2011 HOUSE HUMAN SERVICES

HB 1307

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1307
January 18, 2011
Job #13003

☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Explanation or reason for introduction of bill/resolution:

To allow individuals under the age of 21 years in alcoholic beverage establishments

Minutes: *See Attached Testimonies #1 and #2*

Vice-Chair: Pietsch: Called to order the hearing on HB 1307.

Rep. Jon Nelson: From District 7 introduced the bill and testified in support. (See attached Testimony #1.)

Rep. Porter: Just because a business has an indoor grill; does that make them a licensed restaurant in the state of ND? How does a business become a licensed restaurant in ND and what regulations do they have as far as inspections?

Rep. Nelson: As I understand it, there are a number of licenses that one can apply for. There is a restaurant license and to qualify for that, over 50% of your business has to be food. This would be those people who are not operating under a restaurant license, it would be a bar license. And there is on and off sale beer and wine as a couple of examples. They are regulated by the ND Health Dept. currently. My understanding is they have the same inspection standards as a restaurant does.

Rep. Porter: The bar that is in Mott, ND, they do their meals on an outdoor grill because they fry up steaks. Then they have an indoor salad bar and that is all they have for a kitchen facility. Then they would not be able to have minors in that facility the way this is written.

Rep. Nelson: I don't know if the state has a definition of grill in code. That is something that would have to be looked at, but that is exactly the type of situation that this bill is attempting to work with. You may be out hunting with your son in the Mott area and come back to town and that may be the only place open in town. It is only intended for you to take your son or daughter along with you to grab that barbeque.

Rep. Porter: I just want to be clear on what the intent and the specific language into the Century Code of indoor grill. This would certainly preclude them because it is not an indoor grill. Maybe Mr. Martinson can get into those details a little more with us so I understand.

So I'm clear on this, with the restrictions that are in here that the food is prepared in the kitchen with an indoor grill; it is your intention that the kitchen is on premise and part of that business so it can be inspected. Not some crock pots full of baked beans and sausage for a super bowl party. That is not what you are viewing as qualified situations under this language.

Rep. Nelson: That is exactly why the kitchen at least with an indoor grill was added to the language. So like your last example an exclusion wouldn't be made for the super bowl party. We didn't want to exclude the Mott situation, but something like your last example.

Rep. Hofstad: Have you considered any other exclusions of putting into the bill? Often times establishments have entertainment that might not be appropriate for young children or people under the age of 21.

Rep. Nelson: This is intended for eating a meal only. If there are exclusions that this committee feels that need to be part of this, I'm not necessarily opposed to that. I wasn't looking at a bill that would open up for young people going to bars for entertainment purposes. It is only to eat. I would like to highlight that is with the inclusion of the amendment requiring a parent or guardian to be part of that. There is still responsibility within a family structure to look at the situation and maybe not take part in it. Our parenting skills are not excluded in this legislation. I trust most families in this state have done a good job of that. We wouldn't be the first state in the union to allow this. It happens all around us. I don't think there is a boogeyman in the closet here.

Rep. Lee Kaldor: From district 20 and co-sponsor of the bill and testified in support. I'm going to speak about what Rep. Nelson and I talked about as the intent of this. His intentions are good. I agree with him that a lot of small towns this is the only restaurant, but they are licensed as bars. One of the things I think needs to be reviewed is actually the way we do license and define bars and restaurants. There are some foggy areas here. An owner choices to be a bar or restaurant for various reasons, but what goes on in those bars and restaurants are very similar activity. More and more bars especially in small towns have become the place where people eat. The behavior patterns or things that go on there are quite different from what they were years ago. We have work to do in definition, licensing and oversight and regulation. This is a worthy point to be discussed. Serving food and minors going in is already going on in the state. This is not intended in any way to increase the problems that exist from alcohol and I would be the first one to oppose any such efforts that would make it easier for minors to get alcohol. We have restaurants with bars in Bismarck that children eat in. Even our enforcement laws in smoke free workplace are very inconsistent from community to community when it comes to combination bars and restaurants. I know I have a bar in my district that is open as a restaurant a few hours everyday. They go smoke free for about two hours and they light them up afterwards. That is not at all what the law says. I have not seen the amendments that Rep. Nelson has talked about, but I'm willing to try and answer questions.

Rep. Holman: I grew up in a small town and I applaud the efforts on this. When I was 5 or 6, the only place I could get a candy bar or a bottle of pop was in the local bar. Has anyone been prosecuted for letting children into a bar? I wonder if this change would take the risk away from some.

Rep. Kaldor: I can't answer that question because I don't know. I've never heard of it.

Rep. Porter: In reference to your comment about the Bismarck restaurant structures. I take my small children to Applebees, Space Aliens, Fridays and Ground Round and many times we can walk into the north Applebees and the inside portion has open seats that children aren't allowed into because that is the bar. The outside perimeter is full and we take the buzzer and wait for an opening. There is a distinct separation in all of those facilities in the state of ND. Not a single one that has their bar assessable to someone under 21, right, wrong or indifferent.

Rep. Kaldor: I think you are absolutely right. However, to me that is a very interesting distinction. Especially for Applebees because I have been in there with children as well. It isn't that you can't see what is going on in the bar. We don't want children to be in a bar, but at the same time we have created a distinction in the law that allows that for that particular scenario that you describe. It doesn't seem to me in any way to mitigate or eliminate the parallels for the children. Maybe we need an Applebees in Rugby. I don't mean to be facetious, but that is exactly what I am talking about. In Ground Round it is a separate room and that is different.

