

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1449

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1449
2/6/2023

Relating to event permits for microbrew pubs, domestic wineries, domestic distilleries, and brewer taproom licensees, and the domestic farm product requirement for domestic distilleries.

Chairman Louser called to order 11:04 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Dakane, Johnson, Kasper, Koppelman, Schauer, Thomas, Tveit, Wagner, Warrey.

Members absent: Representatives Christy, Ruby.

Discussion Topics:

- Event days
- Source ingredients

In favor:

Representative Corey Mock, District 18, Grand Forks, #19240, proposed amendment, #19242, LC #23.1034.01001 and Christmas Tree amendment, #19241.

Additional written testimony:

Scott Meske, Representing ND Brewers Guild, #19133

Chairman Louser adjourned the meeting 11:20 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1449
2/14/2023

Relating to event permits for microbrew pubs, domestic wineries, domestic distilleries, and brewer taproom licensees, and the domestic farm product requirement for domestic distilleries.

Chairman Louser called to order 4:21 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Schauer, Thomas, Tveit, Wagner, Warrey.

Member absent: Representatives Wagner

Discussion Topics:

- Committee action

Representative Corey Mock, District 18, Grand Forks, Primary bill sponsor (no written testimony)

Representative Koppelman moved to amend LC #23.1034.01001.
Representative Christy seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	AB
Representative Paul J. Thomas	AB
Representative Bill Tveit	Y
Representative Scott Wagner	AB
Representative Jonathan Warrey	Y

Motion passed 11-0-3

Representative Boschee moved do pass as amended.

Representative Koppelman seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	AB
Representative Paul J. Thomas	AB
Representative Bill Tveit	Y
Representative Scott Wagner	AB
Representative Jonathan Warrey	Y

Motion passed 11-0-3

Representative Boschee will carry the bill.

Chairman Louser adjourned the meeting 4:26 PM

Diane Lillis, Committee Clerk

JA
2-14-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1449

Page 1, line 1, remove the second "subsection 2 of section"

Page 1, line 2, remove "5-01-17,"

Page 1, line 3, remove "domestic wineries,"

Page 1, line 8, remove the overstrike over "a-special"

Page 1, line 8, remove "an"

Page 1, remove lines 16 through 24

Page 2, remove lines 1 through 12

Page 3, line 7, after "issue" insert "special"

Page 4, line 3, remove the overstrike over "special"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1449: Industry, Business and Labor Committee (Rep. Louser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1449 was placed
on the Sixth order on the calendar.

Page 1, line 1, remove the second "subsection 2 of section"

Page 1, line 2, remove "5-01-17,"

Page 1, line 3, remove "domestic wineries,"

Page 1, line 8, remove the overstrike over "~~a special~~"

Page 1, line 8, remove "an"

Page 1, remove lines 16 through 24

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Page 3, line 7, after "issue" insert "special"

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Renumber accordingly

2023 SENATE FINANCE AND TAXATION

HB 1449

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1449
3/7/2023

Relating to event permits for microbrew pubs, domestic distilleries, and brewer taproom licensees, and the domestic farm product requirement for domestic distilleries.

9:50 AM Chairman Kannianen opens hearing.

Senator Present: **Kannianen, Weber, Rummel, Piepkorn, Magrum.** Senator Absent: **Patten**

Discussion Topics:

- Microbrew pub
- Brewer taproom
- 40-day requirement
- winery

9:51 AM Representative Mock introduced bill. #22419

Additional written testimony:

Scott Meske, #22524

10:10 AM Chairman Kannianen Adjourns hearing.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1449
3/8/2023

Relating to event permits for microbrew pubs, domestic distilleries, and brewer taproom licensees, and the domestic farm product requirement for domestic distilleries.

3:45 PM Senator Kannianen opened the meeting.

Senators Present: Kannianen, Weber, Patten, Rummel, Piepkorn, Magrum.

Discussion Topics:

- Committee action

3:49 PM Senator Weber moved do pass.

3:49 PM Senator Rummel seconded.

Senators	Vote
Senator Jordan Kannianen	Y
Senator Mark F. Weber	Y
Senator Jeffery J. Magrum	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Dean Rummel	Y

Motion passed 6-0-0

Senator Rummel will carry the bill.

3:50 PM Senator Kannianen closed the meeting.

Nathan Liesen, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1449, as engrossed: Finance and Taxation Committee (Sen. Kannianen, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1449 was placed on the Fourteenth order on the calendar. This bill
does not affect workforce development.

