

1999 SENATE INDUSTRY, BUSINESS AND LABOR  
SB 2405


1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2405

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 1, 1999

Tape Number	Side A	Side B	Meter #
2	x		1020-2405
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on SB2405. All senators were present.

Senator Grindberg introduced SB2405. Senator Klein stated that what this bill essentially does is allow the beer man. Senator Grindberg told him that he was exactly correct. Senator Krebsbach asked him if this would be at restricted events or at all events.

Senator Flakkol testified in support of SB2405. He said that all this bill will do is change the way that the bill gets to the seat, not if it gets to the seat.

Senator Mutch closed the hearing on SB2405.

Committee discussion took place on February 10, 1999.

Senator Heitkamp motioned to amend the bill and add an emergency clause to the bill. Senator Krebsbach seconded his motion. The motion carried with a 7-0-0 vote.

Senator Heitkamp motioned for a do pass with amendments committee recommendation on SB2405. Senator Krebsbach seconded his motion. The motion carried with a 7-0-0 vote.

Senator Heitkamp will carry the bill.

Date: 2/10/99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
S BILL/RESOLUTION NO. 2405

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken TO AMEND & MAKE AN EMERGENCY CLAUSE

Motion Made By HEITKAMP Seconded By KREBSBACH

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

Date: 2/10/99  
 Roll Call Vote #: 2 SR292660

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**S BILL/RESOLUTION NO. 2405**

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS AS AMENDED

Motion Made By HEITKAMP Seconded By KREBSBACH

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment HEITKAMP

**REPORT OF STANDING COMMITTEE**

**SB 2405: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2405 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections 5-02-01.1 and"

Page 1, line 2, after "beverages" insert "; and to declare an emergency"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 5-02-01.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**5-02-01.1. Event permit authorized - Penalty.**

1. The local governing body may by permit authorize a qualified alcoholic beverage licensee licensed under this chapter to engage in the sale of alcoholic beverages at events designated by the permit. For purposes of this section, "qualified alcoholic beverage licensee" means a licensee in a city that imposed a city lodging and restaurant tax on July 31, 1993, who paid such tax and who continues to pay any such tax imposed by the city or a licensee in a county or a licensee in a city that did not impose a city lodging and restaurant tax on July 31, 1993. A fee for the local permit may be set by ordinance or resolution at not more than twenty-five dollars. The permit may not be valid for a period greater than fourteen days, and may include Sundays. The local governing body may establish rules to regulate and restrict the operation of an event permit. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or the conditions of a permit is guilty of a class B misdemeanor.
2. The local governing body may authorize persons under twenty-one years of age to remain in the area of the event, or a portion thereof, where beer, wine, or sparkling wine may be sold pursuant to the permit. However, this authorization must be subject to the following minimum conditions:
  - a. The area where persons under twenty-one years of age may remain must be specifically set forth in the permit;
  - b. Only employees of the qualified alcoholic beverage licensee who are at least twenty-one years of age may deliver and sell the beer, wine, or sparkling wine;
  - c. Subject to section 5-02-06, the area where persons under twenty-one years of age may remain may not be the qualified alcoholic beverage licensee's fixed or permanent licensed premises as shown on the state and local governing body's alcoholic beverage license issued pursuant to section 5-02-01; and
  - d. No person under twenty-one years of age within the area described in the permit may consume, possess, or receive alcoholic beverages."

Page 1, line 19, replace "if in that area beer, wine, or sparkling wine" with "in accordance with the conditions of an event permit issued pursuant to section 5-02-01.1"

Page 1, remove line 20

Page 1, line 21, remove "container containing twenty-four fluid ounces [.71 liters] or less"

Page 2, after line 3, insert:

**"SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

1999 HOUSE POLITICAL SUBDIVISIONS

SB 2405



1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2405

House Political Subdivisions Committee

Conference Committee

Hearing Date 3-5-99

Tape Number	Side A	Side B	Meter #
1	x		57.1--58.9
1		x	0.3--45.0
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: BILL SUMMARY: Relating to the sale of alcoholic beverages; and to declare an emergency. Chairman Froseth called the hearing to order with all committee members present except Rep. Gunter.