Rudie Martinson: Executive Director of the ND Hospitality Association which is the restaurant, lodging and retail beverage industries in ND spoke in support. I have many rural members that would like to see this change take place. Regarding Rep. Porter's licensing question, the short answer is that it varies. The state issues a liquor license, but the state doesn't issue a liquor license until after your local governing authority that establishment is listed in issues the liquor license first. There are categories of licenses in the various different cities and counties across the state. The percentages on how much food you have to sell to get a restaurant category liquor license vary from entity to entity. City of West Fargo doesn't even issue licenses with a distinction anymore. No restaurant licenses in West Fargo anymore is my understanding.

Rep. Devlin: I hear from a number of restaurants from our district that are adamantly opposed to this so I assume they are non-members of your association. They are fighting for their survival out there and they think opening the bar up to food status will pretty much be the end of the restaurant in some of these small towns.

Rudie Martinson: I will admit among my membership there is disagreement over some of the provisions Rep. Nelson talked about fixing with amendments, but I have a great number of supporters also.

Opposition

Jeanne Prom: Executive Director of the Center for Tobacco Prevention and Control Policy testified in opposition. (See Testimony #2.)

Jerry Hjelmstad: Opposed the bill on behalf of the ND League of Cities. We have had some comments to us from local law enforcement officials relating to the enforcement issues for this bill. The language such as, enter and remain on the premises, if the

individual is in the premises to consume a meal can be wide open. If they are there to consume a meal, how long can they remain? There aren't any conditions in the bill relating to being accompanied by an adult. I can see where in some establishments where entertainment takes place could be a problem.

John Olson: Representing the ND Peace Officers Association which is composed of Sheriff and Police Departments, Highway Patrol, Game and Fish and others. We had a discussion about this bill last Friday at our legislative meeting and some very significant concerns were raised. Consensus wise we would probably be opposed to it, but when Rep. Nelson talked, the more supportive we came of some of the positions he expressed. I'm a small town boy myself and was raised in Hensel which I don't think has 50 people anymore opposed to the 125 when I was growing up. The purpose of this law is to keep kids out of bars and we moved to where we were allowing kids in restaurants. That is where this distinction was made. So, we settled into the point where if it was as much restaurant as it was a bar, then it was less offensive to have the kids in the facility. And now we are moving into the bar area and so we are saying that if there is an indoor grill we want to accommodate that small town function which I think is reasonable. If we can do it in such as way that we are not stepping over the line and exposing children to that kind of activity we don't want them exposed to. The concerns we had and my Sheriff is here, is where in Bismarck the college crowd come home and sit in a bar and have breakfast, lunch and dinner and not knowing what is all transpiring. You can see that could be a problem especially in a larger community. It is apt to be better controlled in a smaller community environment. The Parent/guardian would be a good addition to this bill, but you will have to demand a little bit more than just having a guardian. Someone 23 comes in with their 17 year old friend; you want to make sure this guardian language would work. The parent language would obviously not be a problem. I like the idea of the size of the community. I think the questions that the committee have raised themselves illustrates some of the difficulties that may lie in the enforcement behind this bill and I think you have some work to do in straightening out those considerations.

Rep. Holman: Has there ever been anyone reprimanded for allowing this and get into trouble with enforcement?

John Olson: I have been away from law enforcement for quite a few years from that end of it, so I don't know that. I know from our local activities that there are always problems with minors being on premises and minors obtaining alcohol. That is a constant problem. My concern is from looking in from the outside, when you open it up you are exposing more creativity and ingenuity on how to overcome being apprehended or the law being enforced the way the law should be enforced.

Rep. Anderson: Would a time slot help in some aspects. I know Rep. Devlin was concerned about affecting restaurants. But, if you have that open from 5-10 at night, would that be helpful?

John Olson: The time slots certainly could work for meal time.

Rep. Anderson: Rep. Devlin, would that help the restaurants in your area?

Rep. Devlin: I don't know that they would be any more impressed with the bill if we put hours in there, but it would be helpful.

Rep. Kilichowski: On the licensing part when I first opened my bar. I was given a license to serve food. At that time the licenses were specified as to what you could serve. Pizza, prepared sandwiches and everything. When I did put in the full restaurant, then I had to go to a restaurant license and the exhaust system and everything else. Being a little community, I was the only business in town. When the parents and kids came in for a bite to eat, I wasn't going to tell them the kids had to stay in the car and I did serve them and we weren't smoke free at the time. Last spring, an electrical contractor and I went up to a job site for a bid and we got into town about noon and Pembina must be about 300-350 people and we couldn't find a restaurant in town. The only place we could eat was the bar and they had a grill and burgers and the noon special. If you travel around rural ND you are going to see a lot of that. Minto has a population of 670 some people and they don't have a restaurant. Putting a size on the city can do it. Most bars with restaurant licenses must be smoke free. I think with amendment this bill is ok.

Vice-Chair Pietsch: Closed the hearing on HB 1307.

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1307
January 19, 2011
Job #13117

☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Explanation or reason for introduction of bill/resolution:

To allow individuals under 21 years of age in alcoholic beverage establishments.

Minutes:

Chairman Weisz: Called the meeting to order.

Rep. Porter: As we looked at some of the provisions in the testimony the language on line 17 in regards to indoor grill. If we are going to allow this and allow this type of an operation, that they have to be licensed as a restaurant; we really aren't saying that here. We aren't telling them they have to meet the health and fire safety requirements that their competitor has too. Other concerns came up from the Sheriff from Burleigh County when I talked with him was, what are you going to do with the gambling in the establishment during this hour of operation? What are you going to do with the entertainment that could be going on during the hours of operation? His overall question was, how are we as law enforcement going to enforce this that they are just having a meal and aren't sitting there till midnight or 1:00 in the morning? His suggestion was to do like Montana and limit the hours a minor could be in the facility. Montana's law is up until 9 pm. Now you have a tip jar or the parents gambling or handing tickets to the kids, obviously breaking another law that is a felony now rather than just there for supper. There are other concerns that need to be addressed in here.

