

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1145

Introduced by

Representative Rick C. Becker

1 A BILL for an Act to amend and reenact section 5-01-11 and subsection 6 of section 5-01-21 of
2 the North Dakota Century Code, relating to a financial interest between alcohol retailers and
3 manufacturers.

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

5 **SECTION 1. AMENDMENT.** Section 5-01-11 of the North Dakota Century Code is amended
6 and reenacted as follows:

7 **5-01-11. Unfair competition - Penalty.**

8 A manufacturer may not have any financial interest in any wholesale alcoholic beverage
9 business. A ~~manufacturer or~~ wholesaler may not have any financial interest in any retail
10 alcoholic beverage establishment and may not furnish any such retailer with anything of value.
11 A retailer may not have any financial interest in any manufacturer, ~~supplier, or producing in~~
12 excess of two hundred fifty thousand gallons [946353 liters] of wine or distilled spirits or three
13 million gallons [11356235 liters] of beer annually or any wholesaler. The production limits in this
14 section pertain to the combined amount of production in the aggregate produced by all affiliates
15 of the manufacturer or manufacturer ownership whether the affiliation is corporate or by
16 management, direction, or control. A wholesaler may:

- 17 1. Extend normal commercial credits to retailers for industry products sold to them. The
18 state tax commissioner may determine by rule the definition of "normal commercial
19 credits" for each segment of the industry.
- 20 2. Furnish retailers with beer containers and equipment for dispensing of tap beer if the
21 expense to the wholesaler associated with the furnishing of containers, equipment,
22 and tap or coil cleaning service does not exceed one hundred fifty dollars per tap per
23 calendar year.

1 3. Furnish outside signs to retailers if the sign cost does not exceed four hundred dollars
2 exclusive of costs of erection and repair.

3 4. Furnish miscellaneous materials to retailers not to exceed one hundred dollars per
4 year. "Miscellaneous materials" not subject to this limitation include any indoor
5 point-of-sale items for retail placement. Point-of-sale items include back bar signs,
6 pool table lights, neon window signs, and items of a similar nature. The point-of-sale
7 items must be limited to five hundred dollars per retail account from the wholesaler for
8 each of the wholesaler's brewers or suppliers.

9 Any wholesaler, retailer, or manufacturer violating this section, or any rule adopted to implement
10 this section, and any retailer receiving benefits thereby, is guilty of a class A misdemeanor. A-
11 ~~microbrew pub is exempt from the provisions of this section to the extent that this section~~
12 ~~restricts the co-ownership of a manufacturer's license and a retail license for the purpose of a~~
13 ~~microbrew pub.~~

14 **SECTION 2. AMENDMENT.** Subsection 6 of section 5-01-21 of the North Dakota Century
15 Code is amended and reenacted as follows:

16 6. A brewer may have multiple taproom licenses, but may not have an ownership interest
17 in whole or in part, or be an officer, director, agent, or employee of any other
18 manufacturer, brewer, importer, or wholesaler, ~~or retailer~~, or be an affiliate thereof,
19 whether the affiliation is corporate or by management, direction, or control.