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2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1298

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1298

House Industry, Business and Labor Committee

Conference Committee

Hearing Date January 28, 2003

Tape Number	Side A	Side B	Meter #
2		X	3314-end
3	X		0-3797
Committee Clerk Signature <i>Elizabeth R. Fier</i>			

Minutes: **CHAIR KEISER:** Opened hearing on HB 1298

REP. RUBY: Described the intent of the bill

REP. JOHNSON: On page two, line 28, why does the language say "quarterly or annually"?

Rep. Ruby stated that "annually" was added because some of the small wineries may not be able to report quarterly.

REP. FROSETH recalled that Political Subs had this bill during the last session and was wondering if the change from 1,000 to 10,000 gallons would put the wineries into a different licensing category. Rep. Ruby was not sure, but said that another law deals with the manufacturing aspect. The fee on this bill is increased to \$100 and the Tax Department did not say it was a problem.

REP. EKSTROM: Why is the length of sale limited to five days for special events? What about the State Fair and Pride of Dakota? Rep. Ruby noted the opposition came from the Retailers

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Association. Rep. Ruby suggested the language could say "for the length of the event." They want to open the market for people to diversify.

REP. SEVERSON reviewed the issues from the 2001 session. The bill originated from wine-tasters. Retailers did not want people to ship in wine and sell it. Rep. Froseth said there were two separate bills; one for manufacturing and one for shipping in more than 1,000 gallons/yr.

REP. RUBY: When they discussed the limit with the wholesalers and retailers, it was determined with there was no problem with the volume. Most people will never meet the 10,000 limit, but if the demand is such, there will also be a demand in the retail market as well as the wholesale market.

REP. ZAISER: Supports the concept, but is wondering how we monitor if the products are from ND? Rep. Ruby believes the growers themselves would keep each other in check or perhaps have the Tax Department in charge.

REP. BOE: Why the Tax Dept. and not the Attorney General, who licenses retail liquor. Rep. Ruby replied that it is a "fee" or "tax." Rep. Keiser noted that it was moved from Treasury because in essence, it is a tax.

JEFF PETERSON (Pointe of View Winery): Supports with written testimony.

REP. EKSTROM: How many acres are now planted with grapes/fruit? Peterson did not have an answer at the moment, but knows they are at the bottom of the agricultural statistics list. Rep. Ekstrom asked what varieties are grown and Peterson answered that the University of Minnesota and University of SD are working on hybrids for cold-weather varieties.

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REP. KASPER: What is the amount of gross income/acre for the farmer? Peterson noted that it depends on the variety.

REP. ZAISER: How do you monitor the in-state product? Peterson believes people would not buy without the local appeal. However, monitoring is easy because there is quite a bit of federal paperwork that needs to be filed. When asked by Rep. Zaiser if there are routine regulatory systems, Peterson answered that it is mostly a complaint system.

REP. RUBY: Are there requirements with tax on all of the paperwork? Peterson replied no.

REP. KEISER questioned why the emergency clause is included. Peterson replied that the growers would like to get this started right away for planning purposes.

REP. BOE: Is brandy fortification common? Peterson replied that it is. The tax structure changes for fortified wines.

DAN KUNTZ (ND Wholesale Liquor Assoc.): Worked with Peterson and supports the bill.

REP. KLEIN: Any objections to making an exception to the five days for the State Fair? Kuntz replied that it was the retailers who were concerned. You can still promote the length of the fair, you just can't sell.

PATTI LEWIS (ND Hospitality Assoc.): Supports for tourism and the beverage industry.

However, she reminded the committee of the three tiered system in ND. The law needs to be fair to the retailers and asked that big holes in the law are not opened. The wineries can still sell at the fair if they let the retailers sell for them.

REP. KEISER: Would the industry support language specific to the State Fair? Lewis said that the 5 days was their final answer when she talked to her colleagues.

GREG KEMPEL (Pres. of Maple River Winery): Opposed with written testimony.