Chairman Weisz: I see the amendment says parent or guardian.

Rep. Porter: Mr. Chairman, my question to you is what exactly is a guardian and how are they going to prove it?

Chairman Weisz: It should say legal guardian.

Rep. Porter: How do you prove it?

Chairman Weisz: The establishment could ask for it, and if he couldn't produce some proof (sentenced ended here).

Rep. Porter: My personal feeling on that is that it just should be the parents.

Rep. Schmidt: Does that mean if my 18 year old son goes hunting with my neighbor and his dad and goes into Mott for something to it, that my 18 year old son can't go in there because he is not with his parent? I think that is wrong.

Rep. Porter: I don't think legal guardian would fix that situation either.

Chairman Weisz: They could argue they are his guardian if it doesn't say legal.

Rep. Damschen: I missed the hearing on this bill because I was testifying on my bill that prohibits tailgating. I know where I stand on this one without even being at the hearing. I think there are a lot of questions and legitimate concerns. This does exactly what my bill is trying to prevent. It encourages youth to be around and use alcohol. Maybe the influence isn't understood how strong it is and how much different a child could react to that then the parent is thinking it will.

Rep. Paur: Trying to prove you are the guarding, a lot of us have trouble proving we are the parent.

Rep. Anderson: I think Jon yesterday when he was here was just looking for a place where he could go eat with his kids. In Rugby he's limited. After 5:00 about the only thing you can eat there is pizza and there are a lot of small towns like that.

Chairman Weisz: I understand his point too because there are some towns that only have one place and it is in the bar.

Rep. Kilichowski: I have no problem changing it to a restaurant license. I'd like to see the 5,000 population down to 3. I just think 5,000 can bring in a big enough vendor. You are looking at Grafton as one. None of the bars there have restaurants in them. Maybe one does, but don't know if it is open. With a restaurant license, does that include a track air cooker or one of those deep fryers that are self contained? I think this is something that has to be looked at. As far as the gaming, most of them probably have a machine or two if anything. I talked to Jon about it and he had no problem with going down with the population.

Chairman Weisz: In Harvey, there are only 2000 people and I would guess there are at least 3 establishments that you could get served until 9 p.m. separate from a bar.

Rep. Kilichowski: I would definitely set the hours.

Chairman Weisz: My question to the committee is, do you want some additional information as far as the restaurant license or do you want to take this thing up?

Rep. Porter: Going the route of the restaurant route of operation I would be interested in getting more information and I think between the fire marshal and the health department's food and safety, there would have to be a fiscal note that would have to go on this. There will be licensing fees plus expenses to the department to go out and inspect them.

Chairman Weisz: If the bar is already serving food.

Rep. Porter: Not all of them are and they don't necessarily inspect them if they got a pizza oven.

Rep. Kilichowski: If you have a restaurant license and you have a grill, you have to have an ansel system and your ansel system has to be inspected twice a year and that is at your cost. State Health Department comes around once a year to inspect your business. Cities have their own.

Chairman Weisz: I'll get the information on how the restaurant licensing works. Is there anything else relevant to this bill that the committee to know about.

Rep. Porter: If the word indoor grill means something or do we need to say they need to be a licensed restaurant. So if we amend it we amend it appropriately and fit our other statutes.

Chairman Weisz: I assume you could limit it to no gaming on site which may eliminate 90% of the bars.

Rep. Porter: If you are going to limit their hours of operation, then you would limit their hours that gaming would be available.

Chairman Weisz: We can do that if we want, not saying we should. I'll get that information for you.

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1307
January 24, 2011
Job #13292

☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Explanation or reason for introduction of bill/resolution:

To allow individuals under 21 years of age in alcoholic beverage establishments.

Minutes:

Chairman Weisz: Opened the meeting on HB 1307.

Rep. Porter: Mr. Bullinger, in the way this bill is worded it talks about allowing them to be a restaurant as long as the premise has served table top food that is prepared in the kitchen with at least an indoor grill. Our question is, would that require them to be licensed as a restaurant in the state of ND and comply with all of the fire code rules and the restaurant food prep type rules across the state?

Kenan Bullinger: With the Division of Food and Lodging with the ND Dept. of Health. We license bars and taverns three ways and it is based on what they provide for food and beverage. With a bar and a tavern that sells only alcohol and no food at all, our license is separate from any license they get from the attorney general's office or city to operate a liquor license. They still need restrooms and wash their hands and glassware with public health in mind.

Rep. Porter: What is the fee for that?

Kenan Bullinger: A bar tavern is $70 a year.

Rep. Porter: And they get inspected about (drops sentence).

Kenan Bullinger: Once a year. They are a low risk establishment so it might not be every year because we have higher risk; those that are cooking and chilling and preparing food, that we try to get in more often. The next step up is what we call a limited restaurant license and they are selling only food that is that requires heat treatment. No made from scratch, or salads just prepackaged pizzas and sandwiches. The majority of bars in ND have those. Requirements are a lot less. You'd need a pizza oven or a microwave, sinks to wash glasses etc. and restrooms. Next step up is if they are doing any food from scratch then they are licensed as a restaurant. They have a grill and deep fat fryer and their equipment is driven by their menu. A license on a full blown restaurant is a flat fee plus 50

cents per seat charge. A limited restaurant is a flat fee of $90 a year with no per seat charge.

Chairman Weisz: If they have an indoor grill you would consider that as a full restaurant license?

Kenan Bullinger: That is correct.

Rep. Hofstad: How consistent are cities in piggybacking these classifications to the state?

