



Alcohol Tax Newsletter

News and developments

A publication of the Alcoholic Beverages Section

Cory Fong
Tax Commissioner

2013 Legislative Update

House Bill 1077 Licensed Winery Direct Sales to Retailers

Effective August 1, 2013

House Bill 1077 authorizes a licensed winery (in-state or out-of-state) that produces no more than 50,000 gallons (189,271 liters) of wine a year to sell wine directly to a retailer who is licensed in North Dakota to sell alcoholic beverages. North Dakota Century Code (N.D.C.C) § 5-01-20 applies to wineries selling direct to retail.

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A winery may sell wine it produces onsite to retailers who present a copy of the retailer’s license. Wineries may also deliver wine they produced directly to retailers themselves and may contract with a common carrier with certain limitations:

- Deliver up to 4,500 cases (10,710 gallons) of wine a year with its own equipment, trucks, and employees.
 - A case of wine may not exceed 2.38 gallons (9 liters).
- Contract with a common carrier to deliver up to 4,500 cases (10,710 gallons) of wine directly to retailers from the winery or the winery’s bonded warehouse. Individual shipments to retailers by a common carrier may not exceed three cases a day for each retailer.
 - A case of wine may not exceed 2.38 gallons (9 liters).
- Contract with a licensed distributor to deliver to retailers.

In-state licensed domestic wineries will use their current calendar year domestic winery license as their winery direct to retail license and report and pay the wholesale excise tax for those sales along with other domestic winery wholesale excise taxes they owe on the revised Schedule F annual electronic report beginning with the 2013 reporting period. The revised Schedule F report and electronic filing instructions are available on our web page and the previous version of Schedule F must not be used for future reporting. Amended Schedule F reports must also be filed electronically.

Out-of-state wineries will apply for a license to sell direct to North Dakota retailers. The application for “Out-of-State Winery License to Sell Direct to North Dakota Retailers” is available on our web page under Alcohol/Forms. All out-of-state winery licenses are issued on a calendar year basis. Out-of-state wineries must electronically file a Schedule N annual report and pay the wholesale excise tax on all shipments sold direct to North Dakota retailers. Amended Schedule N reports must also be filed electronically. The Schedule N and Schedule N electronic filing instructions are available on our web page under Alcohol/Electronic Filing.


North Dakota Century Code § 5-03-06 provides for penalties for wineries who fail to timely file or failure to file returns. Any person liable for any taxes imposed by this chapter who fails to pay such tax on the date payment is due, there must be added to the tax a penalty of five percent of the



Office of
State Tax Commissioner
600 E Blvd Ave, Dept 127
Bismarck ND 58505-0599
701.328.2702
www.nd.gov/tax
alcoholtax@nd.gov
www.nd.gov

It is very important that all reports are filed electronically and are filled out and submitted correctly or they will not process.

total amount of the tax or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or tax became due. Any person failing to furnish reports when required must be assessed a penalty of one hundred dollars for each day such reports are delinquent.

Both in-state and out-of-state wineries who are licensed under N.D.C.C. § 5-01-20 will also file the electronic Schedule A monthly supplier report for all sales direct to North Dakota licensed wholesalers and should use this winery license number on the Schedule A report. If a winery currently has a separate supplier license, that supplier should contact our office and have it cancelled and notify their wholesalers of the license number change. Under N.D.C.C. § 5-03-09 if a supplier fails to file the required report, there is imposed a penalty of twenty-five dollars per month for each calendar month or fraction of a month during which the delinquency continues. 


Senate Bill 2147 amended N.D.C.C. § 5-01-16 which pertains to Direct Shippers, Logistics Shippers, and Alcohol Carriers.

Effective August 1, 2013

Senate Bill 2147 identifies persons that may sell, fill orders, and transport alcoholic beverages direct to consumers in North Dakota for personal use without using a wholesaler. The bill, which is effective August 1, 2013, defines direct shippers, alcohol carriers, and logistics shippers and prescribes the licensing requirements for each. Any alcoholic beverage sold or delivered directly to a consumer in North Dakota must be labeled and delivered according to the standards established in SB 2147. The most significant changes to the alcohol tax law under SB 2147 are as follows:

- All direct shippers, logistics shippers, and alcohol carriers **MUST** be licensed **BEFORE** shipping, or causing to be shipped, or transporting any alcoholic beverages direct to a North Dakota consumer and must ensure that the alcoholic beverages being shipped and delivered are going through licensed direct shippers, licensed logistics shippers, and licensed alcohol carriers.
- A licensed logistics shipper may provide fulfillment services and ship alcoholic beverages directly to a North Dakota consumer on behalf of a licensed direct shipper if they use a licensed alcohol carrier to deliver the product. There is a license application and a monthly report for logistics shippers on our web page. Logistics shippers must electronically file a monthly Schedule L report on forms and in the format prescribed by the Tax Commissioner. The report is due the end of the month following the month of shipment; however, if the due date falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the due date. Amended returns must also be filed electronically.
- All carriers delivering alcoholic beverages direct to consumers without first having the alcoholic beverage delivered through a licensed wholesaler must obtain an alcohol carrier license, must not transport or deliver alcohol from unlicensed direct shippers or unlicensed logistics shippers, must not deliver alcohol to underage consumers, and must report delivery information to the Tax Commissioner's office. There is a license application and a monthly report for alcohol carriers on our web page. Alcohol carriers must electronically file a monthly Schedule M report on forms and in the format prescribed by the Tax Commissioner. The report is due the end of the month following the month of shipment; however, if the due date falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the due date. Amended returns must also be filed electronically.
- North Dakota Century Code § 5-01-16(3) provides for penalties for anyone in violation of this subsection and assesses civil penalties for each shipment violation. N.D.C.C. § 5-03-06 also provides for penalties for direct shippers, logistics shippers, and alcohol carriers who fail to timely file or failure to file returns. Any person liable for any

taxes imposed by this chapter who fails to pay such tax on the date payment is due, there must be added to the tax a penalty of five percent of the total amount of the tax or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or tax became due. Any person failing to furnish reports when required must be assessed a penalty of one hundred dollars for each day such reports are delinquent.