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RUBY: Do you really think people would pay the license fee to have a winery in their apartment? Kempel noted this bill changes the intent of the 2001 bill.

REP. FROSETH pointed out that licensing through the tax department would take care of his location concerns. They won't issue a license to an apartment. The cities have ordinances as well. Kempel questioned how many cities have ordinances. He needs a state beverage and retail license, but the wineries do not.

REP. SEVERSON asked for Kempel's comments on the quantity increase. Kempel said that the fee should increase if the quantity is increased.

REP. KEISER: How many gallons does the Maple River Winery produce. Kempel said they produced 5,000 gallons this year. Noted there are not enough wine drinkers in ND.

GARY ANDERSON (Dir. of Sales & Special Taxes, Tax Dept.): Neutral. Described alcohol laws. The Tax Dept. licenses wholesale and manufacturers licenses. The Attorney General licenses retailers. The Tax Dept. handles micro brews because they do both manufacturing and retail.

REP. FROSETH: Asked Anderson to discuss his view of the location of wineries issue. Anderson said that it appears the winery does not have to be a farm, but just produced in ND.

REP. KLEIN: Would you need 6 employees as Kempel suggests? Anderson said he doesn't believe so. The industry is growing and will require administration, but they did not require new staff when they received the duties from the Treasury. They can utilize the county extension offices as well as the USDA..

REP. ZAISER: Most cities have liquor laws. Would they not be able to limit wineries? Anderson said that most cities do have them. The key phrases are on lines 13 and 14 of page 2.

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Would like to see communities authorize the winery and then the winery applies through the Tax Department.

REP. JOHNSON: Asked Anderson to explain the differences between manufacturers and this bill. Anderson said this bill limits the volume and the ingredients. Manufacturers do not have these limits.

REP. ZAISER: Are the fees appropriate? Anderson said the department has no position on the fees.

REP. BOE: With the change to "domestic" from "farm," will there be a push to commercial? Anderson said he understood the bill to mean the product has to be produced within the acreage owned by the winery. Rep. Boe asked if it will have to be classified as commercial because of the "domestic" language. Anderson believes it will, but not a restriction on location.

CHAIR KEISER: Closed hearing on HB1298

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1298

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1/29/03

Tape Number	Side A	Side B	Meter #
2		x	29.0-38.8
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: **Chairman Keiser** called for committee work on HB 1298

Rep. Tieman moved a Do Pass. **Rep. Froseth** seconded the motion.

Rep. Ruby: Regarding the special use permit, my constituent wants the public to know that this product is a lot of compromise on several areas with wholesalers, retailers. The five day compromise is OK for everyone now.

Rep. Johnson: What is the difference between a domestic winery and a manufacturer license?

Rep. Froseth: The winery wouldn't have to be located on a farm, or in a rural area. Products must all be grown in the state of North Dakota. We passed something that's working. Two small wineries are now up and running.

Chairman Keiser: Commercial and domestic: there's a difference in fees. The commercial has no limit on volume that it can produce or no restrictions on where the raw products are grown. Both are limited to manufacturing and selling to wholesalers. The three tier alcohol beverage system is being maintained with the exception that we are allowing them to be a manufacturer

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but a retailer. We're trying to create an appropriate atmosphere and opportunities for this industry. The commercial wine operation representative, they have few restrictions on their product.

Rep. Ruby: One other thing about the word "farm". It's not clearly defined.. Original bill required 51% of the product be produced in North Dakota but it didn't stipulate that the product had to be grown on the same farm. The original legislation was far too vague. The wholesalers were responsible for using the word domestic rather than farm now. They can't sell from their property but they don't have the restrictions on volume or origin.

Chairman Keiser: A lot of polarization was compromised on this bill, thanks to Rep. Ruby.

Rep. Johnson: Are there restrictions where this can be done?

Chairman Keiser: Local zoning controls commercial, residence, industrial zones.

Results of the roll call vote were: **13-0-1.**

Rep. Tieman will carry this on the floor.

