

Introduced by

Senators Hacker, Holmberg, Lyson

Representatives Dahl, Delmore, N. Johnson

1 A BILL for an Act to amend and reenact sections 5-01-08, 5-01-09, 5-02-06, and 14-10-06 of
2 the North Dakota Century Code, relating to immunity from criminal liability for consumption of
3 alcoholic beverages by an individual under twenty-one years of age and mitigating factors for
4 other individuals.

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

6 **SECTION 1. AMENDMENT.** Section 5-01-08 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **5-01-08. Persons Individuals under twenty-one years of age prohibited from**
9 **using alcoholic beverages or entering licensed premises - Penalty.**

- 10 1. Except as permitted in this section and section 5-02-06, ~~a person~~ an individual
11 under twenty-one years of age may not manufacture or attempt to manufacture,
12 purchase or attempt to purchase, consume or have recently consumed other than
13 during a religious service, be under the influence of, be in possession of, or furnish
14 money to any ~~person~~ individual for the purchase of an alcoholic beverage.
- 15 2. ~~A person~~ An individual under twenty-one years of age may not enter any licensed
16 premises where alcoholic beverages are being sold or displayed, except:
- 17 a. A restaurant if accompanied by a parent or legal guardian;
- 18 b. In accordance with section 5-02-06;
- 19 c. If the ~~person~~ individual is an independent contractor or the independent
20 contractor's employee engaged in contract work and is not engaged in selling,
21 dispensing, delivering, or consuming alcoholic beverages;
- 22 d. If the ~~person~~ individual is a law enforcement officer or other public official who
23 enters the premises in the performance of official duty; or

- 1 e. If the ~~person~~ individual enters the premises for training, education, or
2 research purposes under the supervision of ~~a person~~ an individual twenty-one
3 or more years of age with prior notification of the local licensing authority.
- 4 3. A violation of this section is a class B misdemeanor.
- 5 4. The court, under this section, may refer the ~~person~~ individual to an outpatient
6 addiction facility licensed by the department of human services for evaluation and
7 appropriate counseling or treatment.
- 8 5. The offense of consumption occurs in the county of consumption or the county
9 where the offender is arrested.
- 10 6. For purposes of this section, ~~a person~~ an individual is not twenty-one years of age
11 until eight a.m. on that ~~person's~~ individual's twenty-first birthday.
- 12 7. An individual under twenty-one years of age is immune from criminal prosecution
13 under this section if that individual contacted law enforcement or emergency
14 medical services and reported that another individual under twenty-one years of
15 age was in need of medical assistance due to alcohol consumption, provided
16 assistance to the individual in need of medical assistance until assistance arrived
17 and remained on the scene, or was the individual in need of medical assistance
18 and cooperated with medical assistance and law enforcement personnel on the
19 scene. The maximum number of individuals that may be immune for any one
20 occurrence is five individuals.

21 **SECTION 2. AMENDMENT.** Section 5-01-09 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **5-01-09. Delivery to certain persons unlawful.**

- 24 1. Any ~~person~~ individual knowingly delivering alcoholic beverages to ~~a person~~ an
25 individual under twenty-one years of age, except as allowed under section
26 5-02-06, or to a habitual drunkard, an incompetent, or an obviously intoxicated
27 ~~person~~ individual is guilty of a class A misdemeanor, subject to sections 5-01-08,
28 5-01-08.1, and 5-01-08.2.
- 29 2. An individual under twenty-one years of age is immune from criminal prosecution
30 under this section if that individual contacted law enforcement or emergency
31 medical services and reported that another individual under twenty-one years of

1 age was in need of medical assistance due to alcohol consumption, provided
2 assistance to the individual in need of medical assistance until assistance arrived
3 and remained on the scene and cooperated with medical assistance and law
4 enforcement personnel on the scene, or was the individual in need of medical
5 assistance. The maximum number of individuals that may be immune for any one
6 occurrence is five individuals.

7 3. If an individual is convicted of this section for delivering alcoholic beverages to an
8 individual under twenty-one years of age, the court shall consider the following in
9 mitigation:

10 a. After consuming the alcohol, the underage individual was in need of medical
11 assistance as a result of consuming alcohol; and

12 b. Within twelve hours after the underage individual consumed the alcohol, the
13 defendant contacted law enforcement or emergency medical personnel to
14 report that the underage individual was in need of medical assistance as a
15 result of consuming alcohol.

