

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2098

2007 SENATE POLITICAL SUBDIVISIONS

SB 2098

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2098**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **January 5, 2007**

Recorder Job Number: **661**

Committee Clerk Signature

Shirley Borg

Minutes:

Chairman Cook called the committee to order. All members (5) present.

Chairman Cook opened the hearing on SB 2098 relating to the dispensing of alcoholic beverages, Sunday alcoholic beverage permits, and drug usage reporting requirement/ relating to block house program.

Thomas Trenbeath, Chief Deputy, Attorney Generals Office, explained SB 2098. (See attachment #1)

Chairman Cook asked if Section 1 was off sale only and Section 2 is off sale and on sale. How did we miss off sale last session?

Thomas Trenbeath, answered yes, that is right. It was missed last session. This will make the law consistent across the board.

Senator Hacker knew one of the sponsors and it was just forgotten. Had a question on the part where in 2003 administration of the survey reverted back to the DPI.

Thomas Trenbeath answered the memorandum of understanding had expired. Prior the State Department of Health just provided the results but did not administer.

No further testimony in support, opposition, or neutral on SB 2098.

Chairman Cook closed the hearing on SB 2098.

Chairman Cook asked for discussion on SB 2098.

Senator Anderson moved a **Do Pass** on SB 2098.

Senator Olafson seconded the motion.

Discussion:

Senator Hacker. The concern is going to be on the 2 AM off sale. This is governed by local authorities.

Thomas Trenbeath will get information to clarify the bill.

Chairman Cook tabled the motion until it is made clear.

Chairman Cook adjourned the committee.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2098 (Action)**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **January 12, 2007**

Recorder Job Number: **978**

Committee Clerk Signature

Shirley Borg

Minutes:

Chairman Cook called the Senate Political Subdivisions to order. All members (5) present.

Chairman Cook we have a motion and a second for a Do Pass on SB 2098 that is tabled. I take it off the table.

Thomas Trenbeath appeared to clarify the bill and answer questions that had been asked.

We need to start by understanding dispensing, selling and consumption. The licensing part is a dual responsibility between the state and local government. If the state doesn't issue the license the local government can not issue a license either. The state statute sets the hours that alcoholic beverages can be dispensed. This statute has to do with Sunday openings, which is a further definition of the opening hours that are set forth in the other statute. Local entity, no matter what the statute says, can come in within the statute and set a narrow standard. This bill would equate off sale and on sale for those first two hours of Thanksgiving Day.

No further discussion by the committee on SB 2098.

Roll call vote: Yes 5 No 0 Absent 0

Carrier: Senator Anderson

Date: 1-12-07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2098

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Anderson Seconded By Senator Olafson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X		Senator Arden C. Anderson	X	
Senator Curtis Olafson, ViceChair	X		Senator John M. Warner	X	
Senator Nicholas P. Hacker	X				

Total Yes 5 No 0

Absent 0

Floor Assignment Senator Anderson

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

REPORT OF STANDING COMMITTEE (410)
January 12, 2007 10:58 a.m.

Module No: SR-08-0502
Carrier: Anderson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2098: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2098 was placed on the Eleventh order on the calendar.

2007 HOUSE POLITICAL SUBDIVISIONS

SB 2098

2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. SB 2098

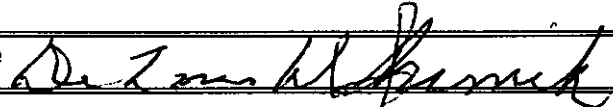
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 22, 2007

Recorder Job Number: 3633

Committee Clerk Signature



Minutes:

Chairman Herbel opened the hearing on SB 2098.

Support:

Sen. Trenbeath: Chief Deputy Attorney General for the State of ND. (see testimony #1)

Rep. Lee Kaldor: The two sections of the repeal, one is the block house?

Sen. Trenbeath: Yes, that is correct.

Rep. Lawrence Klemin: I thought the legislature was the policy making entity Section 4 you said we should repeal since it is not being done.

Sen. Trenbeath: It has not been done. If it is not being done you might as well repeal it.

Rep. Lee Kaldor: Following up on Rep. Lawrence Klemin comments or questions. In looking at the code I am assuming we have a record of at least the first three sections of that article as basically developing guidelines, adopting standards to develop a model application and then making it available to non-profits. I am assuming that back in the time when this legislation was adopted that there must have been some non-profits who were in seeding this authority. I am wondering if this has been lying on the shelf for all these years. Not one subdivision sought more information or assistance? It seems like a pretty good idea.

Sen. Trenbeath: I do recall at the beginning of the session I reviewed the legislative history on this bill and it looked like a good bill and should be put on the ground universally but apparently it does not fit all.

Rep. Kim Koppelman: It talked about a universal symbol. It seems to me you should have one the kids could recognize whether they are in a political subdivision or not. Is law enforcement working together to accomplish that?

Sen. Trenbeath: I don't know if they have adopted a symbol or not. I suggest one of the problem with this might be our mobile society. What has a safety house symbol on today might not be a safe house tomorrow.

Rep. Kim Koppelman: Background checks?

Sen. Trenbeath: There has never been a safe house adopted or designated under statute.

Rep. Kim Koppelman: I remember the 2 AM closing that we had the last session. The discussion revolved around the border areas of our state and the issue with Minnesota bar sale. ND bars do have to competition and also a discussion about people crossing the river after drinking. I don't remember any one saying we have to go to off-sale to sell liquor until 2AM. You say it was an over site? It probably was but are they clambering now for off-sales?

Sen. Trenbeath: There is no clamber to my knowledge which is why I designed this as a clean up bill.

Opposition: None

Hearing closed.

Chairman Herbel reopened the hearing on SB 2098.

Do Pass Motion Made By Rep.Dwight Wrangham Seconded By Rep. Nancy Johnson

Discussion:

Vote: 11 Yes 1 No 2 Absent Carrier: Rep. Kari Conrad

Date: 2-22-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2098

House Political Subdivisions Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Wrangham Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	✓		Rep. Kari Conrad	✓	
Rep. Dwight Wrangham-V. Chair	✓		Rep. Chris Griffin	✓	
Rep. Donald Dietrich	✓		Rep. Lee Kaldor	✓	
Rep. Patrick Hatlestad	✓		Rep. Louis Pinkerton	✓	
Rep. Nancy Johnson	✓		Rep. Steve Zaiser	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman		✓			
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 11 No 1

Absent 2

Floor Assignment Rep. Conrad

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

REPORT OF STANDING COMMITTEE (410)
February 22, 2007 11:01 a.m.

Module No: HR-34-3662
Carrier: Conrad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

**SB 2098: Political Subdivisions Committee (Rep. Herbel, Chairman) recommends DO
PASS (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). SB 2098 was placed on the
Fourteenth order on the calendar.**

2007 TESTIMONY

SB 2098

**TESTIMONY OF CHIEF DEPUTY THOMAS TRENBEATH
REGARDING SENATE BILL NO. 2098
SENATE - POLITICAL SUBDIVISIONS COMMITTEE
JANUARY 5, 2007 - 9:30 AM**

SECTIONS 1 AND 2:

Sections 1 and 2 of Senate Bill No. 2098 amend N.D.C.C. §§ 5-02-05 and 5-02-05.1 relating to dispensing, sale, and allowing consumption of alcoholic beverages until 2:00 a.m.

Prior to the approval of Senate Bill No. 2234 (the Thanksgiving Day Bill) by the 59th Legislative Assembly, no dispensing or consumption of alcoholic beverages was permitted on a licensed premises after 1:00 a.m. on Thanksgiving Day. Senate Bill No. 2234 allowed the on-sale of alcoholic beverages until 1:00 a.m. and after 8:00 a.m. on Thanksgiving Day. However, Senate Bill No. 2234 prohibited the off-sale of alcoholic beverages after 1 a.m. on Thanksgiving Day.

The 59th Legislative Assembly approved House Bill No. 1383 (the 2:00 a.m. Bill) allowing the dispensing and the consumption of alcoholic beverages on licensed premises until 2:00 a.m. on all days of the week, except Christmas, but including Thanksgiving Day. It did not, however, permit the dispensing or consumption of alcoholic beverages on licensed premises after 8:00 a.m. on Thanksgiving Day.

Copies of each of these 2005 enactments are attached to this testimony as **Exhibit 1** and **Exhibit 2**.

The adoption of House Bill No. 1383 conflicted with Senate Bill No. 2234.

House Bill No. 1383 said that on and off-sale alcoholic beverage establishments could engage in the alcoholic beverage business until 2:00 a.m. on Thanksgiving Day but they could not reopen for business at 8:00 a.m. on that day.

Senate Bill No. 2234 said that on and off-sale alcoholic beverage establishments could engage in the alcoholic beverage business until 1:00 a.m. and that an establishment could reopen for on-sale at 8:00 a.m. on Thanksgiving Day. However, no off-sale was allowed at anytime after 1:00 a.m. on that day.

To harmonize these provisions, code revisors combined the two bills, which comprised the current N.D.C.C. § 5-02-05 that is the subject of Section 1 of this Bill. This section allows on-sale establishments to engage in the alcoholic beverage business until 2:00 a.m. and then reopen at 8:00 a.m. on Thanksgiving Day. However, off-sale must end at 1:00 a.m. and no off-sale can be made the remainder of Thanksgiving Day. Any sole off-sale establishment, such as a liquor store, must close at 1:00 a.m. and cannot reopen at 8:00 a.m. on a Thanksgiving Day. An establishment that has both on and off-sale could sell at the bar until 2:00 a.m. but could not sell alcoholic beverages for off-premises consumption at any time after 1:00 a.m. on Thanksgiving Day.

Although this is a lengthy explanation of Section 1, Senate Bill No. 2098 addresses the time inconsistency of one hour, occurring once a year, and only for the off-sale of alcoholic beverages. Section 1 corrects this inconsistency and apparent oversight when the Senate and House bills were adopted by the 59th Legislative Assembly in 2005.

Section 2 amends N.D.C.C. § 5-02-05.1 relating to Sunday alcoholic beverage permits. Subsection 3 of section 5-02-05.1 authorizes the local governing body to permit the distribution of alcoholic beverages between the hours of 12:00 noon on a Sunday and 1:00 a.m. on Monday. Since N.D.C.C. § 5-02-05 does allow the dispensing and the consumption of alcoholic beverages until 2:00 a.m., which would also include midnight to 2:00 a.m. on a Monday, it would appear that the failure of House Bill No. 1383 to amend N.D.C.C. § 5-02-05.1 in 2005 to permit the distribution of alcoholic beverages between the hours of 12:00 noon on a Sunday and 2:00 a.m. on Monday was merely an oversight and can be corrected by Section 2 of this Bill.

It should be understood that this Bill does not prohibit a local governing body from establishing the hours of operation of alcoholic beverage establishments but only corrects or clarifies any confusion that may have resulted from the harmonization of the two 2005 enactments.

SECTION 3.

Section 3 amends N.D.C.C. § 19-03.1-44, passed by the 57th Legislative Assembly in 2001, relating to reporting of current status and trends of unlawful drug use and abuse.

Section 19-03.1-44 requires the office of Attorney General to compile statistics from several state agencies relating to unlawful drug use and abuse, and prepare a comprehensive status and trends report.

Youth drug statistics are compiled by the Department of Public Instruction through its Youth Risk Behavior Survey. Prior to 2003, however, the Department of

Health provided administrative support for the survey under a Memorandum of Understanding with the Department of Public Instruction. In 2003, administration of the survey reverted back to the Department of Public Instruction.

Section 19-03.1-44 is being amended to reflect that the statistics now are compiled and reported out by one agency - the Department of Public Instruction. The Department of Health and the Department of Public Instruction both support this amendment.

SECTION 4.

Section 4 repeals Sections 54-12-19 and 54-12-20 of the North Dakota Century Code. The 54th Legislative Assembly passed Senate Bill 2096 in 1995, establishing a Block House program.

A "block house" is a residential home, designated by a special sign, where a child may seek help from a responsible adult when the child faces an emergency such as being bullied, followed, threatened, or hurt while walking or playing in the neighborhood.

After this legislation was enacted, our office worked with local communities to discuss implementing block house programs. However, because of the unique needs of different communities, it was determined that local law enforcement was in a better position to develop, implement, and administer these types of neighborhood crime prevention programs. Ultimately, the program was not implemented by this office because of the lack of support from local law enforcement.

CHAPTER 79

SENATE BILL NO. 2234

(Senators Kringstad, Hacker)
(Representatives S. Meyer, Weiler)

THANKSGIVING ALCOHOL SALES

AN ACT to amend and reenact section 5-02-05 of the North Dakota Century Code, relating to the dispensing of alcoholic beverages on certain days.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁴ SECTION 1. AMENDMENT. Section 5-02-05 of the North Dakota Century Code is amended and reenacted as follows:

5-02-05. Dispensing prohibited on certain days - Penalty. Any A person who dispenses may not dispense or permits permit the consumption of alcoholic beverages on a licensed premises after between one a.m. on Sundays, before and twelve noon on Sundays, or between the hours of one a.m. and eight a.m. on all other days of the week, or who dispenses alcoholic beverages or permits consumption of alcoholic beverages on licensed premises on Christmas Day, after one a.m. on Thanksgiving Day, or after six p.m. on Christmas Eve. In addition, a person may not provide off-sale after one a.m. on Thanksgiving Day. A person that violates this section is guilty of a class A misdemeanor.

Approved March 16, 2005
Filed March 17, 2005

⁵⁴ Section 5-02-05 was also amended by section 2 of House Bill No. 1383, chapter 74.

EXHIBIT

1

CHAPTER 74

HOUSE BILL NO. 1383
(Representatives Berg, Boucher, Iverson)
(Senators Hacker, Heitkamp, Stenehjem)

ALCOHOLIC BEVERAGE SALE AND CONSUMPTION

AN ACT to create and enact a new subsection to section 5-01-01 of the North Dakota Century Code, relating to definitions for the purpose of sale and consumption of alcoholic beverages; and to amend and reenact sections 5-02-05 and 5-02-09 of the North Dakota Century Code, relating to the sale and consumption of alcoholic beverages.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁸ SECTION 1. A new subsection to section 5-01-01 of the North Dakota Century Code is created and enacted as follows:

"Twenty-one years of age" means it is after three a.m. on the date twenty-one years after a person's date of birth.

⁴⁹ SECTION 2. AMENDMENT. Section 5-02-05 of the North Dakota Century Code is amended and reenacted as follows:

5-02-05. Dispensing prohibited on certain days - Penalty. Any person who dispenses or permits the consumption of alcoholic beverages on licensed premises ~~after one~~ between two a.m. ~~on Sundays, before and~~ and twelve noon on Sundays, ~~or between the hours of one two~~ two a.m. and eight a.m. on all other days of the week, ~~or who dispenses alcoholic beverages or permits consumption of alcoholic beverages on licensed premises on Christmas Day, after one two~~ two a.m. on Thanksgiving Day, or after six p.m. on Christmas Eve is guilty of a class A misdemeanor.

SECTION 3. AMENDMENT. Section 5-02-09 of the North Dakota Century Code is amended and reenacted as follows:

5-02-09. Local regulations. The local governing body by ordinance or resolution may regulate or restrict the operation of licensees including among other things determining the number of licenses to be granted, establishing health and safety standards for licensed premises, setting of hours ~~and~~, regulation of open door policies by fraternal organizations or private clubs, and regulation of dancing or various forms of entertainment on the premises.

Approved March 25, 2005
Filed March 25, 2005

⁴⁸ Section 5-01-01 was also amended by section 1 of House Bill No. 1159, chapter 73.

⁴⁹ Section 5-02-05 was also amended by section 1 of Senate Bill No. 2234, chapter 79.

EXHIBIT

2

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**TESTIMONY OF CHIEF DEPUTY THOMAS TRENBEATH
REGARDING SENATE BILL NO. 2098
HOUSE - POLITICAL SUBDIVISIONS COMMITTEE
FEBRUARY 22, 2007**

SECTIONS 1 AND 2:

Sections 1 and 2 of Senate Bill No. 2098 amend N.D.C.C. §§ 5-02-05 and 5-02-05.1 relating to dispensing, sale, and allowing consumption of alcoholic beverages until 2:00 a.m.

Prior to the approval of Senate Bill No. 2234 (the Thanksgiving Day Bill) by the 59th Legislative Assembly, no dispensing or consumption of alcoholic beverages was permitted on a licensed premises after 1:00 a.m. on Thanksgiving Day. Senate Bill No. 2234 allowed the on-sale of alcoholic beverages until 1:00 a.m. and after 8:00 a.m. on Thanksgiving Day. However, Senate Bill No. 2234 prohibited the off-sale of alcoholic beverages after 1 a.m. on Thanksgiving Day.

The 59th Legislative Assembly approved House Bill No. 1383 (the 2:00 a.m. Bill) allowing the dispensing and the consumption of alcoholic beverages on licensed premises until 2:00 a.m. on all days of the week, except Christmas, but including Thanksgiving Day. It did not, however, permit the dispensing or consumption of alcoholic beverages on licensed premises after 8:00 a.m. on Thanksgiving Day.

Copies of each of these 2005 enactments are attached to this testimony as **Exhibit 1** and **Exhibit 2**.

The adoption of House Bill No. 1383 conflicted with Senate Bill No. 2234.

House Bill No. 1383 said that on and off-sale alcoholic beverage establishments could engage in the alcoholic beverage business until 2:00 a.m. on Thanksgiving Day but they could not reopen for business at 8:00 a.m. on that day.

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To harmonize these provisions, code revisors combined the two bills, which comprised the current N.D.C.C. § 5-02-05 that is the subject of Section 1 of this Bill. This section allows on-sale establishments to engage in the alcoholic beverage business until 2:00 a.m. and then reopen at 8:00 a.m. on Thanksgiving Day. However, off-sale must end at 1:00 a.m. and no off-sale can be made the remainder of Thanksgiving Day. Any sole off-sale establishment, such as a liquor store, must close at 1:00 a.m. and cannot reopen at 8:00 a.m. on a Thanksgiving Day. An establishment that has both on and off-sale could sell at the bar until 2:00 a.m. but could not sell alcoholic beverages for off-premises consumption at any time after 1:00 a.m. on Thanksgiving Day.

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dispensing and the consumption of alcoholic beverages until 2:00 a.m., which would also include midnight to 2:00 a.m. on a Monday, it would appear that the failure of House Bill No. 1383 to amend N.D.C.C. § 5-02-05.1 in 2005 to permit the distribution of alcoholic beverages between the hours of 12:00 noon on a Sunday and 2:00 a.m. on Monday was merely an oversight and can be corrected by Section 2 of this Bill.

It should be understood that this Bill does not prohibit a local governing body from establishing the hours of operation of alcoholic beverage establishments but only corrects or clarifies any confusion that may have resulted from the harmonization of the two 2005 enactments.

SECTION 3.

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A "block house" is a residential home, designated by a special sign, where a child may seek help from a responsible adult when the child faces an emergency such as being bullied, followed, threatened, or hurt while walking or playing in the neighborhood.

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