- New direct shipping Schedule H (liquor) and Schedule G (beer) electronic reports will be placed on our web page for the 2014 filing period and MUST be used for all future reporting after 2013. For the 2013 filing period, direct shippers are to use the current Schedule H and Schedule G reports. Remember that all annual direct shipping reports are to be filed electronically on or before January 15 of the year following the year sales were made. 

Senate Bill 2284 Brewer Taproom License

Effective July 1, 2013


Senate Bill 2284 creates a new brewer taproom alcoholic beverage license effective July 1, 2013. North Dakota Century Code § 5-01-21 applies to Brewer Taproom Licenses. A brewer may hold only one taproom license. This license application is available on our web page under Alcohol/Forms, is issued on a calendar year basis for a fee of \$500, and is available to both in-state and out-of-state brewers. Some provisions of taproom activity taking place out-of-state will fall under that state's jurisdiction as N.D.C.C. § 5-01-21 only pertains to taproom activity taking place in North Dakota.

- To qualify for a brewer taproom license, the brewer may manufacture, store, transport, sell, and export no more than 25,000 barrels (775,000 gallons) of malt alcoholic beverages annually (per calendar year).
- The malt beverage manufactured on the licensed premises located in North Dakota may be sold to consumers at the brewery premises or at a restaurant owned by the licensee and located on property contiguous to the brewery. No alcoholic beverage other than the malt beverage manufactured on premises may be sold at the brewery.
- The brewer may sell the malt beverage manufactured on the licensed premises located in North Dakota for off premises consumption in brewery-sealed containers of not less than twelve ounces (.36 liters) and not more than 5.16 gallons (19.53 liters).
- The brewer may also sell the malt beverage manufactured on the licensed premises to licensed beer wholesalers. The brewer's taproom license will serve as their supplier license for this purpose. If a new taproom already has a separate supplier license, they need to contact us to close that license and contact their North Dakota wholesalers of their new brewer taproom license number.
- The brewer may dispense free samples of the malt beverage offered for sale when conducting special events or in taprooms located in North Dakota. The samples may be up to sixteen ounces per patron (.47 liter).
- The brewer may sell and deliver to licensed retailers within North Dakota malt beverage manufactured on the licensed premises. Sales may be made under the following conditions:
 - The volume of malt beverage that may be sold or delivered directly to all retailers may not exceed 10,000 barrels (310,000 gallons) a (calendar) year.
 - Individual deliveries other than draft beer are limited to the case equivalent of eight barrels (248 gallons) per day to each licensed retailer.

- The brewer must deliver with his own equipment, trucks, and employees. A common carrier may not be used to deliver to the public or licensed retailers.
- The brewer may apply to the Tax Commissioner for special event permits for special events taking place in North Dakota for up to twenty days per calendar year.
 - A special events permit authorizes the brewer, subject to local ordinance, to provide free samples of beer and to sell beer by the glass or in closed containers at a trade show, convention, festival, or similar event approved by the Tax Commissioner as a special event.
- The brewer must electronically file monthly Schedule C beer supplier's reports with the Tax Commissioner for each month it made sales to wholesalers. The Schedule C electronic report and instructions are on our web page under Alcohol/Electronic Filing and are due at the end of the month following the month sales were made. Under N.D.C.C. § 5-03-09 if a supplier fails to file the required report, there is imposed a penalty of twenty-five dollars per month for each calendar month or fraction of a month during which the delinquency continues.
- The brewer shall also electronically file an annual Schedule T report to the Tax Commissioner and remit the beer wholesale excise tax on all beer sold at retail to consumers and on all beer sales to other retailers. The electronic Schedule T report and instructions are on our web page under Alcohol/Electronic Filing and are due January 15th of the year following the year sales were made.

North Dakota Century Code § 57-39.6-02, Alcohol Beverage Gross Receipts Tax, also applies to brewer taprooms; therefore, brewer taprooms must hold a Sales and Use tax permit and collect and remit such tax on all samples and all retail sales direct to consumers.

Licensed Brewer Taprooms are subject to N.D.C.C. § 5-03-06 which provides for penalties for failure to timely file or fail to file the required returns. If a brewer taproom liable for any taxes imposed by this chapter fails to pay such tax on the date payment is due, there must be added to the tax a penalty of five percent of the total amount of the tax or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or tax became due. Any brewer taproom failing to furnish reports when required must be assessed a penalty of one hundred dollars for each day such reports are delinquent.

- A brewer may not have ownership in or be an officer, director, agent, employee, or affiliate of any other manufacturer, brewer, importer, wholesaler, or retailer. 

Contact Information:

Sales & Special Taxes Compliance Section
 Office of State Tax Commissioner
 600 E. Boulevard Ave., Dept. 127
 Bismarck, ND 58505-0599

Taxpayer Assistance: 701.328.2702
 701.328.3158
 FAX Number: 701.328.0336
 E-mail: alcoholtax@nd.gov
 Web Site Address: www.nd.gov/tax



Office of
 State Tax Commissioner
 600 E Blvd Ave, Dept 127
 Bismarck ND 58505-0599
 701.328.2702
www.nd.gov/tax
alcoholtax@nd.gov
www.nd.gov

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