

ALCOHOLIC BEVERAGES

CHAPTER 99

SENATE BILL NO. 2242

(Anderson, Lips, Sanstead, Goldberg, Coughlin)

PROHIBITING PRESENCE OF MINORS - EXCEPTION

AN ACT to amend and reenact sections 5-01-08 and 5-02-06 of the North Dakota Century Code, relating to the employment of persons under twenty-one years of age in restaurants where alcoholic beverages are sold.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 5-01-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-08. PERSONS LESS THAN TWENTY-ONE YEARS PROHIBITED - EXCEPTIONS.) Any person under twenty-one years of age purchasing, attempting to purchase, or being in possession of alcoholic beverages, or furnishing money to any person for such purchase, or entering any licensed premises where such beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian, or in accordance with section 5-02-06, is guilty of a misdemeanor.

SECTION 2. AMENDMENT.) Section 5-02-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 5-02-06. PERSONS UNDER TWENTY-ONE YEARS PROHIBITED - PENALTY - EXCEPTIONS.) Any licensee who disposes alcoholic beverages to a person under twenty-one years of age or who permits such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed is guilty of a misdemeanor. Any person under twenty-one years of age may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian, or if employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an adult, and not engaged in the sale, disposition, delivery, or consumption of alcoholic beverages.

*NOTE: Section 5-02-06 was also amended by section 4 of 1971 S.L., chapter 100.

Approved March 11, 1971

CHAPTER 100

HOUSE BILL NO. 1290
(Hentges, Backes, Olienyk)

MINORS MISREPRESENTING AGE

AN ACT to create and enact sections 5-01-08.1 and 5-01-08.2 of the North Dakota Century Code, and to amend and reenact sections 5-01-09 and 5-02-06 of the North Dakota Century Code, relating to misrepresentation of age in procuring alcoholic beverages.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Section 5-01-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

5-01-08.1. MISREPRESENTATION OF AGE - PENALTY - OBLIGATIONS OF LICENSEE.) Any person who shall misrepresent or misstate his age or the age of any other person, or shall misrepresent his age through presentation of any document purporting to show such person to be of legal age to purchase alcoholic beverages shall be guilty of a misdemeanor. Every licensee shall be required to keep a book which such licensee and his employees shall require anyone who has shown documentary proof of his age, which substantiates his age to allow the purchase of alcoholic beverages, to sign such book if the age of such person is in question. Such book shall 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 his signature.

SECTION 2.) Section 5-01-08.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

5-01-08.2. PRESUMPTION OF LICENSEE'S INNOCENCE WHEN CERTAIN FACTS ESTABLISHED.) The establishment of the following facts by a person making a sale of alcoholic beverages to a person not of legal age shall constitute prima facie evidence of innocence and a defense to any prosecution therefor:

1. That the purchaser falsely represented in writing, and supported with other documentary proof, that he was of legal age to purchase alcoholic beverages.
2. That the appearance of such purchaser was such that an ordinary and prudent person would believe him to be of legal age to purchase alcoholic beverages.

3. That the sale was made in good faith and in reliance upon the written representation and appearance of the purchaser in the belief that the purchaser was of legal age to purchase alcoholic beverages.

SECTION 3. AMENDMENT.) Section 5-01-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-09. DELIVERY TO CERTAIN PERSONS UNLAWFUL.) Any person delivering alcoholic beverages to a person under twenty-one years of age, an habitual drunkard, an incompetent, or an intoxicated person is guilty of a misdemeanor, subject to the provisions of sections 5-01-08, 5-01-08.1, and 5-01-08.2.

SECTION 4. AMENDMENT.) Section 5-02-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 5-02-06. PERSONS UNDER TWENTY-ONE YEARS PROHIBITED - PENALTY - EXCEPTION.) Any licensee who disposes alcoholic beverages to a person under twenty-one years of age or who permits such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed is guilty of a misdemeanor, subject to the provisions of sections 5-01-08, 5-01-08.1, and 5-01-08.2. Any person under twenty-one years of age may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian.

*NOTE: Section 5-02-06 was also amended by section 2 of 1971 S.L., chapter 99.

Approved March 12, 1971

CHAPTER 101

HOUSE BILL NO. 1158
(Gackle, Dotzenrod, L. Larson)

SALES OF CERTAIN ITEMS
ON LICENSED PREMISES

AN ACT to amend and reenact section 5-02-07 of the North Dakota Century Code, relating to the sale of items other than alcoholic beverages on licensed premises.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 5-02-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-07. SALE OF OTHER ITEMS RESTRICTED - PENALTY.) Any licensee selling any item on the licensed premises other than alcoholic beverages, soft drinks, tobacco products, drink mixing supplies, prepackaged preserved sandwiches or pizzas approved by the state laboratories department, which shall be delivered to the purchaser with the packaging intact, dry-packaged preserved snacks, and preserved pickled products served to the purchaser from the original container, is guilty of a misdemeanor, except a licensee may sell alcoholic beverages in a restaurant separated from the room in which alcoholic beverages are opened or mixed if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, and except that anyone who operates a restaurant in conjunction with his license under this chapter, may serve food in the licensed premises. A local governing body, by ordinance or resolution, may restrict the sale of any of the items set forth in this section, or may determine the hours during which such items may be sold.

Approved March 18, 1971