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Sixty-third
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1458

Introduced by

Representatives Damschen, Heilman, Owens, Sukut

Senator Andrist

A BILL for an Act to amend and reenact sections 5-01-08.1 and 5-01-09 of the North Dakota Century Code, relating to the penalty for delivery of alcohol to an underage individual; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-08.1 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08.1. Misrepresentation of age - Penalty - Licensee may keep book.

~~Any person~~An individual who misrepresents or misstates that ~~person's~~individual's age or the age of ~~any other person~~another individual or who misrepresents that ~~person's~~individual's age through presentation of any document purporting to show that ~~person~~individual to be of legal age to purchase alcoholic beverages is guilty of a class B misdemeanor for a first offense. For a first offense, the court shall sentence the individual to a minimum fine of five hundred dollars and forty hours community service. For a second offense, the individual is guilty of a class A misdemeanor. For a second offense, the court shall sentence the individual to a minimum fine of one thousand dollars and eighty hours community service. For a third offense, the individual is guilty of a class C felony. Any licensee may keep a book and may require anyone who has shown documentary proof of that ~~person's~~individual's age, which substantiates that ~~person's~~individual's age to allow the purchase of alcoholic beverages, to sign the book if the age of that ~~person~~individual is in question. The book must show the date of the purchase, the identification used in making the purchase and the appropriate numbers of such identification, the address of the purchaser, and the purchaser's signature.

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

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

1. Any individual who knowingly ~~delivering~~purchases for or delivers alcoholic beverages to an individual under twenty-one years of age if the violator is under twenty-one years of age, except as allowed under section 5-02-06, or delivers to a habitual drunkard, an incompetent, or an obviously intoxicated individual is guilty of a class A misdemeanor, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2. An individual twenty-one years of age or older who knowingly purchases for or delivers alcoholic beverages to an individual under twenty-one years of age is guilty of a class A misdemeanor for a first offense or second offense, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2. For a first offense, the court shall sentence the individual to a minimum fine of five hundred dollars and forty hours community service. For a second offense, the court shall sentence the individual to a minimum fine of one thousand dollars and eighty hours community service. For a third offense, the individual is guilty of a class C felony, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2.
2. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene and cooperated with medical assistance and law enforcement personnel on the scene, or was the individual in need of medical assistance. The maximum number of individuals that may be immune for any one occurrence is five individuals.
3. If an individual is convicted of this section for delivering alcoholic beverages to an individual under twenty-one years of age, the court shall consider the following in mitigation:
   a. After consuming the alcohol, the underage individual was in need of medical assistance as a result of consuming alcohol; and
   b. Within twelve hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that the underage individual was in need of medical assistance as a result of consuming alcohol.