

HOUSE BILL NO. 1286

Introduced by

Representatives Mock, Becker, Kasper, Keiser, O'Brien, D. Ruby

Senators Kreun, Weber

1 A BILL ~~for an Act to amend and reenact section 5-01-19 of the North Dakota Century Code,~~
2 ~~relating to domestic distilleries and satellite locations;~~ for an Act to create and enact section
3 5-01-19.2 of the North Dakota Century Code, relating to a manufacturing distillery; to provide for
4 transition; and to declare an emergency.

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

6 ~~— **SECTION 1. AMENDMENT.** Section 5-01-19 of the North Dakota Century Code is amended~~
7 ~~and reenacted as follows:~~

8 ~~— **5-01-19. Domestic distillery.**~~

9 ~~— 1. The tax commissioner may issue a domestic distillery license to the owner or operator~~
10 ~~of a distillery that is located within this state which uses a majority of North Dakota~~
11 ~~farm products to manufacture and sell spirits produced on the premises. A domestic~~
12 ~~distillery license may be issued and renewed for an annual fee of one hundred dollars.~~
13 ~~This fee is in lieu of all other license fees required by this title. The tax commissioner~~
14 ~~may not issue the domestic distillery license until the applicant has established that the~~
15 ~~applicant has applied for and obtained the necessary federal registrations and permits,~~
16 ~~as required under the Internal Revenue Code of 1986 [26 U.S.C. 5001 et seq.] and the~~
17 ~~federal Alcohol Administration Act [27 U.S.C. 203], for the operation of a distilled spirits~~
18 ~~plant.~~

19 ~~— 2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in~~
20 ~~retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or~~
21 ~~outside the state in a manner consistent with the laws of the place of the sale or~~
22 ~~delivery in total quantities not in excess of twenty five thousand gallons [94635 liters]~~
23 ~~in a calendar year. Direct sales within this state are limited to two and thirty-eight~~
24 ~~hundredths gallons [9 liters] or less per month per person for personal use and not for~~

1 resale. The packaging must conform with the labeling requirements in section 5-01-16.
2 A licensee may dispense free samples of the spirits offered for sale. Subject to local
3 ordinance, sales at on-sale and off-sale may be made on Sundays between twelve
4 noon and twelve midnight. A domestic distillery may hold events inside and outside its
5 premises, but only on contiguous property under common ownership, allowing free
6 samples of its spirits and to sell its spirits by the glass or in closed containers. The tax
7 commissioner may issue event permits for not more than forty event days per calendar
8 year to a domestic distillery allowing the domestic distillery, subject to local ordinance,
9 to give free samples of its product and to sell its product by the glass or in closed
10 containers, at off-premises events. A domestic distillery may not engage in any
11 wholesaling activities. Except as provided by section 5-01-19.1, all sales and
12 deliveries of spirits to any other retail licensed premises in this state may be made only
13 through a licensed North Dakota liquor wholesaler. However, a domestic distillery may
14 sell distilled spirits to a domestic winery if the distilled spirits were produced from
15 products provided to the domestic distillery by the domestic winery. No later than the
16 last business day of a calendar month, a farm distillery that has made sales to a North
17 Dakota wholesaler during the preceding calendar month shall file a report with the tax
18 commissioner reporting those sales.

19 ~~3. A domestic distillery may obtain a domestic distillery license and a retailer license~~
20 ~~allowing the onpremises sale of alcoholic beverages at a restaurant owned by the~~
21 ~~licensee and located on property contiguous to the domestic distillery. A domestic~~
22 ~~distillery also may own or operate a winery.~~

23 ~~4. a. As used in this subsection, "samples" means the serving of free tastings of a~~
24 ~~domestic distillery's products not to exceed six ounces [0.18 liter] of spirits per~~
25 ~~individual per day.~~

26 ~~b. A domestic distillery may operate one satellite location in addition to its licensed~~
27 ~~premises for the purpose of providing samples and on-sale or off-sale retail sales.~~

28 ~~(1) The spirits sampled or sold at the satellite location must be produced by the~~
29 ~~domestic distillery.~~

30 ~~(2) A domestic distillery may not produce any spirits at the satellite location.~~

1 ~~(3) A domestic distillery that is issued an event permit in accordance with~~
2 ~~subsection 2 may hold an indoor or outdoor event at its satellite location at~~
3 ~~which the domestic distillery may offer free samples of its spirits and may~~
4 ~~sell its spirits by the glass or in closed containers.~~

5 ~~(4) The satellite location must be owned or leased by the domestic distillery~~
6 ~~licensee.~~

7 ~~(5) A domestic distillery may not engage in wholesaling activities at its satellite~~
8 ~~location.~~

9 ~~c. A domestic distillery shall obtain a satellite location license from the tax~~
10 ~~commissioner before operating a satellite location. The tax commissioner may~~
11 ~~issue and renew a satellite location license for an annual fee of one hundred~~
12 ~~dollars. This fee is in addition to all other license fees required by this title.~~

13 ~~d. A domestic distillery is liable for any violation of alcohol or licensing requirements~~
14 ~~committed on the premises of its satellite location.~~

