

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1520

2005 HOUSE JUDICIARY

HB 1520

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1520

House Judiciary Committee

Conference Committee

Hearing Date 2/8/05

Tape Number	Side A	Side B	Meter #
1	xx		0-7.8
1		xx	1.1-2.5
Committee Clerk Signature <i>APenrose</i>			

Minutes: 13 members present, 1 member absent (Rep. Maragos).

Chairman DeKrey: We will open the hearing on HB 1520.

Rep. Frank Wald: Sponsor of the bill, explained the bill. The bill before you would make it mandatory that if a minor were convicted of having alcoholic beverages on alcohol premises, that his license be suspended, must be suspended for a minimum of 15 days. If there is a violation, the current penalty is a class B misdemeanor for the minor; however, the owner of the establishment is a class A misdemeanor. I'm wondering why we treat the person who owns the establishment more harsh than we do the person committing the crime. The bill is that a license would be suspended upon a conviction for a minimum of 15 days. We don't want any outpatient addiction action, which is a typical alcohol related type offense, nor do we want any points subtracted so that there are any insurance implications. This becomes a problem in college communities where we have the people under 21 years of age frequenting a liquor establishment and the judge slaps their hands and then the tavern owner is the person who gets the suspension,

his place of business can be closed down for 3 days or a week, and a fine. I just don't think it's fair that the person committing the crime puts the business owner in that kind of predicament.

Representative Meyer: When a license is suspended, the DOT doesn't want the actual license. If it's suspended, it's suspended, but in the bill, it says that it has to be surrender the license to the court and they would forward it to the DOT. It would be okay if just amended that, where it was just suspended.

Rep. Frank Wald: If you can fix the bill so that it flows more smoothly in terms of where that license rests when it is suspended for 15 days, that's fine with me.

Representative Boehning: Does the owner of the bar hold onto the license until the police are called and they arrest the person. How do we plan on making this work.

Rep. Frank Wald: I guess that would vary from premise to premise.

Representative Boehning: They would hold onto the ID and call the police in Minnesota. Would that kind of situation be what is called for.

Rep. Frank Wald: I suppose that could develop.

Chairman DeKrey: Thank you. Further testimony in support of HB 1520.

Bill Shalhoob, ND Hospitality Association: Support (see written testimony).

Representative Delmore: If you card someone, and they say they don't have no ID, you don't serve them, you would ask them to leave.

Bill Shalhoob: Yes, that is correct. In regard to Representative Boehning's question, I believe most bars are handling that, if they come in, I'm not sure they are holding the ID, they're telling the person with the ID that's not right, to get lost, get out the door. Nobody is interested in getting involved with the police. What you don't want is the person at the bar, having a drink,

now you've actually served the minor and that's where your problem comes in. When they have a drink in front of them, and there is some kind of intervention, it is discovered that there is a minor on premises.

Representative Onstad: What are the penalties for a minor in possession or an open container. I think with a DUI they lose their license. What is the penalties for the other two.

Bill Shalhoob: I don't know. I only know what the penalties are for the bar, not for the road or in a car.

Representative Onstad: I just wondered if it would make sense if the penalty for this situation could be similar to the open container, or driving situation.

Rep. Wald: This bill addresses an offense that takes place on the premises.

Representative Onstad: I was wondering if the sentencing could be same for both offenses.

Representative Delmore: I think for that, there is a special statute for minors. Their license could be gone for longer than this. I don't know if we want to be that much more restrictive.

Chairman DeKrey: Thank you. Further testimony in support, testimony in opposition. We will close the hearing.

(Reopened in the same session).

Chairman DeKrey: We will have Representative Meyer bring in an amendment that the license will stay in the possession of the minor, it will just be suspended. Representative Boehning will look at an amendment to make it the same penalty if caught trying to buy cigarettes to see if it a viable amendment or not. We will take this up tomorrow.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1520

House Judiciary Committee

Conference Committee

Hearing Date 2/9/05

Tape Number	Side A	Side B	Meter #
2	xx		20-25.4
Committee Clerk Signature <i>David Penrose</i>			

Minutes: 14 members present.