Sen. Tony Grindberg, Dist. 41, Fargo : 57.2 testified in support of this bill. It's a simple little bill that was amended in the senate to allow local political subdivisions the authority to grant permission to various events and sporting facilities to sell beer in trays up and down the aisles. The Attorney General's Office worked hard to make this available at local subdivisions.

Rep. Severson : 57.5 This is designed just for those areas where a sporting event is going on or restaurant is this right?

Sen. Grindberg : Sporting events. Civic Center in Bismarck, if they wanted to, for a Garth Brooks concert, etc.

Vice Chair Maragos : I have an example. The Dome is on state property. Is there another place in statute where the consumption of alcoholic beverages on state property or in state buildings is illegal?

Sen. Grindberg : I believe someone is here from attorney general's office who can answer better. I do know that at state events, like NDSU events at the Dome, alcohol is prohibited. Rolling Stones concert there is beer sold.

Sen. Tim Flakoll, Dist 44, Fargo : 0.3-5.4 testified in support of this bill. The AG Office worked very hard on this bill. (See attached testimony) It's permissive language.

Rep. Eckre : Do the Red Hawks get a percent of sales of alcohol or do they own the distribution of sale of alcohol?

Sen. Flakoll : We own it. We have our own liquor license. We make the most money on it. The people who get the taxes are second in making the most money.

Rep. Delmore : I'm glad it's a local decision. I want to know what additional monitoring you will do. Will you need people to check I.D.?

Sen. Flakoll : People will still have to be carded, if there is any question what so ever.

Rep. Niemeier : 7.3 I see reference to certain areas in these provisions. Does this mean that the persons under 21 are going to be in a separate area?

Sen. Flakoll : Mr. Bennett will address that, but to my understanding, no, will not be separate.

Rep. Niemeier : A person under 21 can sit anywhere.

Sen. Flakoll : Exactly.

Rep. B. Thoreson : 8.1 If the person selling the beer in the stands, has a customer who is intoxicated, can that seller refuse to sell? Or will they contact someone else?

Sen. Flakoll : As would be our practice, we say we need to tell security to watch e.g. section 5, aisle 8, seat 3 in row M. If we think there is a problem at all, security will escort them out.

Bob Bennett, Attorney Generals Office : 8.9 testified as neutral party. I was drafted to do some amendments. We generally get all the calls in our office concerning liquor laws, so we wanted to be involved from the start. We have law enforcement concerns on how it will be enforced. Then we have citizens concerns whether or not this activity should be taking place. We have city and county concerns as to what authority they have. And we have concerns from the licensee as to what they can do to engage in this activity. Because of all the competing concerns, we sat down to work on amendments to address all concerns. I think we have made this a workable bill.

Now, it's up to you. Let me explain about section 5-02-01.1. This is a special event permit, which has been in statute for several years. This allows those with a state or local liquor license to go off their sight and sell alcoholic beverages. Generally, when someone gets a liquor license, they submit the application to state and to the city or county where ever the establishment is.

They have to put a diagram or blueprint to what their license premises are. This is what we license in the city and county as shown in the diagram that comes with the application. The areas not in the diagram, are for under 21. If you have a licensed premises for alcohol, under 21 year olds can't be in that area as presented by the diagram. e.g. Grizzle's at the Kirkwood Mall has two entrances. The outside door goes into the bar and the inside door goes into the restaurant area. If I have someone under 21 with me, we have to go in through the inside door. Another e.g. is with community festivals and a bar sets up a beer tent. This is done under the special events permit. It is left up to local control, since not all cities may grant certain event permits. This bill would include golf courses, when a beer cart can go out to where golfers are playing. This may

be illegal now, and they are doing it. Rodeos, car races, etc. this is getting to be a big deal in the stands. Right now, if we have a wedding banquet, it may not allow the licensee to deliver alcohol to the family table. With this bill, they may deliver it, if the city or county authorizes this.

