

HOUSE BILL NO. 1375

Introduced by

Representatives Koppelman, D. Ruby, Grueneich, Headland, Kasper, Schatz, Steiner, Vetter
Senators Magrum, Paulson

1 A BILL for an Act to create and enact two new sections to chapter 5-02 of the North Dakota
2 Century Code, relating to a licensed premises serving alcohol, compliance checks, and failure
3 to furnish a photo identification; to amend and reenact section 5-02-10 of the North Dakota
4 Century Code, relating to the time frame to file a complaint against a licensed retailer of
5 alcoholic beverages; and to provide a penalty.

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

7 **SECTION 1.** A new section to chapter 5-02 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Licensed premises compliance check and random inquiry or investigation to detect**
10 **illegal activity - Alcohol server training - Limitations.**

- 11 1. A local governing body may conduct two compliance checks per month per licensed
12 premises.
- 13 2. Without permission from an establishment owner subject to this section, a local
14 governing body or a law enforcement agency may not exceed the compliance check
15 limitation under subsection 1 or conduct a random inquiry or investigation to detect
16 illegal activity within the establishment unless the governing body receives evidence
17 from an identified source and the evidence establishes reasonable and articulable
18 suspicion that a violation of this title or an equivalent ordinance has occurred.
- 19 3. An ordinance enacted or adopted by a local governing body, including an ordinance
20 enacted or adopted under a home rule charter, which conflicts with this section is void.

21 **SECTION 2.** A new section to chapter 5-02 of the North Dakota Century Code is created
22 and enacted as follows:

1 **Evidence of an individual under twenty-one years of age in a licensed premises -**

2 **Proof of identification - Refusal - Penalty.**

- 3 1. If a peace officer has reasonable and articulable suspicion that an individual under the
4 age of twenty-one is in a licensed premises for a purpose prohibited under section
5 5-02-06, the peace officer may request the individual to furnish a nondriver photo
6 identification card or an operator's license to verify the individual's age.
- 7 2. An individual who fails to provide proof of identification upon request is guilty of an
8 infraction.
- 9 3. If an individual charged with an infraction under this section produces a nondriver
10 photo identification card or an operator's license before the final disposition of the
11 infraction establishing the individual was twenty-one years of age or older at the time
12 of the peace officer's request to furnish identification, the prosecuting attorney shall
13 dismiss the infraction against the individual.

14 **SECTION 3. AMENDMENT.** Section 5-02-10 of the North Dakota Century Code is amended
15 and reenacted as follows:

16 **5-02-10. Hearing on alleged violations.**

17 Any

- 18 1. If a person ~~having~~has information that a licensed retailer of alcoholic beverages has
19 violated any ~~provisions~~provision of this title, the person may file with the attorney
20 general, city attorney, or state's attorney an affidavit specifically ~~setting forth~~
21 ~~such~~explaining the violation within fourteen days of the date of the alleged violation.
22 Upon receipt of such
- 23 2. If a person timely files an affidavit under subsection 1, the city attorney or state's
24 attorney shall set the matter for hearing not later than the next regular meeting of the
25 local governing body or forward ~~such~~the affidavit to the attorney general. Upon receipt-
26 of any such
- 27 3. If a person timely files an affidavit under subsection 1, the attorney general shall set
28 the matter for hearing in the local county courthouse not less than ten days after
29 copies of the affidavit and notice of hearing have been mailed to the licensee by
30 registered mail.

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- 1 4. If the hearing is held by the local governing body, a copy of ~~this~~the affidavit and notice
2 of hearing must be mailed to the licensee by registered mail not less than five days
3 before ~~such~~the hearing.
- 4 5. ~~A record of such hearings will be made~~hearing conducted under this section must be
5 recorded by stenographic notes or the use of an electronic recording device.