Chairman DeKrey: What are the committee's wishes in regard to HB 1520.

Representative Meyer: I move the Meyer amendments. The Dept of Transportation doesn't want the physical license, because it is too much hassle, and sometimes they get lost and then have to be replaced. When it is suspended, you can't drive, but you need your license for ID purposes, this mostly affects college-aged students who need it for ID. The DOT is trying to go to this on everything, even on DUI, on a DUI suspension they are not confiscating the license any more. Because they are trying to get there because of identification purposes. If you get picked up and this license is suspended, it doesn't matter if you have the license, they radio it in, and you're in two kinds of trouble then.

Representative Koppelman: Seconded.

Chairman DeKrey: Motion carried.

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House Judiciary Committee
Bill/Resolution Number HB 1520
Hearing Date 2/9/05

Representative Delmore: I move a Do Pass as amended.

Representative Meyer: Seconded.

14 YES 0 NO 0 ABSENT DO PASS AS AMENDED CARRIER: Rep. Galvin

House Amendments to HB 1520 - Judiciary Committee 02/09/2005

Page 2, line 2, remove "defendant shall surrender any license or permit to"

Page 2, line 3, remove "operate a motor vehicle to the court. The" and replace "forward the license or permit" with "notify"

Page 2, line 4, remove "to" and replace "with notification" with "of transportation"

Page 2, line 5, after "license" insert "to operate a motor vehicle"

Renumber accordingly

Date: 2/9/05
 Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1520

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amend

Motion Made By Rep. Delmore Seconded By Rep. Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	✓		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	✓				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar	✓				

Total (Yes) 17 No 0

Absent 0

Floor Assignment Rep. Galvin

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

REPORT OF STANDING COMMITTEE

HB 1520: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1520 was placed on the Sixth order on the calendar.

Page 2, line 2, remove "defendant shall surrender any license or permit to"

Page 2, line 3, remove "operate a motor vehicle to the court. The" and replace "forward the license or permit" with "notify"

Page 2, line 4, remove "to" and replace "with notification" with "of transportation"

Page 2, line 5, after "license" insert "to operate a motor vehicle"

Renumber accordingly

2005 SENATE JUDICIARY

HB 1520

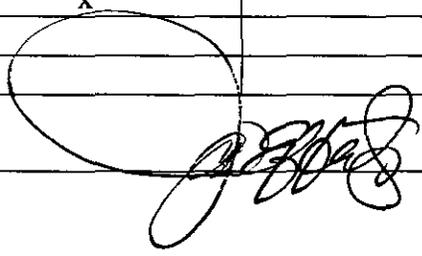
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1520

Senate Judiciary Committee

Conference Committee

Hearing Date March 22, 2005

Tape Number	Side A	Side B	Meter #
1	x		574 - 3338
Committee Clerk Signature 			

Minutes:

Chairman Traynor opened the hearing on HB 1520, a bill relating to an underage person in a licensed premises with alcoholic beverages and to provide a penalty. All members were present.

Representative Wald introduced the bill. If a minor were convicted of entering a licensed liquor premises, their driver's license will be suspended for 15 days. In college towns, there is a problem with young people on premises and one of the most coveted things a young person has in their wallet is their drivers license. There would be no points on the drivers license associated with this and no insurance implications. The drivers license would be suspended upon conviction for 15 days. This would be a good policing mechanism.

Senator Hacker asked if a person under 21 years of age can go to Ground Round and sit on the bar side with friends who are over 21 years of age and drink a lemonade.

Representative Wald said this bill does not implicate that.

Page 2

Senate Judiciary Committee

Bill/Resolution Number HB 1520

Hearing Date March 22, 2005

Senator Nelson said if a young person is convicted and has their license suspended and has to take a family trip and needs the license as ID to board an airplane what would they do.