15 ~~5. A domestic distillery is subject to section 5-03-06 and shall report and pay~~
16 ~~annually to the tax commissioner the wholesaler taxes due on all spirits sold by the~~
17 ~~licensee at retail or to a retail licensee, including all spirits shipped directly to~~
18 ~~consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax~~
19 ~~reports are due January fifteenth of the year following the year sales were made. The~~
20 ~~report must provide the detail and be in a format as prescribed by the tax~~
21 ~~commissioner. The tax commissioner may require that the report be submitted in an~~
22 ~~electronic format approved by the tax commissioner.~~

23 **SECTION 1.** Section 5-01-19.2 of the North Dakota Century Code is created and enacted
24 as follows:

25 **5-01-19.2. Manufacturing distillery - Satellite locations.**

26 1. The tax commissioner may issue a manufacturing distillery license to the owner or
27 operator of a distillery located within this state which uses a majority of North Dakota
28 farm products to manufacture and sell spirits produced on the premises. A
29 manufacturing distillery license may be issued and renewed for an annual fee of one
30 hundred dollars. This fee is in lieu of all other license fees required by this title. The tax
31 commissioner may not issue the manufacturing distillery license until the applicant has

1 established the applicant has applied for and obtained the necessary federal
2 registrations and permits, as required under the Internal Revenue Code of 1986
3 [26 U.S.C. 5001 et seq.] and the federal Alcohol Administration Act [27 U.S.C. 203], for
4 the operation of a distilled spirits plant.

5 2. A manufacturing distillery may sell spirits produced by that distillery at off sale, in retail
6 lots, and not for resale, and may sell or direct ship its spirits to persons inside or
7 outside the state in a manner consistent with the laws of the place of the sale or
8 delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters]
9 in a calendar year. Direct sales within this state are limited to two and thirty-eight
10 hundredths gallons [9 liters] or less per month per person for personal use and not for
11 resale. The packaging must conform with the labeling requirements in section 5-01-16.
12 A licensee may dispense free samples of the spirits offered for sale. Subject to local
13 ordinance, sales at off sale may be made on Sundays between twelve noon and
14 twelve midnight. A manufacturing distillery may hold events inside its premises and at
15 its satellite location. The tax commissioner may issue event permits for not more than
16 forty event days per calendar year to a manufacturing distillery to allow the
17 manufacturing distillery, subject to local ordinance, to give free samples of its product
18 and to sell its product by the glass or in closed containers at on-premises events and
19 at its satellite location. A manufacturing distillery may not engage in any wholesaling
20 activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to
21 any other retail licensed premises in this state may be made only through a licensed
22 North Dakota liquor wholesaler. However, a manufacturing distillery may sell distilled
23 spirits to a domestic winery if the distilled spirits were produced from products
24 provided to the manufacturing distillery by the domestic winery.

25 3. a. As used in this subsection, "samples" means the serving of free tastings of a
26 manufacturing distillery's products not to exceed six ounces [0.18 liter] of spirits
27 per individual per day.

28 b. A manufacturing distillery may operate one satellite location in addition to its
29 licensed premises for the purpose of providing samples and on sale or off sale
30 retail sales.

1 (1) The spirits sampled or sold at the satellite location must be produced by the
2 manufacturing distillery.

3 (2) A manufacturing distillery may not produce any spirits at the satellite
4 location.

5 (3) An event permit issued to a manufacturing distillery in accordance with
6 subsection 2 for an indoor or outdoor event held at its satellite location does
7 not count towards the forty event days per calendar year allowed under
8 subsection 2. The manufacturing distillery may offer free samples of its
9 spirits and may sell its spirits by the glass or in closed containers at the
10 event held at the satellite location.

11 (4) The satellite location must be owned or leased by the manufacturing
12 distillery licensee.

13 (5) A manufacturing distillery may not engage in wholesaling activities at its
14 satellite location.

15 c. A manufacturing distillery shall obtain a satellite location license from the tax
16 commissioner before operating a satellite location. The tax commissioner may
17 issue and renew a satellite location license for an annual fee of one hundred
18 dollars. This fee is in addition to all other license fees required by this title.

19 d. A manufacturing distillery is liable for any violation of alcohol or licensing
20 requirements committed on the premises of its satellite location.

21 4. A person may not hold a manufacturing distillery license and a domestic distillery
22 license.

23 5. A manufacturing distillery may obtain a manufacturing distillery license and a retailer
24 license allowing the on-premises sale of alcoholic beverages at a restaurant owned by
25 the licensee and located at the manufacturing distillery's satellite location.

26 6. A manufacturing distillery is subject to section 5-03-06 and shall report and pay
27 annually to the tax commissioner the wholesaler taxes due on all spirits sold by the
28 licensee at retail or to a retail licensee, including all spirits shipped directly to
29 consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax
30 reports are due January fifteenth of the year following the year sales were made. The
31 report must provide the detail and be in a format as prescribed by the tax

1 commissioner. The tax commissioner may require the report to be submitted in an
2 electronic format approved by the tax commissioner.

3 **SECTION 2. TRANSITION PERIOD.** After the effective date of this Act, a domestic distillery
4 licensee may rescind a domestic distillery license and apply for and be issued a manufacturing
5 distillery license. After August 1, 2022, a domestic distillery licensee may not be issued a
6 manufacturing distillery license.

7 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.