TESTIMONY

HB 1449



**Promoting and Protecting the Interests of the North
Dakota Craft Brewing Community since 2013**

February 6, 2023

Testimony in SUPPORT of House Bill 1449

Chairman Louser and Members of the Committee:

I'm Scott Meske, representing the North Dakota Brewers Guild and on behalf of the membership we respectfully ask for your support for House Bill 1449. The Code language we are requesting is a simple fix regarding event permitting for the brewpubs and taprooms who wish to participate in off-site events in their communities, and cleanup language for our North Dakota craft beverage industry.

Century Code Chapter 5-01-14 relating to Microbrew Pub Licenses and Chapter 5-01-21 relating to Brewer Taproom License allows the tax commissioner to approve up to 40 event permits per year at which licensed craft brewers may provide samples or sell their beer. The Code then goes on to attempt to define what some of what those events may be. This has caused some confusion amongst producers, and sometimes the tax commissioner's office.

Whereas, in the Century Code relating to craft wineries and distilleries in North Dakota, it merely states "up to 40 off premise events." Period. No other definitions required.

To clear up the Code, and hopefully to smooth the approval process, we are asking that the Code language in the brewpub and taproom Chapters mirror that of our fellow craft beverages in North Dakota. We are not asking for more permits, or special exemptions. This language does not permit any "work around" of the three tier system, and still requires producers to work with a local retailer and the local distributor to legally move the beer from taproom to the event.



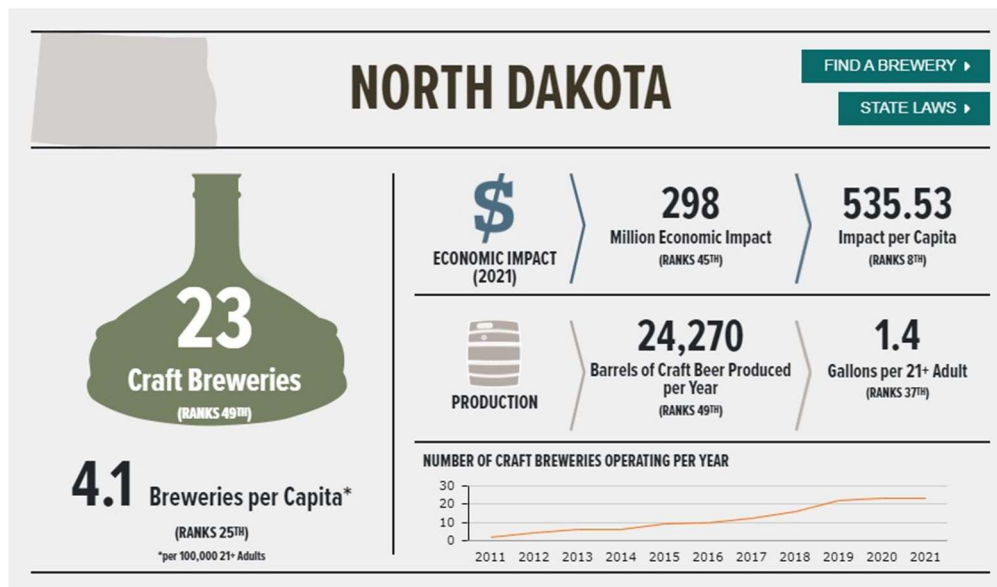
Promoting and Protecting the Interests of the North Dakota Craft Brewing Community since 2013

North Dakota has 23 licensed brewpubs and taprooms in North Dakota and we rank 49th in the nation in terms of craft beer production, despite growing the best barley and grains in the country. The craft beverage industry requires a hefty investment, strong marketing, and a commitment to producing quality products. These small businesses are a true value-added agriculture product, bringing economic development, tourism and tax revenue to the communities in which they reside.

Section 3 of the bill removes the requirement that distilleries be required to use the majority of their ingredients from North Dakota. While I do not represent the seven licensed North Dakota distilleries, we do support this proposed code language.

Cleaning up the regulatory environment, without circumventing the three-tiered regulatory system, is one way the State can support all of these small businesses.

The North Dakota Brewers Guild requests a DO PASS on HB 1449.