Kenan Bullinger: I think we are fairly uniform. Only difference may be license fees. I have developed a set of food code regulation modeled after the Food and Drug Administration's model food code. All of the locals have adopted a version of that. The FDA updates their model every four years. We are operating on an '05 version and the '09 has come out and I'm in the process of updating our model. Almost all of the local health departments have adopted our version by reference. So we are fairly uniform on regulations. We have franchised firms all across the state and we don't want to have one set of regulations that it different in one town versus another town.

Rep. Porter: The way the bill is written with that language, do we need to specifically state that they must be licensed as a restaurant or do you think that is already covered in another portion of this Century Code?

Kenan Bullinger: I will have to take a look at that bill again, but I think it is probably already covered in another section.

Rep. Damschen: Any differentiation between a restaurant with a separate bar section like an Applebees than a bar that just serves food?

Kenan Bullinger: There is a little bit of a difference. In some situations we will require two different licenses. If they have a bar that is separate and serve a limited menu items it demands two different inspections and will require two different licenses. The restaurant gets its own license and inspection and the bar as well.

Rep. Paur: Can you see any shortcomings to this bill or anything you think we should address?

Kenan Bullinger: I really need to take another look at this bill. When I first looked at it, I didn't see anything in there that impacted our division so I didn't put it on our radar screen and haven't been following it. I'll look at it again and get back to you.

Chairman Weisz: Take Applebees where the bar and restaurant aren't really separate, how do you determine as far as the food and drink?

Kenan Bullinger: A lot depends if they have a side or a portion of that business that is not open to minors. Many franchises in Bismarck have a bar side that minors are not allowed in and then the restaurant side and that is how we determine whether or not there are two

different business entities under one roof. Does this have to do with smoking and non-smoking?

Chairman Weisz: No. This would allow a minor to eat food in a bar.

Rep. Holman: Do you have different rules for different size communities for anything?

Kenan Bullinger: We do not have anything that has an unleveled playing field. Not to say the cities themselves don't. We are not the only inspecting and licensing entity. There are seven local health departments that do licensing and inspection as well. They each have their own intricacies on how they license.

Chairman Weisz: Thanks for coming down.

Rep. Porter: That certainly answered the indoor grill language of where their level of inspection would be. Even if their grill was a George Forman grill if they are cooking raw hamburger that would put them into the full restaurant level. I understand the purpose of this bill, but still have some concerns with the city population size, gambling situation, the hours of operation and the entertainment in the facility while minors are present. The basic amendment turned in by Rep. Nelson doesn't come close to my concerns. The ND Peace Officers Association e-mailed me back after the hearing and said that they really were here to oppose the bill. But, getting down to a 1500 town population size where there wouldn't be a place to eat, made them more comfortable and limiting the hours of operation made them really comfortable. It would be crystal clear on when a minor should be and when they shouldn't.

Rep. Louser: To follow-up on Rep. Porter; on the way back to Minot I stopped at Cotton Trail which is not a community. It is just off from Lake Sakakawea and they have a bar and restaurant area and further north, Max has the same thing. South Dakota handles this by just putting a time limit on it. Still have some concerns, especially on line 14 of the bill. It says, "an individual under 21 years of age may enter". If this should pass I think it should be, "the bar may allow". Not give the right to the individual to enter, but the right of the bar to allow. One of the things that hasn't been addressed is the patrons of the bar may not want to be there when there are children present. I have a concern with the size of the community because we either have to allow or not allow and say it is ok in Rugby, but not in Devil's Lake is not appropriate to that bar owner in Devil's Lake.

Rep. Damschen: The other issue that was not addressed to my satisfaction was a minor entering the bar with an adult who isn't a parent or guardian. Maybe the parent not even aware of the situation until after the fact. Who would determine who was the guardian that situation?

Chairman Weisz: Most of these places if they really wanted to could designate an area that was prohibited for the minor to cross and it wouldn't be any different than an Applebees. They could do this without building a wall.

Rep. Devlin: The other difference between an Applebees and a bar is that Applebees doesn't allow gambling and adult entertainment.

Rep. Hofstad: It seems to me we could fix this bill, but by the time you got it fixed it would be so restrictive that it wouldn't accomplish what we were looking for anyway. There is a number of issues. The parent, guardian, and entertainment issues. The size of the town issue. I think it is a difficult bill to fix.

Rep. Louser: I recommend a Do Not Pass.

Rep. Hofstad: Second.

Vote: 10 y 3 n DO NOT PASS Carried

Bill Carrier: Rep. Hofstad

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1307
January 31, 2011
Job #13721

☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz: HB 1307 was re-referred back to our committee from the floor because the floor didn't think evidently that we had spent any time on that bill. We have a few options. It is still up to the committee if it wants to reconsider. If there are not enough votes to reconsider, the bill goes right back down to the floor as is. We can reconsider and we can discuss the bill or leave it as is and send it back down. We can amend it in any way shape or form we want and vote on it and send it back out. We have a few options here. The fact they sent it back to us doesn't mean we have to reconsider it. Just so this committee is clear on how that works. Obviously I think we discussed in committee the issues that were brought up on the floor. What are the committee's wishes?

Rep. Anderson: I move we adopt an amendment.

Chairman Weisz: I'm sorry Rep. Anderson we don't have the bill in front of us at this point. We have to have a motion to reconsider our actions.

Rep. Holman: I' move to reconsider.

Rep. Anderson: Second.

Rep. Chairman: Discussion? (Voice vote was taken, but couldn't tell which way the vote went. Took a roll call vote.)

Vote: 3 y 9 n 1 absent Rep. Paur.