Representative Wald said he would refer that question to one of the attorneys on the committee.

Senator Nelson said they need an ID to board a plane.

Representative Wald said they should have thought about that when they went into the bar.

They could use a passport.

Bill Shalob, North Dakota Hospitality Association, testified in favor of the bill.. (written testimony) (meter 830) To answer Senator Nelson's question, the Department of Transportation no longer picks up licenses when they are suspended and they also have available an ID that can be obtained at their offices.

Senator Hacker asked if there is a problem. In Grand Forks, students aren't knocking at the door of bars without ID's. Fake ID's are a problem and that is against the law already.

Mr. Shalob said that is true. The issue is on the penalty side. If a minor is served the penalty is on the bar side only.

Senator Hacker asked if he is talking about a minor using a fake ID and getting served or having no ID and getting served. This is a problem with the bar tender.

Mr. Shalob said both. There should be a penalty if they are caught.

Senator Hacker asked if he knows the penalty for using a fake ID.

Mr. Shalob said no.

Senator Hacker said a 15 day drivers license suspension is certainly a less severe punishment than fines that often amount to more than \$1000 for using a fake ID.

Senator Trenbeath said according to the bill, if someone less than 21 years of age goes into a bar they would lose their drivers license for 15 days and are guilty of a misdemeanor. If they are out of a bar and in a car with a six pack, that is only a misdemeanor, no suspension.

Mr. Shalob said if there is a violation there is a 15 day suspension. Where is the distinction.

Senator Trenbeath said the suspension relates to subsection 2 only, being in the establishment.

Senator Traynor said according to the bill, they would not have to be served, they would just have to be there.

Mr. Shalob said that is not the intention.

Senator Trenbeath asked which is more hazardous, drinking beer in a car not under the influence but under age or drinking coke in a bar. Where is the rational behind the bill.

Mr. Shalob said it was not the intention to be a drinking and driving bill, it was the intention to be a drinking in a bar bill. (meter 1380)

Senator Trenbeath said it was the intent to get at a drivers license for something other than a driving violation.

Mr. Shalob said that is correct. We have put the drivers license out there for other violations as well, driving off without paying for gas, for example.

Senator Trenbeath said it is the one thing you can hurt them with.

Mr. Shalob said that is the reason it was picked, it is what everyone is picking.

Senator Syverson said we have created a great gray area. We define the age of 21 for the consumption of alcohol. There are a couple of bills in process that address turning 21, at midnight could they be not drinking yet be in a bar. Would this compel the judge to suspend the license.

Mr. Shalob said he is aware of the power hour bills. It will come to a resolution and there will be a definition of when someone turns 21. They do support the power hour bills and their 2:00 AM opening bill attempts to address the power hour.

Senator Syverson said not all young people who turn 21 are going into a bar for a power hour.

Mr. Shalob said there is a difference between a bar and a restaurant. In a bar, you must be 21. In a restaurant minors are allowed if accompanied by a guardian. All penalties are on the bar owner now. They have tried to come up with a penalty that is meaningful. They acknowledge that when they serve a minor, they are breaking the law.

Senator Trenbeath said 60 days and \$500 is meaningful.

Mr. Shalob said if the penalty is applied, this might get to mandatory sentencing too.

Andy Zachmeier, Fraternal Order of Police, testified in favor of the bill. (meter 1843) He agrees if you are going to suspend a license for being in a bar, you should also suspend it for having an unopened beer in a car. In a restaurant bar combination if minors were on the bar side eating and were not drinking alcohol he would just ask them to move to the restaurant side. Most patrolmen would use good judgment.

Senator Trenbeath asked if the patrolmen should make the judgment call but the judge shouldn't make a judgment call.

Mr. Zachmeier said he is just trying to be fair.

Senator Trenbeath said he is too.

Mr. Zachmeier said why even send them to court if there was no intent to break the law.

Senator Hacker said the code requires the area where drinks are mixed and served to be separated from the seating area. How often does that happen.

