

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1437

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*Jo Costa Richardson*  
Operator's Signature

*10/16/03*  
Date

2003 HOUSE POLITICAL SUBDIVISIONS

HB 1437

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

House Political Subdivisions Committee

Conference Committee

Hearing Date: February 6, 2003

Tape Number	Side A	Side B	Meter #
1	X		22.3-51.6
1		X	0.0-5.9
Committee Clerk Signature <i>Micki Schmidt</i>			2-18-03

Minutes:

**TAPE 1: SIDE B:**

**(22.3) REP. GLEN FROSETH:** We will open the hearing on HB 1437.

**(22.5) REP. TRACY BOE:** (Testimony in support) (See attachment #1) I threw this bill together because this came to my attention. The Attorney General's office has been issuing liqueur licenses on the Reservation based on private license. The problems that arose in the past, the Attorney General wrote a letter grandfathering all of the existing licenses. As soon as they try to transfer the license, they're not allowed to.

**(25.0) BOB BENNETT; ATTORNEY GENERALS OFFICE:** (Testimony-neutral) In 1983, the United States Supreme Court had authority. Explained liquor licenses.

**(35.3) REP. NANCY JOHNSON:** If Rollette County said they only want "x" number of licenses, would the Tribe give as many as they want? Is that going to be an issue between the county and the Tribe?

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*Valerie Richardson*  
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10/16/03  
Date

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House Political Subdivisions Committee  
Bill/Resolution Number HB 1437  
Hearing Date: February 6, 2003

**(35.8) BOB BENNETT:** There are issues of the Tribes in the county anyway. It's possible that the Tribal Government can issue dozens of licenses. If you don't have a local license, you cannot get a state license. The Tribal authority cannot dictate to the county, but there is a federal law and this did happen in Spirit Lake Reservation. An issue came up in 1988, back to the dry reservation based upon their ordinance. It says, there will be no liquor sales within the reservation boundaries unless it's not within Indian country, or if the spending conforms to state law and with proper ordinance.

**(44.1) REP. CAROL NIEMEIER:** The tribes and the counties are both governing units. But the counties can supersede the tribal. Is that what this is telling us?

**(44.6) BOB BENNETT:** No. What we're saying is for purposes of the state liquor license, we can require every retail alcohol beverage you would have. We require the local licenses. What this does is establish an addition to a county license and a state license, a tribal license. The county would not be able to override the tribal.

**(50.7) REP. ALON WIELAND:** The county could not issue a license unless the tribe agreed?

**(51.1) BOB BENNETT:** The county could issue a license.

**TAPE 1; SIDE B:**

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**(4.0) REP. GLEN FROSETH:** You need either a state and county license, city or tribal license?

**(4.2) BOB BENNETT:** If you don't have a state license, the wholesaler can lose their license.

**(4.4) REP. GLEN FROSETH:** Any further testimony? Opposition? Seeing none, we'll close the hearing. Does the committee want to act on this bill?

**(4.7) REP. MARY EKSTROM: I WILL MOVE TO ADOPT THE AMENDMENT.**

*Richard Rickford*  
Operator's Signature

*10/16/03*  
Date

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House Political Subdivisions Committee

Bill/Resolution Number HB 1437

Hearing Date: February 6, 2003

**(4.7) REP. NANCY JOHNSON: I SECOND IT.**

**(4.8) REP. GLEN FROSETH:** Any further discussion on the amendment? Seeing none, all those in favor say I. 14-y; 0-n;

**(5.0) REP. MARY EKSTROM: I WOULD MOVE A DO PASS AS AMENDED.**

**(5.1) REP. CAROL NIEMEIER: I SECOND IT.**

**(5.2) REP. GLEN FROSETH:** Any discussion? I'll have the clerk take the Roll Call Vote:

12-y; 0-n; 2-absent; Carrier; Rep. Wieland

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**FISCAL NOTE STATEMENT**

House Bill or Resolution No. 1437

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad  
Code Revisor

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John Costa Richardson  
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10/16/03  
Date

LP

9:40 AM 2-6-03  
#1

30670.0101  
Title.

Prepared by the Legislative Council staff for  
Representative Boe  
January 24, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1437