Bill Carrier: Rep. Hofstad

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1307
February 2, 2011
Job #13844

☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz: Called the meeting to order. We were asked to reconsider to bring this bill back into this committee. Once it's in the committee they can do what they want. If there is no motion to reconsider the action of the vote and then the bill goes right back upstairs. They don't know what to do with in limbo so the ruling is the bill itself has to come back to this committee. If there is no support to change the original vote, then the bill goes back upstairs and we will have it on the floor again.

Rep. Kilichowski: I'll move to bring it back.

Rep. Conklin: Second.

Rep. Hofstad: What happens if we vote not to bring this back?

Chairman Weisz: You will cause John Walstad and the others some really severe heartburn because they have no idea what to do. As far as they know it has never happened before. The desk would probably have to re-refer it to another committee. I don't know if we want that. He made it clear that we do not have to take the bill up again.

Rep. Devlin: How long can it remain in limbo?

Chairman Weisz: I don't think that has ever happened before either.

Rep. Devlin: If it remains in limbo and there is no action taken on it, does it die?

Chairman Weisz: I think there would be a motion to bring it back to the floor and a motion to be re-referred to a different committee if we refuse to take it back into this committee.

Voice Vote to reconsider the bill. Motion Carried

Chairman Weisz: The bill is back and according to Legislative Counsil we have already voted on this bill so we don't have to deal with it. If there is no motion on HB 1307 to reconsider our actions of a Do Not Pass; it will go back up on the floor with the same vote showing on the calendar. We can take it up and vote again.

Rep. Hofstad: There is a philosophical question here too. Do we bring a bill to the floor that's not as good as we could make it, or do we bring that bill to the floor as good as we can make it? Or, do we bring the bill there because we want it to die?

Chairman Weisz: I'll give you the philosophy of the Chair here. It is not our job to amend a bill just so that it will pass regardless of what it does. If there are issues in the bill that need to be fixed then that is the role of the committee. The definition of making the bill better is that are we making it more sellable or actually making the bill do more of what the sponsor wants. Those are two different things and I would argue in the case of this bill, the original bill does what the sponsor wants it to do. It does exactly what he is after. Everything we do to fix the bill will restrict that. If the bill is bad to start with, it is the responsibility of the committee to give it a Do Not Pass. I'm not necessarily referring to this bill. Not to try and fix the as much as the bad stuff as you can. If the bill is bad and the concept of the philosophy the committee decides they don't like, then they should send it out with a Do Not Pass. That is my philosophy on how we deal with bills. If a sponsor comes in with amendments we need to look at them as that is what a committee does.

Rep. Damschen: It seems like if we address every legitimate issue that was brought up in committee it is a problem if we end up with the current law.

Chairman Weisz: Exactly. And for the committee's information, I had Steven research everything we could on MN law because there was an implication that they could run around and do it in MN. Not that we can find. Nobody under the age of 18 and the seems to read that it is actually the same way we would treat an Applebees or TGIF now. You have a separated bar from the eating area.

Rep. Holman: I lived in MN and a dry county for a short time. The uniqueness of MN was they had county rules. Marshall County in MN where I lived at the time had 3 2 bars and no alcohol in the county. That changed. Some of our memories probably go back to those situations where people of all ages went into these establishments.

Chairman Weisz: If there is a motion we will look at it, otherwise that bill is going right back up on the floor. I'm not seeing a motion. Last call. Ok we will have the fight on the floor again.

Date: 1-24-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1307

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Louser Seconded By Rep. Hofstad

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. CONKLIN		✓
VICE-CHAIR PIETSCH	✓		REP. HOLMAN		✓
REP. ANDERSON		✓	REP. KILICHOWSKI	✓	
REP. DAMSCHEN	✓				
REP. DEVLIN	✓				
REP. HOFSTAD	✓				
REP. LOUSER	✓				
REP. PAUR	✓				
REP. PORTER	✓				
REP. SCHMIDT	✓				

Total (Yes) 10 No 3

Absent _____

Floor Assignment Rep. Hofstad

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

Date: 1-31-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1307

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☒ Reconsider

Motion Made By Rep. Holman Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ		✓	REP. CONKLIN		✓
VICE-CHAIR PIETSCH		✓	REP. HOLMAN	✓	
REP. ANDERSON	✓		REP. KILICHOWSKI	✓	
REP. DAMSCHEN		✓			
REP. DEVLIN		✓			
REP. HOFSTAD		✓			
REP. LOUSER		✓			
REP. PAUR	A				
REP. PORTER		✓			
REP. SCHMIDT		✓			

Total (Yes) 3 No 9

Absent 1

Floor Assignment Rep. Hofstad

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

REPORT OF STANDING COMMITTEE

HB 1307: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1307 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1307: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (9 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1307 was placed on the Eleventh order on the calendar.

2011 SENATE JUDICIARY

HB 1307

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1307
3/7/11
Job #14997

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to individuals under 21 years of age allowed in alcoholic beverage establishments

Minutes: There is attached testimony

Senator Nething – Chairman

Representative Jon Nelson – District 7 - Introduces the bill – See written testimony.

Senator Lyson - Agrees this is a rural bill but thinks it would be better if they specified a place to eat.

Rep. Nelson – Says if there is another establishment in town that serves food are they open in the hours or night time when this is more likely to take place. He thinks there also needs to be parental involvement. He goes on to say this takes place all across the country.

Senator Lyson – Says he has no problem if someone came in late for something to eat but he wonders what effect this will have on people that have a café open.

Senator Lyson – Replies if there was an option he doesn't think they would go to the bar, if it's about the food that would be a personal choice.

Senator Olafson – Said he agrees with the concept of the bill and asks if they considered language for the bar owner to prohibit people under 21 if they chose to.

Rep. Nelson – Said in drafting this legislation that is understood.

Senator Sitte - Mentions the former first lady's campaign against underage drinking and binge drinking and all the money spent by the state for this. She asks how this bill will impact that.