23.1034.01001
Title.

Prepared by the Legislative Council staff for
Representative Mock
January 25, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1449

Page 1, line 1, remove the second "subsection 2 of section"

Page 1, line 2, remove "5-01-17,"

Page 1, line 3, remove "domestic wineries,"

Page 1, line 8, remove the overstrike over "~~a special~~"

Page 1, line 8, remove "an"

Page 1, remove lines 16 through 24

Page 2, remove lines 1 through 12

Page 3, line 7, after "issue" insert "special"

Page 4, line 3, remove the overstrike over "~~special~~"

Re-number accordingly

23.1034.01001

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1449

Introduced by

Representatives Mock, Boschee, Louser, Wagner, Warrey

Senators Kessel, Larsen, Meyer

1 A BILL for an Act to amend and reenact subsection 2 of section 5-01-14, ~~subsection 2 of section~~
2 ~~5-01-17~~, section 5-01-19, and subsection 3 of section 5-01-21 of the North Dakota Century
3 Code, relating to event permits for microbrew pubs, ~~domestic wineries~~, domestic distilleries, and
4 brewer taproom licensees, and the domestic farm product requirement for domestic distilleries.

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

6 **SECTION 1. AMENDMENT.** Subsection 2 of section 5-01-14 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 2. The tax commissioner may issue a ~~special~~^{an} event permit for not more than forty
9 ~~daysevents~~ per calendar year to a microbrew licensee ~~which allows~~^{allowing} the
10 licensee, ~~subject to local ordinance~~, to give free samples of beer manufactured by the
11 licensee, sell beer manufactured by the glass or in closed containers, or dispense beer
12 manufactured by the licensee, ~~at a designated trade show, convention, festival,~~
13 ~~fundraiser, or other related special event hosted by a nonprofit organization unaffiliated~~
14 ~~with the licensee, or a similar event approved by the tax commissioner. This~~
15 ~~subsection is subject to local ordinances~~^{off-premises events}.

16 ~~**SECTION 2. AMENDMENT.** Subsection 2 of section 5-01-17 of the North Dakota Century~~
17 ~~Code is amended and reenacted as follows:~~

18 ~~2. A domestic winery may sell wine produced by that winery at on sale or off sale, in~~
19 ~~retail lots, and not for resale, and may sell or direct ship its wine to persons inside or~~
20 ~~outside of the state in a manner consistent with the laws of the place of the sale or~~
21 ~~delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters]~~
22 ~~in a calendar year; glassware; wine literature and accessories; and cheese, cheese~~
23 ~~spreads, and other snack food items. A licensee may dispense free samples of the~~
24 ~~wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be~~

1 ~~made on Sundays between eight a.m. and twelve midnight. The tax commissioner~~
2 ~~may issue special events permits an event permit for not more than forty events per~~
3 ~~calendar year to a domestic winery allowing the winery, subject to local ordinance, to~~
4 ~~give free samples of its wine and to sell its wine by the glass or in closed containers, at~~
5 ~~off-premises events. A domestic winery may not engage in any wholesaling activities.~~
6 ~~All sales and deliveries of wines to any other retail licensed premises in this state may~~
7 ~~be made only through a licensed North Dakota liquor wholesaler. For any month in~~
8 ~~which a domestic winery has made sales to a North Dakota wholesaler, that domestic~~
9 ~~winery shall file a report with the tax commissioner no later than the last day of each~~
10 ~~calendar month reporting sales made during the preceding calendar month. When the~~
11 ~~last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due~~
12 ~~date is the first working day thereafter.~~

13 **SECTION 2. AMENDMENT.** Section 5-01-19 of the North Dakota Century Code is amended
14 and reenacted as follows:

15 **5-01-19. Domestic distillery.**

- 16 1. The tax commissioner may issue a domestic distillery license to the owner or operator
17 of a distillery that is located within this state ~~which uses a majority of North Dakota~~
18 ~~farm products to manufacture and sell spirits produced on the premises.~~ A domestic
19 distillery license may be issued and renewed for an annual fee of one hundred dollars.
20 This fee is in lieu of all other license fees required by this title. The tax commissioner
21 may not issue the domestic distillery license until the applicant has established that the
22 applicant has applied for and obtained the necessary federal registrations and permits,
23 as required under the Internal Revenue Code of 1986 [26 U.S.C. 5001 et seq.] and the
24 federal Alcohol Administration Act [27 U.S.C. 203], for the operation of a distilled spirits
25 plant.
- 26 2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in
27 retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or
28 outside the state in a manner consistent with the laws of the place of the sale or
29 delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters]
30 in a calendar year. Direct sales within this state are limited to two and thirty-eight
31 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 eight a.m.
4 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 special event permits for not more than forty ~~event~~
8 ~~daysevents~~ per calendar year to a domestic distillery allowing the domestic distillery,
9 subject to local ordinance, to give free samples of its product and to sell its product by
10 the glass or in closed containers, at off-premises events. A domestic distillery may not
11 engage in any wholesaling activities. Except as provided by section 5-01-19.1, all
12 sales and deliveries of spirits to any other retail licensed premises in this state may be
13 made only through a licensed North Dakota liquor wholesaler. However, a domestic
14 distillery may sell distilled spirits to a domestic winery if the distilled spirits were
15 produced from products provided to the domestic distillery by the domestic winery. No
16 later than the last business day of a calendar month, a farm distillery that has made
17 sales to a North Dakota wholesaler during the preceding calendar month shall file a
18 report with the tax 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 domestic distillery is subject to section 5-03-06 and shall report and pay annually to
24 the tax commissioner the wholesaler taxes due on all spirits sold by the licensee at
25 retail or to a retail licensee, including all spirits shipped directly to consumers as set
26 forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due
27 January fifteenth of the year following the year sales were made. The report must
28 provide the detail and be in a format as prescribed by the tax commissioner. The tax
29 commissioner may require that the report be submitted in an electronic format
30 approved by the tax commissioner.

1 **SECTION 3. AMENDMENT.** Subsection 3 of section 5-01-21 of the North Dakota Century
2 Code is amended and reenacted as follows:

3 3. The tax commissioner may issue **special** event permits for not more than forty
4 ~~daysevents~~ per calendar year to a brewer taproom licensee allowing the licensee,
5 subject to local ordinance, to give free samples of its beer, sell its beer by the glass or
6 in closed containers, or dispense beer manufactured by the licensee, ~~at a designated~~
7 ~~trade show, convention, festival, fundraiser or other related special event hosted by a~~
8 ~~nonprofit organization unaffiliated with the brewer taproom licensee, or a similar event~~
9 ~~approved by the tax commissioner~~ off-premises events.



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

#19242



Representative Corey Mock

District 18
P.O. Box 12542
Grand Forks, ND 58208-2542
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crmock@ndlegis.gov

COMMITTEES:
Appropriations

February 6, 2023

Chairman Scott Louser and House Industry, Business and Labor Committee

North Dakota State Capitol – Room 327C

Testimony in Support of HB 1449 – Craft Beverage Policy Standardization

Chairman Louser and Member of the House IBL Committee,

Since 1991, policy makers in North Dakota have created and amended provisions related to craft beverages in all but 3 legislative sessions (1993, 1997, and 1999.)

- Domestic wineries were created in 2001, with the law honed by 12 proposals enacted over 7 different sessions.
- Domestic distilleries joined the scene in 2009 and were featured in 7 bills over 4 sessions.
- Microbrew pubs are our oldest domestic craft beverage – August 1st, 1991 is the born on date stamped on their label – and modified 5 times over as many sessions.
- Their craft cousin – brewer taprooms – was conceived a decade ago and tweaked 4 times over its years.

Our craft beverages manufacturers, despite the individuality of their products, share much in common. They source local ingredients when possible; benefit from the success of industry businesses, such as other manufacturers, wholesalers, and retailers; are destination businesses who depend on new and returning customers alike; are carefully regulated at the local, state, and federal level.

Despite those similarities (and our best efforts), we have created several legal inconsistencies that create confusion and barriers for some of our more personable small businesses.

House Bill 1449 seeks to standardize some of the more renowned and resolvable regulatory differences.

Below is a rudimentary chart intended to illustrate major distinctions between the four craft beverage license types. Standardization of domestic farm product, special events, and special event definitions (all highlighted in red) are inconsistencies addressed in HB 1449.

	Winery	Distillery	Microbrew Pubs	Brewer Taprooms
License Fee	\$100	\$100	\$100	\$500
Annual Production Limit	25,000 gallons	25,000 gallons	10,000 barrels	25,000 barrels
On Sale	Y	Y	Y	Y
Off Sale	Y	Y	5.16 gal / day	5.16 gal / day
Percent of ND Farm Product Required	n/a	51%	n/a	n/a
Special Events	40 special events	40 event days	40 days	40 days
Event Definition	Any offsite	Any offsite	show, convention, festival, fundraiser or other nonprofit event...	show, convention, festival, fundraiser or other nonprofit event...

