

**SENATE BILL NO. 2204**

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. Persens 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 called 911 and reported that another individual  
14 under twenty-one years of age was in need of medical assistance due to alcohol  
15 consumption or provided assistance to the individual in need of medical assistance  
16 until assistance arrived and remained on the scene and cooperated with medical  
17 assistance and law enforcement personnel on the scene. The maximum number of  
18 individuals that may be immune for any one occurrence is five individuals.

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

21 **5-01-09. Delivery to certain persons unlawful.**

- 22 1. Any ~~person~~ individual knowingly delivering alcoholic beverages to ~~a person~~ an  
23 individual under twenty-one years of age, except as allowed under section 5-02-06,  
24 or to a habitual drunkard, an incompetent, or an obviously intoxicated ~~person~~  
25 individual is guilty of a class A misdemeanor, subject to sections 5-01-08,  
26 5-01-08.1, and 5-01-08.2.
- 27 2. An individual under twenty-one years of age is immune from criminal prosecution  
28 under this section if that individual called 911 and reported that another individual  
29 under twenty-one years of age was in need of medical assistance due to alcohol  
30 consumption or provided assistance to the individual in need of medical assistance  
31 until assistance arrived and remained on the scene and cooperated with medical

- 1           assistance and law enforcement personnel on the scene. The maximum number  
2           of individuals that may be immune for any one occurrence is five individuals.  
3           3. If an individual is convicted of this section for delivering alcoholic beverages to an  
4           individual under twenty-one years of age, the court shall consider the following in  
5           mitigation:  
6           a. After consuming the alcohol, the underage individual was in need of medical  
7           assistance as a result of consuming alcohol; and  
8           b. Within twelve hours after the underage individual consumed the alcohol, the  
9           defendant contacted the police or emergency medical personnel to report that  
10           the underage individual was in need of medical assistance as a result of  
11           consuming alcohol.

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

14           **5-02-06. Prohibitions for ~~persons~~ individuals under twenty-one years of age -**  
15 **Penalty - Exceptions.**

- 16           1. Except as permitted in this section, a licensee who dispenses alcoholic beverages  
17           to ~~a person~~ an individual under twenty-one years of age, or who permits ~~a person~~  
18           an individual under twenty-one years of age to remain on the licensed premises  
19           while alcoholic beverages are being sold or displayed, is guilty of a class A  
20           misdemeanor, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2.  
21           2. ~~A person~~ An individual under twenty-one years of age may not remain in a  
22           restaurant where alcoholic beverages are being sold except if the restaurant is  
23           separated from the room in which alcoholic beverages are opened or mixed and  
24           gross sales of food are at least equal to gross sales of alcoholic beverages which  
25           are consumed in the dining area, or if the ~~person~~ individual is employed by the  
26           restaurant as a food waiter, food waitress, busboy, or busgirl under the direct  
27           supervision of ~~a person~~ an individual twenty-one or more years of age and is not  
28           engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.  
29           3. ~~A person~~ An individual under twenty-one years of age may enter and remain on  
30           the licensed premises if the ~~person~~ individual is an independent contractor or the  
31           independent contractor's employee engaged in contract work and is not engaged

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

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

1           **14-10-06. Unlawful to encourage or contribute to the deprivation or delinquency**  
2 **of minor - Penalty.**

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

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

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

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

15          b. Within twelve hours after the underage individual consumed the alcohol, the  
16 defendant contacted the police or emergency medical personnel to report that  
17 the underage individual was in need of medical assistance as a result of  
18 consuming alcohol.