16 **SECTION 3. AMENDMENT.** Section 5-02-06 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **5-02-06. Prohibitions for ~~persons~~ individuals under twenty-one years of age -**
19 **Penalty - Exceptions.**

20 1. Except as permitted in this section, a licensee who dispenses alcoholic beverages
21 to ~~a person~~ an individual under twenty-one years of age, or who permits ~~a person~~
22 an individual under twenty-one years of age to remain on the licensed premises
23 while alcoholic beverages are being sold or displayed, is guilty of a class A
24 misdemeanor, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2.

25 2. ~~A person~~ An individual under twenty-one years of age may not remain in a
26 restaurant where alcoholic beverages are being sold except if the restaurant is
27 separated from the room in which alcoholic beverages are opened or mixed and
28 gross sales of food are at least equal to gross sales of alcoholic beverages which
29 are consumed in the dining area, or if the ~~person~~ individual is employed by the
30 restaurant as a food waiter, food waitress, busboy, or busgirl under the direct

- 1 supervision of ~~a person~~ an individual twenty-one or more years of age and is not
2 engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.
- 3 3. ~~A person~~ An individual under twenty-one years of age may enter and remain on
4 the licensed premises if the ~~person~~ individual is an independent contractor or the
5 independent contractor's employee engaged in contract work and is not engaged
6 in selling, dispensing, delivering, or consuming alcoholic beverages; if the ~~person~~
7 individual is a law enforcement officer or other public official who enters the
8 premises in the performance of official duty; or if the ~~person~~ individual enters the
9 licensed premises for training, education, or research purposes under the
10 supervision of ~~a person~~ an individual twenty-one or more years of age with prior
11 notification of the local licensing authority.
- 12 4. ~~A person~~ An individual under twenty-one years of age may remain in an area of a
13 site where beer, wine, or sparkling wine is sold in accordance with the conditions
14 of an event permit issued pursuant to section 5-02-01.1.
- 15 5. ~~A person~~ An individual who is nineteen years of age or older but under twenty-one
16 years of age may be employed by a restaurant as provided in subsection 2 to
17 serve and collect money for alcoholic beverages, if the ~~person~~ individual is under
18 the direct supervision of ~~a person~~ an individual twenty-one or more years of age,
19 but may not be engaged in mixing, dispensing, or consuming alcoholic beverages.
20 Any establishment where alcoholic beverages are sold may employ ~~persons~~
21 individuals from eighteen to twenty-one years of age to work in the capacity of
22 musicians under the direct supervision of ~~a person~~ an individual twenty-one or
23 more years of age.
- 24 6. For purposes of this section, ~~a person~~ an individual is not twenty-one years of age
25 until eight a.m. on that ~~person's~~ individual's twenty-first birthday.
- 26 7. If an individual is convicted of this section, the court shall consider the following in
27 mitigation:
- 28 a. After consuming the alcohol, the underage individual was in need of medical
29 assistance as a result of consuming alcohol; and
- 30 b. Within twelve hours after the underage individual consumed the alcohol, the
31 defendant contacted law enforcement or emergency medical personnel to

1 report that the underage individual was in need of medical assistance as a
2 result of consuming alcohol.

3 **SECTION 4. AMENDMENT.** Section 14-10-06 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **14-10-06. Unlawful to encourage or contribute to the deprivation or delinquency**
6 **of minor - Penalty.**

7 1. Any ~~person~~ individual who by any act willfully encourages, causes, or contributes
8 to the delinquency or deprivation of any minor is guilty of a class A misdemeanor.

9 2. Any ~~person~~ individual who by any act willfully encourages, causes, or contributes
10 to the deprivation of a child less than sixteen years of age by causing that child to
11 engage in sexual conduct as defined under section 12.1-27.2-01, in any play,
12 motion picture, photograph, dance, or other visual representation is guilty of a
13 class C felony.

14 3. If an individual is convicted of this section for encouraging, causing, or contributing
15 to the consumption or possession of alcoholic beverages by an individual under
16 twenty-one years of age, the court shall consider the following in mitigation:

17 a. After consuming the alcohol, the underage individual was in need of medical
18 assistance as a result of consuming alcohol; and

19 b. Within twelve hours after the underage individual consumed the alcohol, the
20 defendant contacted law enforcement or emergency medical personnel to
21 report that the underage individual was in need of medical assistance as a
22 result of consuming alcohol.