Mr. Zachmeier said in this area it is usually so. In smaller towns, no. It can't be enforced there, they must use common sense, go by the spirit of the law. The theory behind the bill is good.

There would also be a \$50 reinstatement fee if a license is suspended and that is a good penalty too.

Senator Trenbeath reviewed the point structure for driving violations such as careless and reckless driving, driving 110 miles per hour on the interstate and none of these violations result in a suspension. It is equitable that someone who has their feet on the wrong side of a line should have a license suspended.

Mr. Zachmeier said it is a good deterrent. Most officers use common sense. Was there an intent to break the law.

Senator Trenbeath said this is strictly liability, intent has nothing to do with it.

Mr. Zachmeier said that is not the real world where he must live.

Senator Hacker asked where will we stop with non-driving crimes resulting in loss of a drivers license.

Mr. Zachmeier said he doesn't think it would be an appropriate penalty for theft. Violation of hunting laws can result in loss of a vehicle. Word gets out. When the bartender is too lazy to check ID or when the bartender knows an ID is fake but accepts that, this would be a deterrent.

Senator Hacker said he sold the point. This is the responsibility of the bar tender.

Mr. Zachmeier said he agrees, there are reputable bar owners and unreputable bar owners.

Senator Hacker asked if bar tenders know the penalties for serving a minor.

Mr. Zachmeier said bar owners generally know because they do not want to lose their liquor license. Bar tenders and waitresses may be more interested in tips or are just in it for the money.

Senator Hacker asked what is the fine for serving a minor.

Mr. Zachmeier said it is a class B misdemeanor, 60 days, \$1000 and loss of liquor license if it is a second offense.

Chairman Traynor closed the hearing on HB 1520.

Senator Nelson asked if a mother wants to go into a liquor store and has her two year old in the car seat and it is illegal to leave the child in the car seat, can she take the two year old into the liquor store.

Senator Trenbeath said no.

Senator Triplett said she should stop at the liquor store before she picks up the child at daycare.

Senator Trenbeath said he has worked as a server and you can tell someone's age within three months by their hands.

Senator Hacker said bar tenders are told by their employers that they will have to pay a fine personally if they serve a minor. They know the law. Most establishments have someone at the door to check ID's.

Senator Syverson said it could have more impact to hold their student ID.

Senator Trenbeath said it should be a misdemeanor. The judges or police are not using the full penalty.

Senator Triplett moved a do not pass on HB 1520.

Senator Trenbeath seconded the motion.

The motion passed on a roll call vote 6-0-0.

Senator Trenbeath will carry the bill.

REPORT OF STANDING COMMITTEE (410)
March 22, 2005 12:32 p.m.

Module No: SR-52-5720
Carrier: Trenbeath
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1520, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1520 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

IIB 1520

ND Hospitality Assn. Testimony
House Judiciary Committee
HB 1520

Mr. Chairman and members of the committee, my name is Bill Shalhoob and I represent the ND Hospitality Assn. We are appearing today in support of HB 1520.

One of the largest segments of our members business is the sale of alcoholic beverages to our customers. We believe in the responsible sale of on and off sale products to persons over twenty-one years of age. We believe in and support programs such as the designated driver program and educational events that support the responsible consumption of alcohol by all adults in our properties. For the past several years enforcement under this statute has focused primarily on our bars and bartenders. We understand our responsibility under the law and are not seeking to lessen our penalties. At the same time we believe that serving a minor involves two parties, an establishment that serves a minor illegally and a minor that seeks to be served illegally. HB 1520 addresses the latter. Today legal penalties and action center almost exclusively on the bar. By extending the penalty to the minor in a real and meaningful way as detailed in HB 1520, attempts to get served will decrease and our owners can go about their real business, the sale of alcoholic beverages to adults.

Mr. Chairman and members of the committee, we hope you can support HB 1520. Thank you for your consideration and I would be happy to answer any questions.

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