Chairman Froseth : For each event, do they have to get a new written authorization?

Mr. Bennett : That's correct. It's like a special event permit.

Rep. Koppelman : 15.8 Does a golf course have to apply for a special events permit, under this bill, for a golf tournament? If they want to do it all the time, then what?

Mr. Bennett : That may be. The key is what is the event. Local people may have to decide.

Rep. Delmore : 17.5 Is there an extra fee for this? Is there an additional fee every time I reapply for the same event?

Mr. Bennett : You are entitled to 14 days of events in statute. The county would say we have 14 events. There may be some limitations. You pay for each special permit up to \$25.00.

Rep. Delmore : If I have 25 games I need to get O.K. on, what do I do?

Mr. Bennett : What you would do is you would come in for the first 14 games, and then ask for a renewal for the next 14 games. The reason for the 14 days, is to allow periodic review. If there is a problem, the city or county can deny the renewal. You have to exercise good judgment.

Rep. B. Thoreson : 20.4 I have a comment. Over last weekend, I was at a bowling alley and league was going on and kids were bowling on lanes next to adult bowlers. From the bar, waitresses were delivering beer back and forth. Is this in violation of current law?

Mr. Bennett : Could very well be. Depends on what the licensed premises are.

Vice Chair Maragos : The city of Minot is a home rule charter city, can they define that.

Mr. Bennett : Depends on what the charter says. Does it extend in that area. Also, it always comes up in the criminal statute, whether a home rule charter can decriminalize what state says is criminal. It's criminal to have someone under 21 in a licensed premises. The city could provide some guidance as to what a special event is.

Charles Whitman, Bismarck City Attorney : 29.7 testified in support of the bill. The amendments are very well thought out. They will be easy to implement at the local level. There are two main applications to this bill. First, in those events that you already have to give a special event permit to, like races or Civic Center events, where there is no liquor license. Second, is like the golf course. They can't license their current license premises under an event permit, so this would have to be off premises for them, and they would be able to sell from the carts.

Rep. Disrud : Do you see, in your opinion, that we need to define what an event is?

Mr. Whitman : No. If it is a legitimate purpose and safe guards are followed, the off-sight special events permit will be granted. This is just a small addition to what we already have that seems to work well.

Rep. Delmore : 33.3 There is nothing to limit a special event from having three or four vendors?

Mr. Whitman : We can have ten different permits out for a big event. A good example would be the McQuade Tournament. We may have beer tents at a parking lot and then more beer tents at a street dance. They all have to be covered by special events permits.

There was no more testimony, so the hearing was closed.

Chairman Froseth : What does the committee wish.

ACTION: Vice Chair Maragos made a motion of DO PASS and Rep. N. Johnson seconded the motion.

Rep. Niemeier : I can't support this bill. It is too permissive and the enforcement of it is impossible. It leaves the door open for more under age drinking. Are the beer vendors going to card all the people buying beer? Too many problems.

Chairman Froseth : I agree with some of your concerns. I think it will increase the beer consumption at some events that are family orientated. I think we need it for some of the big places, to bring in better artists, like at the Civic Center or Dome.

Rep. B. Thoreson : 37.7 With this bill, if it does give more monitoring taking place, that is a helpful thing.

Chairman Froseth : Some centers have a section set up in the stands that is alcohol free. I would hope more would do that for people who don't want alcohol around them.

Vice Chair Maragos : I am going to support this bill. N.D. needs to wake up and smell the toast. We continue to lose population. If I want to go to a sporting event and want a beer, I think it's American. I get so frustrated, when people don't want me to enjoy myself. We here in N.D. need to be a bit more progressive.

Rep. Delmore : This has local control. If a community wants to remain the way they are, they can. They have that option.

Rep. Koppelman : I like the way the bill is drafted. It is a special events issue, and case by case event.

Rep. Niemeier : I am really concerned with under age drinkers.

Chairman Froseth : 43.0 I think we are all concerned with that issue. I think there are lots of things done illegally now, and this bill may draw attention to that now.

