

Sixty-seventh  
Legislative Assembly  
of North Dakota

## ENGROSSED 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 create and enact section 5-01-19.2 of the North Dakota Century Code,  
2 relating to a manufacturing distillery; to provide for transition; and to declare an emergency.

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

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

6 **5-01-19.2. Manufacturing distillery - Satellite locations.**

- 7 1. The tax commissioner may issue a manufacturing distillery license to the owner or  
8 operator of a distillery located within this state which uses a majority of North Dakota  
9 farm products to manufacture and sell spirits produced on the premises. A  
10 manufacturing distillery license may be issued and renewed for an annual fee of one  
11 hundred dollars. This fee is in lieu of all other license fees required by this title. The tax  
12 commissioner may not issue the manufacturing distillery license until the applicant has  
13 established the applicant has applied for and obtained the necessary federal  
14 registrations and permits, as required under the Internal Revenue Code of 1986  
15 [26 U.S.C. 5001 et seq.] and the federal Alcohol Administration Act [27 U.S.C. 203], for  
16 the operation of a distilled spirits plant.
- 17 2. A manufacturing distillery may sell spirits produced by that distillery at off sale, in retail  
18 lots, and not for resale, and may sell or direct ship its spirits to persons inside or  
19 outside the state in a manner consistent with the laws of the place of the sale or  
20 delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters]  
21 in a calendar year. Direct sales within this state are limited to two and thirty-eight  
22 hundredths gallons [9 liters] or less per month per person for personal use and not for  
23 resale. The packaging must conform with the labeling requirements in section 5-01-16.  
24 A licensee may dispense free samples of the spirits offered for sale. Subject to local

1 ordinance, sales at off sale may be made on Sundays between twelve noon and  
2 twelve midnight. A manufacturing distillery may hold events inside its premises and at  
3 its satellite location. The tax commissioner may issue event permits for not more than  
4 forty event days per calendar year to a manufacturing distillery to allow the  
5 manufacturing distillery, subject to local ordinance, to give free samples of its product  
6 and to sell its product by the glass or in closed containers at on-premises events and  
7 at its satellite location. A manufacturing distillery may not engage in any wholesaling  
8 activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to  
9 any other retail licensed premises in this state may be made only through a licensed  
10 North Dakota liquor wholesaler. However, a manufacturing distillery may sell distilled  
11 spirits to a domestic winery if the distilled spirits were produced from products  
12 provided to the manufacturing distillery by the domestic winery.

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

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

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

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

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

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

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

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

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

9           4. A person may not hold a manufacturing distillery license and a domestic distillery  
10           license.

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

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

22           **SECTION 2. TRANSITION PERIOD.** After the effective date of this Act, a domestic distillery  
23           licensee may rescind a domestic distillery license and apply for and be issued a manufacturing  
24           distillery license. After August 1, 2022, a domestic distillery licensee may not be issued a  
25           manufacturing distillery license.

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