Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019

HOUSE BILL NO. 1190
(Representatives D. Ruby, Becker, Boschee, Johnston, Kasper)
(Senators Heckaman, Hogue, Krebsbach, J. Roers)

AN ACT to amend and reenact sections 5-01-17 and 5-01-20 of the North Dakota Century Code, relating to domestic winery licenses and direct sales by licensed wineries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

5-01-17. Domestic winery license.

1. The tax commissioner may issue a domestic winery license to the owner or operator of a winery located within this state to produce wine. ~~The percentage of ingredients by volume, excluding water, of wine produced by a domestic winery which must be grown and produced in this state must be at least ten percent in the second year of licensure, twenty percent in the third year of licensure, thirty percent in the fourth year of licensure, forty percent in the fifth year of licensure, and fifty-one percent in the sixth and subsequent years of licensure. Domestic wineries may be granted an exemption from the ingredient utilization requirement whenever the state tax commissioner determines, upon the commissioner's own motion or at the request of a domestic winery, that weather conditions, pest infestations, plant disease epidemics, or other natural causes have reduced the quantity or quality of produce grown in this state to an extent that renders compliance with the ingredient utilization requirement infeasible. The exemption is effective for one year unless the tax commissioner issues a new exemption.~~ A domestic winery may purchase, at wholesale or retail, brandy for use of onpremises fortification. A domestic winery license may be issued and renewed for an annual fee of one hundred dollars, which is in lieu of all other license fees required by this title.

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. The tax commissioner may issue special events permits for not more than ~~twenty~~forty events per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at off-premises events. ~~To participate in a pride of Dakota event sponsored by the department of agriculture, a domestic winery shall obtain a special events permit. Participation by a domestic winery in a pride of Dakota event sponsored by the department of agriculture does not count against the twenty special events limitation.~~ A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

3. A domestic winery may obtain a domestic winery license and a retailer license allowing the onpremises sales of alcoholic beverages at a restaurant owned by the licensee and located on property contiguous to the winery.

4. A domestic winery may purchase wine in bulk from within and outside the state, excluding label approved containers and not to exceed four thousand gallons [15142 liters] per calendar year.

5. A domestic winery is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all wines sold by the licensee at retail, including all wines shipped directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the year following the year sales were made. When the fifteenth of January falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter. The report must provide such detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require that the report be submitted in an electronic format approved by the tax commissioner.

SECTION 2. AMENDMENT. Section 5-01-20 of the North Dakota Century Code is amended and reenacted as follows:

5-01-20. Direct sale by licensed wineries.

1. A licensed winery that produces no more than ~~fifty~~twenty-five thousand gallons [~~189271~~94635 liters] of wine per year may sell and deliver, onsite or offsite, the wine produced by the winery directly to licensed retailers. The licensed winery may sell and deliver wine onsite to a licensed retailer who presents the retailer's license or a photocopy of the license. The winery may deliver the wine offsite if the winery:

   a. Uses the winery's equipment, trucks, and employees to deliver the wine;

   b. Contracts with a licensed distributor to ship and deliver the wine to the retailer; or

   c. Contracts with a common carrier to ship and deliver the wine to the retailer directly from the winery or the winery's bonded warehouse.

2. The shipments delivered by a winery's equipment, trucks, and employees in a year may not exceed four thousand five hundred cases. A case may not exceed 2.38 gallons [9 liters].

3. Individual shipments delivered by common carrier may not exceed three cases a day for each licensed retailer. The shipments delivered by a common carrier in a year may not exceed ~~four~~three thousand five hundred cases. A case may not exceed 2.38 gallons [9 liters].

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1190.

House Vote:	Yeas 89	Nays 2	Absent 3
Senate Vote:	Yeas 25	Nays 21	Absent 1

Chief Clerk of the House

Received by the Governor at 3:39 P.M. on April 5, 2019.

Approved at 3:49 P.M. on April 8, 2019.

Governor

Filed in this office this 9th day of April, 2019,

at 9:48 o'clock A. M.

Secretary of State