Rep. Severson : In response to Rep. Niemeier, we don't have that control now on minors drinking. My under age son was at a sports events, and I just happen to be there. What I observed was a fraternity brother of my son, who was 21, went and bought five beers and handed them down the line in the stands. There was no control there.

Rep. Delmore : 45.0 I would think if the establishment serves minors, they are putting their whole license at stake. I would think they would be extra careful.

Rep. Niemeier : I would rather see legislation that addresses the abuse then this, that opens the door for more.

ROLL CALL VOTE: 13 YES and 1 NO with 1 ABSENT. PASSED.

Rep. Disrud will carry the bill.

Please type or use black pen to complete

Date 3-5-99

Roll call vote # 1

### 1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2405

House POLITICAL SUBDIVISIONS Committee \_\_\_\_\_

- Subcommittee on \_\_\_\_\_
- Conference Committee \_\_\_\_\_

} Identify or check where appropriate

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Maragos Seconded By Rep. N. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Froseth	/		Rep. Wikenheiser	/	
Vice Chair Maragos	/				
Rep. Delmore	/				
Rep. Disrud	/				
Rep. Eckre	/				
Rep. Ekstrom	/				
Rep. Glassheim	/				
Rep. Gunter					
Rep. Johnson, N	/				
Rep. Koppelman	/				
Rep. Niemeier		/			
Rep. Rose	/				
Rep. Severson	/				
Rep. Thoreson, B	/				

Total 13 1  
(Yes) (No)

Absent -1-

Floor Assignment Rep. Disrud

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS



REPORT OF STANDING COMMITTEE (410)  
March 5, 1999 12:56 p.m.

Module No: HR-40-4126  
Carrier: Disrud  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2405, as engrossed: Political Subdivisions Committee (Rep. Froseth, Chairman)  
recommends **DO PASS** (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING).  
Engrossed SB 2405 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2405

## **SB 2405 - - - The vending bill.**

Chairman Froseth and members of the Political Subdivision committee. For the record I am Senator Tim Flakoll of District 44 of Fargo.

I rise in support of this bill. I also wish to thank Mr. Bob Bennett of the Attorney General's office for the work he has done in cooperation with the sponsors of the bill.

### **First to allay any fears or concerns you may have let me tell you what the bill does not do.**

>> It does not allow anyone under 21 to consume alcohol.

>> It does not allow anyone under 21 to serve alcohol.

>> *It does not permit alcohol at any events or places where it is not already allowed or permitted.*

>> It does not allow alcohol to be served at any youth events such as high school basketball games nor does it permit alcohol at any college or university events such as a **Bison-Sioux** football game.

>> It will not permit any alcohol to be vended or brought into an area(s) where it was not perviously permitted.

>> It does not allow an expansion of a "beer garden" that prohibit alcohol to be take out of the area.

### **What the bill essentially does do is:**

>> Only allows beer or wine to be vended at events where it is *already available* for sale and consumption. This would include

professional events such as a Wizards basketball game at the Bismarck Civic center, a Garth Brooks concert at the Fargodome, a rodeo where beer is sold or events at fairgrounds where beer or wine is already sold.

>> Allows facility operators to provide better customer service.

>> Permits another method to monitor fans.

>> Allows fans to observe more of the entertainment without **having to wait in lines as much.**

>> Reduces the amount senior citizens or those with physical restrictions (bad knees etc.) have to climb stairs to obtain adult beverages.

>> *Less in and out traffic and reduced lines.*

>> *It is permissive legislation that allows the local political subdivision to decide if they do, or do not wish to allow vending at a place or event.*

This bill will also help golf courses and those at events such as wedding dances to have the services they desire. The work done on this bill by the Attorney General's office will help erase some of the gray area that operators have had when trying to discern what they can and cannot do. I believe that Mr. Bennett will be explaining some of the past problems in areas such as golf courses, wedding dances and the like and how this bill will help.

The emergency clause was added at my request due to our RedHawks season which starts in less than 90 days. The clause will also help with the golf season and with the great number of weddings which occur during late spring and early summer.