Rep. Nelson – Responds it shouldn't impact that campaign positively or negatively, this bill does not promote drinking. He said this just allows an underage person to be able to eat in a setting they can't today.

Senator Sitte – States if it is already allowed in his community then somewhere those provisions must already be in place.

Rep. Nelson – Replies he doesn't see it in the Century Code.

Senator Sitte – Asks about a 20 year old brother switching drinks with his 21 year old brother in the bar. She wonders how this can be enforceable.

Rep. Nelson – Agrees that maybe they could amend it to say parent or guardian. He says a number of states across the country allow this and they don't rank as high on the binge drinking list as ND does. He does not see this changing what is socially acceptable today. He said you could argue that this would make turning 21 and being able to go into a bar not that big of a deal anymore.

Representative Kaldeski – District 16 – Says he is in support of this. He explains that he is a former bar owner and he would let kids come into eat. He said bar owners are responsible people and are watching who is drinking a drink. He says their license is on the line.

Senator Sitte – Asks how he could serve them food if it is against the law.

Rep. Kaldeski – Said it wasn't under the law but in a farming community he cannot imagine not feeding the kids or making them wait in the truck.

Opposition

Jane Vangsness Frisch – Director of the Higher Education Consortium for Substance Abuse Prevention – See written testimony.

Senator Nething – Asks her if any of the proposed amendments would change her testimony.

Frisch – Responds they would make if more favorable.

Senator Olafson – Says he supports the bill but would like to see amended to be accompanied by a parent or guardian. He asks if that would make the bill less object able.

Frisch – Replies yes.

Senator Nething – Asks if she would support the amendment.

Frisch – Says yes, with parent or guardian.

Senator Sitte – Says she is shocked Frisch would change her position so quickly. Says she hears student's talk all the time of a parent giving them alcohol and she has strong concerns what we're doing here to our young people.

John Olson – Representing the ND Peace Officers Association – He says he appeared on this bill when it was in the House and suggested amendments, some of which are included. He says they would approve parent or guardian. With those in place they would be more inclined to approve.

Senator Nething – Asks Rep. Nelson how they arrived at the 5,000 population amount.

Rep. Nelson – Replies that it isn't a magic number. He just wanted it to be rural issue.

Pamela Sagness – Prevention Administrative with the Dept. of Human Services – See written testimony.

Senator Sitte – Asks how much the state spends on addiction.

Sagness – Responds she will get that information.

Close the hearing 1307

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1307
3/9/11
Job #15176

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to individuals under 21 years of age allowed in alcoholic beverage establishments

Minutes:

Senator Nething

Committee work

Committee discusses the need for the amendments. They want it amended before it goes to the floor in case their decision is over-ruled.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1307
3/21/11
Job #15774

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to individuals under 21 years of age allowed in alcoholic beverage establishments

Minutes:

Senator Nething - Chairman

Committee work
Senator Olafson says he would vote for it if it had the amendment for a parent or guardian.
Senator Lyson said he won't vote for it even if it does have it.

Senator Olafson moves to adopt the amendment
Senator Lyson seconded

Roll call vote – 3 yes, 3 no
Motion fails

Senator Sitte moves a do not pass
Senator Sorvaag seconded

Roll call vote – 5 yes, 0 no, 1 absent

Senator Sitte will carry

Date: 3/21/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1307

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment (Olafson)

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Olafson Seconded By Senator Lyson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman		X	Carolyn Nelson	X	
Curtis Olafson – V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte		X			
Ronald Sorvaag		X			

Total (Yes) 3 No 3

Absent

Floor Assignment Senator

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

Loses - Fail

Date: 3/21/11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1307

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Sitte Seconded By Senator Sorvaag

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	A	
Curtis Olafson – V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Sitte

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

REPORT OF STANDING COMMITTEE

HB 1307: Judiciary Committee (Sen. Nething, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1307 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1307

#1

TESTIMONY IN SUPPORT OF HB 1307

REP. JON NELSON

Chairman Weisz and members of the House Human Service Committee, my name is Jon Nelson and I represent District 7 in the North Dakota Legislature. I am here today to introduce HB 1307 and urge your support of this legislation.

HB 1307 is before you today for two reasons. One reason is that young people in rural North Dakota continue to leave the rural areas of the state. Many programs have been put in place to offer entertainment and activities for our youth but most of those programs exist in the more urban areas of the state. The fact of the matter is that when a young person comes back to their home in rural areas of the state they cannot join their friends and parents in a dining establishment after 6:00 PM. In many communities the only establishment that serves food after that hour is a bar. HB 1307 would allow young people to enter bars to consume a meal.

The other significant provision in this bill offers this ability to serve underage people food only to those establishments that are smoke free facilities. Many bar owners in our rural communities are concerned that if their facility adopts a smoke free policy they will lose a significant amount of business with that change. This bill would offer a incentive for that

establishment that has a grill and serves meals to adopt this policy.

The bill as it appears today is rather open ended from a practical standpoint. I would suggest an amendment that would only allow the underage person to enter and consume a meal in a bar in the company of their parent or guardian. This was my original intention but certainly isn't clear in the legislation.

Another concern that may come before you is that community size is not included in the bill. I would not be opposed to limiting the implementation of this bill to communities under 5000 or some other size that you feel comfortable with.

In conclusion, this legislation is only intended to allow what is common practice in most states in the country, the ability for parents and their children in all areas to enjoy dining out together no matter where they are.

Thank you for allowing me the ability to testify before you today.

BreatheND

Saving Lives,, Saving Money with Measure 3.

