer, director, agent, or employee of any other
manufacturer, brewer, importer, wholesaler, or retailer, or be an affiliate thereof,
whether the affiliation is corporate or by management, direction, or control.