

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1343

Introduced by

Representatives Boschee, Beadle, Dobervich, Kasper, D. Ruby, Sukut

Senators Burckhard, Casper, Heckaman, Marcellais, Roers

1 A BILL for an Act to amend and reenact section 5-01-17 of the North Dakota Century Code,
2 relating to domestic winery ingredient utilization requirements and special event permits.

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

4 **SECTION 1. AMENDMENT.** Section 5-01-17 of the North Dakota Century Code is amended
5 and reenacted as follows:

6 **5-01-17. Domestic winery license.**

7 1. The tax commissioner may issue a domestic winery license to the owner or operator of
8 a winery located within this state to produce wine. The percentage of ingredients by
9 volume, excluding water, of wine produced by a domestic winery which must be grown
10 and produced in this state must be at least ten percent in the second year of licensure,
11 twenty percent in the third year of licensure, thirty percent in the fourth year of
12 licensure, forty percent in the fifth year of licensure, and fifty-one percent in the sixth
13 and subsequent years of licensure. Domestic wineries may be granted an exemption
14 from the ingredient utilization requirement whenever the state tax commissioner
15 determines, upon the commissioner's own motion after consultation with the
16 agriculture commissioner or at the request of a domestic winery, that a shortage of
17 produce grown in this state exists for a particular crop rendering a winery unable to
18 meet its production needs; or weather conditions, pest infestations, plant disease
19 epidemics, or other natural causes have reduced the quantity or quality of produce
20 grown in this state to an extent that renders compliance with the ingredient utilization
21 requirement infeasible. The exemption is effective for one year unless the tax
22 commissioner issues a new exemption. The exemption applies only to the use of
23 out-of-state produce, not juice or finished wine. All produce must be fermented and
24 bottled in this state. A domestic winery may purchase, at wholesale or retail, brandy for

1 use of onpremises fortification. A domestic winery license may be issued and renewed
2 for an annual fee of one hundred dollars, which is in lieu of all other license fees
3 required by this title.

4 2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail
5 lots, and not for resale, and may sell or direct ship its wine to persons inside or outside
6 of the state in a manner consistent with the laws of the place of the sale or delivery in
7 total quantities not in excess of twenty-five thousand gallons [94625 liters] in a
8 calendar year; glassware; wine literature and accessories; and cheese, cheese
9 spreads, and other snack food items. A licensee may dispense free samples of the
10 wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be
11 made on Sundays between twelve noon and twelve midnight. The tax commissioner
12 may issue special events permits ~~for not more than twenty~~ thirty events per calendar
13 year to a domestic winery allowing the winery, subject to local ordinance, to give free
14 samples of its wine and to sell its wine by the glass or in closed containers, at off-
15 premises events. To participate in a pride of Dakota event sponsored by the
16 department of agriculture, a domestic winery shall obtain a special events permit.
17 Participation by a domestic winery in a pride of Dakota event sponsored by the
18 department of agriculture does not count against the ~~twenty~~ thirty special events
19 limitation. A domestic winery may not engage in any wholesaling activities. All sales
20 and deliveries of wines to any other retail licensed premises in this state may be made
21 only through a licensed North Dakota liquor wholesaler. For any month in which a
22 domestic winery has made sales to a North Dakota wholesaler, that domestic winery
23 shall file a report with the tax commissioner no later than the last day of each calendar
24 month reporting sales made during the preceding calendar month. When the last day
25 of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the
26 first working day thereafter.

27 3. A domestic winery may obtain a domestic winery ~~acquire a state and local~~ license and
28 a retailer license allowing the onpremises sales of ~~to sell at retail other~~ alcoholic
29 beverages at a restaurant owned by the licensee and located on property contiguous
30 to ~~in addition to the wine produced at~~ the winery.

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