#2

Testimony
House Bill 1307
House Committee
2:00 p.m., Tuesday, January 18, 2011
North Dakota Tobacco Prevention and Control Executive Committee

Good afternoon Chairman Weisz and members of the House Human Services Committee. My name is Jeanne Prom and I am the executive director of the Center for Tobacco Prevention and Control Policy, the office created by the Executive Committee. I am here to provide testimony in opposition of HB 1307 relating to individuals under age 21 allowed in alcoholic beverage establishments.

The Executive Committee supports all public places becoming smoke-free, whether places are open to minors, adults or both. This bill opens to minors those alcoholic beverage establishments that are smoke-free and serve meals. The Executive Committee sees the net public health effect of allowing minors in bars to purchase and consume food, even if the bars are smoke-free, as a negative effect.

I'll share with you three major areas to consider:

- Does allowing minors in bars -- with or without their parents -- create a new social norm around minors and alcohol consumption that might promote underage drinking? As public health professionals, we need to be concerned about youth substance use whether it is tobacco, alcohol or another substance.

- Currently 25% of the population lives in small and large communities where bars are already smoke-free by local law. Cities of all sizes can opt to make their bars smoke-free now, without allowing minors in the door.

- Will bars that are already smoke-free and serve meals now be required to allow minors? Is this a step backward for public health in these communities?

I understand that in some small towns the bar also serves as the de facto restaurant. I believe there are other approaches available to make these places smoke-free. Please consider all the public health ramifications of allowing minors in places where they are currently prohibited.

Thank you.

(1)
1307

TESTIMONY IN SUPPORT OF HB 1307

REP. JON NELSON

Chairman Nething and members of the Senate Judiciary Committee, my name is Jon Nelson and I represent District 7 in the North Dakota Legislature. I am here today to introduce HB 1307 and urge your support of this legislation.

HB 1307 is before you today for two reasons. One reason is that young people in rural North Dakota continue to leave the rural areas of the state. Many programs have been put in place to offer entertainment and activities for our youth but most of those programs exist in the more urban areas of the state. The fact of the matter is that when a young person comes back to their home in rural areas of the state they cannot join their friends and parents in a dining establishment after 6:00 PM. In many communities the only establishment that serves food after that hour is a bar. HB 1307 would allow young people to enter bars to consume a meal.

The other significant provision in this bill offers this ability to serve underage people food only to those establishments that are smoke free facilities. Many bar owners in our rural communities are concerned that if their facility adopts a smoke free policy they will lose a significant amount of business with that change. This bill would offer an incentive for that

establishment that has a grill and serves meals to adopt this policy.

The bill as it appears today is rather open ended from a practical standpoint. I would suggest an amendment that would only allow the underage person to enter and consume a meal in a bar in the company of a person who is 21 years of age. This was my original intention but certainly isn't clear in the legislation.

Another concern that may come before you is that community size is not included in the bill. I would not be opposed to limiting the implementation of this bill to communities under 5000 and would offer an amendment to just that . Also included in the proposed amendment is a provision that would only allow the underage person to remain in the tavern would be the hours that food is served but not past 10:00 PM.

In conclusion, this legislation is only intended to allow what is common practice in most states in the country, the ability for parents and their children in all areas to enjoy dining out together no matter where they are.

Thank you for allowing me the ability to testify before you today. I would urge your committee to adopt the proposed amendment and give HB 1307 a Do Pass recommendation.

Thank you.

Nelson amend

11.0507.02002
Title.

Prepared by the Legislative Council staff for
Representative J. Nelson
March 4, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1307

Page 1, line 14, after "age" insert "if accompanied by an individual twenty-one years of age or older"

Page 1, line 16, after "serves" insert "and is open to serve no later than ten p.m."

Page 1, line 18, after the underscored period insert "This subsection does not apply to a licensed premises in a city with a population that exceeds five thousand individuals."

Renumber accordingly

(2)
1307

North Dakota University System

HB 1307 – Senate Judiciary Committee

March 7, 2011

Jane Vangsness Frisch

Mr. Chairman, members of the Judiciary Committee. Good Morning. For the record, my name is Jane Vangsness Frisch, Director of the Higher Education Consortium for Substance Abuse Prevention, an initiative of the North Dakota University System.

The Chancellor authorized me, on behalf of the Higher Education Consortium for Substance Abuse Prevention (NDHECSAP)[1], to speak in opposition to House Bill No. 1307: relating to individuals under twenty-one years of age allowed in alcoholic beverage establishments.

Research has consistently demonstrated that underage alcohol use by college students hinders students' development, health and ultimately success at college. Research has also shown that youth who use alcohol before age 15 are five times more likely to become alcohol dependent than adults who begin drinking at age 21.[2] Additionally, cutting edge research has recently revealed that the late adolescent brain isn't completely done developing until the mid-twenties and alcohol consumption can adversely affect the brain development of these late adolescents.[3] This research illustrates why keeping alcohol out of the hands of those under the age of 21 is so important.

It is our understanding that the intent of the bill was to provide more options for dining out in smaller communities in North Dakota; however the negative impact of this change would be far-reaching. Underage access to alcohol would be increased; any age could enter a bar at any time and establishments/servers would have a hard time monitoring who is or isn't actually consuming the alcohol. A minor could be eating a meal with friends who are over 21 and those friends could easily share their alcohol with their underage friend. In addition, since there is no time limit; as the bill currently reads, a minor could eat a meal at 6:00 p.m. and then easily remain in the establishment until 1:00 a.m. making it more likely for the server to forget if they were a minor and increasing the possibility that they would be served alcohol later in the evening. Finally, the lack of definition of a grill and a meal make it likely that some establishments would add a small grill and offer snack type foods, thus widening their market. Once the young people are in the establishment, the chance of them being accidentally served rises significantly. In a state that leads the nation in underage (age 12-20 years) alcohol use[4], the NDHECSAP is concerned that this legislation would only exacerbate this problem.

