

Introduced by

Senators Piepkorn, Heckaman, Mathern

Representatives P. Anderson, Dobervich, Mitskog

1 A BILL for an Act to create and enact chapter 5-05 of the North Dakota Century Code, relating
2 to a responsible alcoholic beverage server training program; to amend and reenact sections
3 5-01-06.1 and 5-02-10.1 of the North Dakota Century Code, relating to alcohol server training;
4 and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 5-01-06.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **5-01-06.1. Claim for relief for fault resulting from intoxication.**

- 9 1. Every ~~A~~ spouse, child, parent, guardian, employer, or any other individual who is
10 injured by anyan obviously intoxicated individual has a claim for relief for fault under
11 section 32-03.2-02 against any person who knowingly disposes, sells, barter, or gives
12 away alcoholic beverages to an individual under twenty-one years of age or to an
13 incompetent or an obviously intoxicated individual, and if death ensues, the survivors
14 of the decedent are entitled to damages as defined in section 32-21-02. If a retail
15 licensee is found liable under this section and exemplary damages are sought, the
16 finder of fact may consider as a mitigating factor that the licensee provided to an
17 employee ~~at least~~ responsible alcoholic beverage server training that addressed
18 intoxication, drunk driving, and underage drinking.
- 19 2. If a retail licensee provided to an employee ~~at least~~ responsible alcoholic beverage
20 server training ~~that~~ in accordance with chapter 5-05 which addresses intoxication,
21 drunk driving, and underage drinking, a person with a claim for relief under this section
22 may not use the fact that the retail licensee provided this training to prove culpability.
- 23 3. A claim for relief under this section may not be had on behalf of the intoxicated
24 individual nor on behalf of the intoxicated individual's estate or personal

1 representatives, nor may a claim for relief be had on behalf of an adult passenger in
2 an automobile driven by an intoxicated individual or on behalf of the passenger's
3 estate or personal representatives.

4 **SECTION 2. AMENDMENT.** Section 5-02-10.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **05-02-10.1. Violations - ~~Alcohol~~Responsible alcoholic beverage server training.**

7 For a first violation taken against ~~the~~a retail licensee by a licensing authority for serving
8 alcoholic beverages, the licensing authority shall accept as a mitigating factor the retail licensee
9 provided to the licensee's employees ~~alcohol~~responsible alcoholic beverage server training
10 ~~that~~in accordance with chapter 5-05 which addressed intoxication, drunk driving, and underage
11 drinking, as approved by the licensing authority. Under this section, a mitigating factor must
12 result in a lesser punishment than the retail licensee would have received if not for the
13 mitigating factor.

14 **SECTION 3.** Chapter 5-05 of the North Dakota Century Code is created and enacted as
15 follows:

16 **5-05-01. Definitions - Responsible alcoholic beverage training program -**
17 **Implementation.**

- 18 1. As used in this chapter, "employee" means an individual who has been employed by a
19 licensee licensed under chapter 5-02 for at least ninety days and who works in a
20 licensed establishment.
- 21 2. The attorney general shall approve training courses and materials with respect to the
22 implementation of a mandatory responsible alcoholic beverage server training
23 program in the state.
- 24 3. The attorney general and local licensing authority may not grant new licenses or
25 renew valid licenses unless the licensee is certified in accordance with this chapter
26 within thirty days of the granting or renewal of the license.

27 **5-05-02. Applicability.**

28 A person that holds or makes application for a license or for renewal of a valid license
29 issued by the attorney general pursuant to chapter 5-02, which authorizes the sale of alcoholic
30 beverages, as part of the application process, shall certify to the attorney general that the
31 applicant's employees who, as part of the employees' responsibilities, sell, prepare, dispense,

1 serve, or otherwise deliver alcoholic beverages directly to patrons of the licensed establishment,
2 or who manage employees who perform those functions, have successfully completed a
3 responsible alcoholic beverage server training program recognized and approved by the
4 attorney general in accordance with this chapter. An applicant who participates directly in the
5 management of the licensed establishment also is required to successfully complete a
6 responsible alcoholic beverage server training program recognized and approved by the
7 attorney general.

8 **5-05-03. Training standards and curriculum.**

- 9 1. To be recognized and approved by the attorney general, a responsible alcoholic
10 beverage server training program must include information on the following:
11 a. Alcohol as a drug and alcohol's effects on the body and behavior;
12 b. Applicable state and local laws and attorney general or local licensing authority
13 rules;
14 c. Laws related to drinking and driving;
15 d. Intervention techniques, involving methods of dealing with the problem customer
16 who has had, or is approaching the point of having, consumed too much alcohol;
17 and
18 e. Carding procedures and importance of not selling or serving alcohol to an
19 individual under twenty-one years of age.
- 20 2. The attorney general may provide additional training standards and curricula to be
21 included within any responsible alcoholic beverage server training program as a
22 condition for recognition and approval.
- 23 3. An individual required to undergo training in accordance with this chapter, who has
24 within the previous three years successfully completed a responsible alcoholic
25 beverage server training program that satisfies the requirements of the attorney
26 general, and is approved by the attorney general, is not required to undertake
27 additional training until the time the person is required to undergo renewal training in
28 accordance with section 5-05-04.

29 **5-05-04. Certification and renewal training.**

30 An individual who successfully completes an approved responsible alcoholic beverage
31 server training program must be certified by the instructor as having met the requirements of

1 this chapter. The course must be approved by the attorney general. The instructor shall provide
2 the names of the individuals who successfully complete the approved class, as well as any
3 additional information that is required, to the attorney general and the local licensing authority.
4 The certification is valid for three years at which time the individual must undergo renewal
5 training to retain certification that also is valid for three years. Renewal training must include the
6 information described in section 5-05-03 and any additional information as the attorney general
7 may require by rule.

8 **5-05-05. Violations - Penalties.**

- 9 1. The attorney general or local licensing authority may reprimand or impose an
10 administrative fine against any licensee that violates any provision of this chapter or
11 any rule adopted by the attorney general pursuant to this chapter.
12 2. The attorney general or local licensing authority may preclude an employee of a
13 licensee who fails to comply with the applicable training requirements contained in this
14 chapter or any rule adopted by the attorney general pursuant to this chapter from
15 working in any capacity in a licensed establishment until proof is provided the
16 employee has successfully completed the required training.

17 **5-05-06. Enforcement.**

18 The attorney general and local licensing authority is responsible for enforcing this chapter.