Each change in HB 1449 seeks to modify at least one license type and make it consistent with the others. Domestic wineries have become the standard-bearer in every category; HB 1449 originally removed the word “special” from “special event permits.” After consultation with industry partners, all beverage types agreed it was best to refer to these permits as “special event permits,” as these off-premises activities are supplemental to their primary businesses.

I will be walking through the amendment attached to my testimony (23.1034.01001m).

Section 1 – Microbrew pubs

- Returns “special” to the name of their off-premise event license (existing law)
- Changes “days” to “events”
- Adds “subject to local ordinance”
- Removes ambiguous off-premise event types and replaces with “off-premises events”

Domestic wineries are included in section 2 of the original bill; adopting “special event permits” as the craft beverage standard allows any modifications to the domestic winery code to be removed from the bill altogether.

Section 2 – Domestic distillery

- Removes domestic ingredient requirement (consistent with wineries and breweries)
- Adds “special” to event permit language
- Changes “event days” to “events”

Section 3 – Brewer taproom

- Returns “special” to the name of their off-premises event license (existing law)
- Changes “days” to “events”
- Removes ambiguous off-premise event types and replaces with “off-premises events”

Clearing these small but noticeable inconsistencies should reduce the need for “tweaks” in future sessions. A welcomed change that makes the industry more predictable, stable, and enjoyable for all.



North Dakota House of Representatives

#22419

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Corey Mock

District 18
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COMMITTEES:
Appropriations

March 7, 2023

Chairman Jordan Kannianen and Senate Finance & Taxation Committee

North Dakota State Capitol – Fort Totten Room

Testimony in Support of HB 1449 – Craft Beverage Policy Standardization

Chair Kannianen and Committee Members,

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- Domestic wineries were created in 2001, with the law honed via 12 bills over 7 different sessions
- Domestic distilleries joined the scene in 2009 and were featured in 7 bills over 4 sessions
- Microbrew pubs are our oldest domestic craft beverage – August 1, 1991 is the born on date stamped on their label – and modified 5 times over as many sessions
- The cousin of microbrew pubs – brewer taprooms – was conceived a decade ago and tweaked 4 times since 2013

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Despite those similarities (and our best efforts), we have created several legal inconsistencies that have codified confusion and barriers for some of our more personable small businesses.

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Percent of ND Farm Product Required	n/a	51%	n/a	n/a
Special Events	40 special events	40 event days	40 days	40 days
Event Definition	Any offsite	Any offsite	show, convention, festival, fundraiser or other nonprofit event...	show, convention, festival, fundraiser or other nonprofit event...

Each change in HB 1449 seeks to modify at least one license type and make it consistent with the others. Domestic wineries have become the standard-bearer in every category. For this reason, no changes to domestic wineries are included in this bill.

For your convenience I will walk through the language in engrossed version of HB 1449:

Section 1 – Microbrew pubs

- Changes “days” to “events”
- Moves existing “subject to local ordinance” from the end of the subsection to the sentence related to special event permits
- Removes ambiguous event types and replaces with “off-premises events”

Section 2 – Domestic distillery

- Removes domestic ingredient requirement (consistent with wineries and breweries)
- Adds “special” to event permit language
- Changes “event days” to “events”.

Section 3 – Brewer taproom

- Changes “days” to “events”
- Removes ambiguous event types and replaces with “off-premises events”



**Promoting and Protecting the Interests of the North
Dakota Craft Brewing Community since 2013**

March 7, 2023

Testimony in SUPPORT of House Bill 1449

Chairman Kannianen and Members of the Committee:

I'm Scott Meske, representing the North Dakota Brewers Guild and on behalf of the membership we respectfully ask for your support for House Bill 1449. The Code language we are requesting is a simple fix regarding event permitting for the brewpubs and taprooms who wish to participate in off-site events in their communities, and cleanup language for our North Dakota craft beverage industry.

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Whereas, in the Century Code relating to craft wineries and distilleries in North Dakota, it merely states "up to 40 off premise events." Period. No other definitions required.

To clear up the Code, and hopefully to smooth the approval process, we are asking that the Code language in the brewpub and taproom Chapters mirror that of our fellow craft beverages in North Dakota. We are not asking for more permits, or special exemptions. This language does not permit any "work around" of the three tier system, and still requires producers to work with a local retailer and the local distributor to legally move the beer from taproom to the event.



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Cleaning up the regulatory environment, without circumventing the three-tiered regulatory system, is one way the State can support all of these small businesses.

The North Dakota Brewers Guild requests a DO PASS on HB 1449.