Page 1, line 1, replace "section" with "sections 5-01-01," and after "5-02-01" insert ", 5-02-01.1, 5-02-05.1, and 5-02-10"

Page 1, after line 3, insert:

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

**5-01-01. Definitions.** In this title:

1. "Alcohol" means neutral spirits distilled at or above one hundred ninety degrees proof, whether or not such product is subsequently reduced, for nonindustrial use.
2. "Alcoholic beverages" means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
3. "Beer" means any malt beverage containing one-half of one percent or more of alcohol by volume.
4. "Distilled spirits" means any alcoholic beverage that is not beer, wine, sparkling wine, or alcohol.
5. "Licensed premises" means the premises on which beer, liquor, or alcoholic beverages are normally sold or dispensed and must be delineated by diagram or blueprint which must be included with the license application or the license renewal application.
6. "Liquor" means any alcoholic beverage except beer.
7. "Local governing body" means the governing entity of a city, county, or federally recognized Indian tribe in this state.
8. "Local license" means a city, county, or tribal retail alcoholic beverage license issued by the appropriate local governing body.
9. "Microbrew pub" means a brewer that brews ten thousand or fewer barrels of beer per year and sells beer produced or manufactured on the premises for consumption on or off the premises, or serves beer produced or manufactured on the premises for purposes of sampling the beer.
- ~~8.~~ 10. "Organization" means a domestic or foreign corporation, general partnership, limited partnership, or limited liability company.
- ~~9.~~ 11. "Sparkling wine" means wine made effervescent with carbon dioxide.
12. "Tribal licensee" means a person issued a local license by the governing body of a federally recognized Indian tribe in this state for the retail sale of alcoholic beverages within the exterior tribal reservation boundaries.

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Operator's Signature

10/16/03  
Date

- #1
40. 13. "Wine" means the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume."

Page 1, line 8, after "and" insert "a local license from"

Page 1, line 9, remove "or the governing body of an Indian tribe", overstrike "board of county commissioners", and remove "as the"

Page 1, line 10, remove "location requires." and after the comma insert "the board of county commissioners or the governing body of an Indian tribe, as the location requires."

Page 1, after line 12, insert:

**"SECTION 3. AMENDMENT.** Section 5-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**5-02-01.1. Event permit authorized - Penalty.**

1. The local governing body may by permit authorize a qualified alcoholic beverage licensee licensed under this chapter to engage in the sale of alcoholic beverages at events designated by the permit. For purposes of this section, "qualified alcoholic beverage licensee" means a licensee in a city that imposed a city lodging and restaurant tax on July 31, 1993, who paid such tax and who continues to pay any such tax imposed by the city or a licensee in a county ~~or~~ a licensee in a city that did not impose a city lodging and restaurant tax on July 31, 1993, or a tribal licensee. A fee for the local permit may be set by ordinance or resolution at not more than twenty-five dollars. The permit may not be valid for a period greater than fourteen days, and may include Sundays. The local governing body may establish rules to regulate and restrict the operation of an event permit. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or the conditions of a permit is guilty of a class B misdemeanor.
2. The local governing body may authorize persons under twenty-one years of age to remain in the area of the event, or a portion thereof, where beer, wine, or sparkling wine may be sold pursuant to the permit. However, this authorization must be subject to the following minimum conditions:
  - a. The area where persons under twenty-one years of age may remain must be specifically set forth in the permit;
  - b. Only employees of the qualified alcoholic beverage licensee who are at least twenty-one years of age may deliver and sell the beer, wine, or sparkling wine;
  - c. Subject to section 5-02-06, the area where persons under twenty-one years of age may remain may not be the qualified alcoholic beverage licensee's fixed or permanent licensed premises as shown on the state and local governing body's alcoholic beverage license issued pursuant to section 5-02-01; and
  - d. No person under twenty-one years of age within the area described in the permit may consume, possess, or receive alcoholic beverages.

**SECTION 4. AMENDMENT.** Section 5-02-05.1 of the North Dakota Century Code is amended and reenacted as follows:



