

Introduced by

Senators Campbell, Kreun, Meyer, Piepkorn

Representatives Rick C. Becker, Mock

1 A BILL for an Act to amend and reenact section 5-01-14 and 5-01-21 of the North Dakota  
2 Century Code, relating to the sale and transfer of alcoholic beverages by microbrew pubs and  
3 brewer taprooms.

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

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

7 **5-01-14. Microbrew pubs - Licensing - Taxes.**

8 A microbrew pub shall obtain a brewer license and a retailer license as required under this  
9 title. A microbrew pub may manufacture on the licensed premises, store, transport, sell to  
10 wholesale malt beverage licensees, and export no more than ten thousand barrels of malt  
11 beverages annually; sell malt beverages manufactured on the licensed premises; and sell  
12 alcoholic beverages regardless of source to consumers for consumption on the microbrew pub's  
13 licensed premises. A microbrew pub may not engage in any wholesaling activities. ~~All sales and~~  
14 ~~delivery of malt beverages to any other retail licensed premises may be made only through a~~  
15 ~~wholesale malt beverage licensee, except a microbrew pub may transfer malt beverages the~~  
16 microbrew pub manufactures between microbrew pubs it owns. Beer manufactured on the  
17 licensed premises and sold by a microbrew pub directly to the consumer for consumption on or  
18 off the premises is subject to the taxes imposed pursuant to section 5-03-07, in addition to any  
19 other taxes imposed on brewers and retailers. A microbrew pub is required to file a monthly  
20 sales report with the tax commissioner by the fifteenth day of the month following the month in  
21 which the sales are made. The report must be prepared and submitted in a form and manner as  
22 prescribed by the tax commissioner. A microbrew pub is not precluded from retailing beer it  
23 purchases from a wholesaler. Complimentary samples of beer may not be in an amount  
24 exceeding sixteen ounces [.47 liter] per patron. Licenses under this section entitle the

1 microbrew pub to sell beer manufactured on the premises for off-premises consumption, in  
2 brewery-sealed containers of ~~not less than one-half gallon [1.89 liters] and not more than three-~~  
3 ~~gallons [11.36 liters]~~. This section may not be superseded under chapters 11-09.1 and 40-05.1.  
4 The tax commissioner may issue special events permits for not more than twenty events per  
5 calendar year to a microbrew pub allowing the microbrew pub, subject to local ordinance, to  
6 give free samples of its beer and to sell its beer by the glass or in closed containers, at  
7 off-premises events.

8 **SECTION 2. AMENDMENT.** Section 5-01-21 of the North Dakota Century Code is amended  
9 and reenacted as follows:

10 **5-01-21. Brewer taproom license.**

11 1. The tax commissioner may issue multiple brewer taproom licenses to the owner or  
12 operator of a brewery producing no more than twenty-five thousand barrels of malt  
13 beverages annually. A brewer with multiple taproom licenses must produce malt  
14 beverages at each location and the total amount of malt beverages produced at all  
15 locations combined may not exceed twenty-five thousand barrels of malt beverages  
16 annually. Each brewer taproom license may be issued and renewed for an annual fee  
17 of five hundred dollars, which is in lieu of all other state license fees required by this  
18 title. All provisions of this chapter which apply to a retail license must apply to a license  
19 issued under this section unless the provision is explicitly inconsistent with this  
20 section.

21 2. A brewer holding a brewer taproom license may:

- 22 a. Manufacture on the licensed premises, store, transport, sell, and export no more  
23 than twenty-five thousand barrels of malt beverages annually.
- 24 b. Sell malt beverages manufactured on the licensed premises for consumption on  
25 the premises of the brewery or a restaurant owned by the licensee and located  
26 on property contiguous to the brewery.
- 27 c. Sell beer manufactured on the licensed premises for off premises consumption in  
28 brewery-sealed containers of ~~not less than twelve ounces [.36 liters] and not~~  
29 ~~more than 5.16 gallons [19.53 liters]~~.
- 30 d. Sell and deliver beer produced by the brewery to licensed beer wholesalers.

- 1 e. Dispense free samples of beer offered for sale. Complimentary samples of beer  
2 may not be in an amount exceeding sixteen ounces [.47 liter] per patron.
- 3 f. Sell and deliver beer produced by the brewery to licensed retailers within the  
4 state, but only if:
- 5 (1) The brewer uses the brewer's own equipment, trucks, and employees to  
6 deliver the beer;
- 7 (2) Individual deliveries, other than draft beer, are limited to the case equivalent  
8 of eight barrels per day to each licensed retailer;
- 9 (3) The total amount of beer sold or delivered directly to all retailers does not  
10 exceed ten thousand barrels per year; and
- 11 (4) A common carrier is not used to ship or deliver the brewery's product to the  
12 public or to licensed retailers. All other sales and deliveries of beer to  
13 licensed retailers in this state may be made only through a wholesaler  
14 licensed in this state.
- 15 g. Transfer malt beverages the brewer manufactures between brewery taprooms  
16 the brewer owns.
- 17 3. The tax commissioner may issue special event permits for not more than twenty days  
18 per calendar year to a brewer taproom licensee allowing the licensee, subject to local  
19 ordinance, to give free samples of its beer and to sell its beer by the glass or in closed  
20 containers, at a designated trade show, convention, festival, or a similar event  
21 approved by the tax commissioner.
- 22 4. For any month in which a brewery has made sales to a wholesaler licensed in this  
23 state, that brewery shall file a report with the tax commissioner no later than the last  
24 day of each calendar month reporting sales made during the preceding calendar  
25 month. When the last day of the calendar month falls on a Saturday, Sunday, or legal  
26 holiday, the due date is the first working day after that day.
- 27 5. A brewer taproom licensee is subject to section 5-03-06 and shall report and pay  
28 annually to the tax commissioner the wholesaler taxes due on all beer sold by the  
29 licensee at retail or to a retail licensee, including all beer sold directly to consumers as  
30 set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are  
31 due January fifteenth of the year following the year sales were made. When the

- 1           fifteenth of January falls on a Saturday, Sunday, or legal holiday, the due date is the  
2           first working day after that day. The report must provide the detail and be in a format  
3           as prescribed by the tax commissioner. The tax commissioner may require the report  
4           be submitted in an electronic format approved by the tax commissioner.
- 5        6.   A brewer may have multiple taproom licenses, but may not have an ownership interest  
6           in whole or in part, or be an officer, director, agent, or employee of any other  
7           manufacturer, brewer, importer, wholesaler, or retailer, or be an affiliate thereof,  
8           whether the affiliation is corporate or by management, direction, or control.