Passing this bill would greatly increase the chance that underage youth would have access to alcohol – and be in direct opposition to the work of several state agencies, including the NDHECSAP. In fact, the NDHECSAP, made up of professionals from all 11 NDUS campuses, are gravely concerned about this bill and unanimously voted to oppose it.

Thank you for your time. I would be pleased to answer any questions the committee might have.

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[1] This testimony was developed with the assistance of Dr. Laura Oster-Aaland, past chair of the NDHECSAP.

[2] Office of Applied Studies. The NSDUH Report: *Alcohol Dependence or Abuse and Age at First Use*. Rockville, MD: Substance Abuse and Mental Health Services Administration, October 2004. Available at http://www.oas.samhsa.gov/2k4/ageDependence/ageDependence.html

[3] http://www.niaaa.nih.gov/AboutNIAAA/NIAAASponsoredPrograms/Documents/NIAAA_Brain_Fact_Sheet_508.pdf

[4] Substance Abuse and Mental Health Services Administration, Office of Applied Studies. (April 1, 2010). *The NSDUH Report: State Estimates of Underage Alcohol Use and Self-Purchase of Alcohol*. Rockville, MD.

1307 (2)

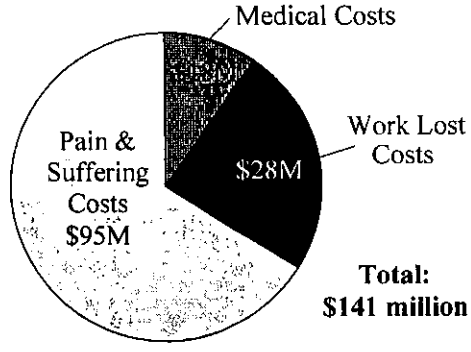
Underage Drinking in North Dakota
The Facts

Tragic health, social, and economic problems result from the use of alcohol by youth. Underage drinking is a causal factor in a host of serious problems, including homicide, suicide, traumatic injury, drowning, burns, violent and property crime, high risk sex, fetal alcohol syndrome, alcohol poisoning, and need for treatment for alcohol abuse and dependence.

Problems and Costs Associated with Underage Drinking in North Dakota

Underage drinking cost the citizens of North Dakota $141 million in 2007. These costs include medical care, work loss, and pain and suffering associated with the multiple problems resulting from the use of alcohol by youth.[1] This translates to a cost of $2,000 per year for each youth in the State. North Dakota ranks 34th highest among the 50 states for the cost per youth of underage drinking. Excluding pain and suffering from these costs, the direct costs of underage drinking incurred through medical care and loss of work cost North Dakota $46 million each year.

Costs of Underage Drinking
North Dakota 2007



Costs of Underage Drinking by Problem, North Dakota 2007

Problem	Total Costs (in millions)
Youth Violence	$69.2
Youth Traffic Crashes	$37.0
High-Risk Sex, Ages 14-20	$10.4
Youth Property Crime	$3.9
Youth Injury	$8.4
Poisonings and Psychoses	$1.4
FAS Among Mothers Age 15-20	$2.3
Youth Alcohol Treatment	$8.0
Total	$140.6

Youth violence and traffic crashes attributable to alcohol use by underage youth in North Dakota represent the largest costs for the State. However, a host of other problems contribute substantially to the overall cost. Among teen mothers, fetal alcohol syndrome (FAS) alone costs North Dakota $2.3 million.

Young people who begin drinking before age 15 are four times more likely to develop alcohol dependence and are two and a half times more likely to become abusers of alcohol than those who begin drinking at age 21.[2] In 2007, 236 youth 12- 20 years old were admitted for alcohol treatment in North Dakota, accounting for 17% of all treatment admissions for alcohol abuse in the State.[3]

Alcohol Consumption by Youth in North Dakota

Underage drinking is widespread in North Dakota. Approximately 35,000 underage youth in North Dakota drink each year. In 2007, according to self-reports by North Dakota students in grades 9-12:[4]

- 74% had at least one drink of alcohol on one or more days during their life
- 20% had their first drink of alcohol, other than a few sips, before age 13.
- 46% had at least one drink of alcohol on one or more occasion in the past 30 days.
- 33% had five or more drinks of alcohol in a row (i.e., binge drinking) in the past 30 days.
- 4% had at least one drink of alcohol on school property on one or more of the past 30 days.

In 2007, underage drinkers consumed 20.3% of all alcohol sold in North Dakota, totaling $77 million in sales. These sales provided profits of $38 million to the alcohol industry.[1]

Harm Associated with Underage Drinking in North Dakota

Underage drinking in North Dakota leads to substantial harm due to traffic crashes, violent crime, property crime, unintentional injury, and risky sex.

- During 2007, an estimated 9 traffic fatalities and 200 nonfatal traffic injuries involved an underage drinking driver.
- In 2006, an estimated 1 homicides; 1,000 nonfatal violent crimes such as rape, robbery and assault; and 2,400 property crimes including burglary, larceny, and car theft involved an underage drinking perpetrator.
- In 2006, an estimated 2 alcohol involved fatal burns, drownings, and suicides involved underage drinking.
- In 2006, an estimated 300 teen pregnancies and 1,500 risky sexual acts by teens involved alcohol.

Produced by the Pacific Institute for Research and Evaluation (PIRE) with funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), November 2009.

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[1] Miller, TR, Levy, DT, Spicer, RS, & Taylor, DM. (2006) Societal costs of underage drinking *Journal of Studies on Alcohol*, 67(4) 519-528.
[2] Grant, B.F., & Dawson, D.A. (1997). Ago at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from the Nation Longitudinal Alcohol Epidemiologic Survey. *Journal of Substance Abuse* 9: 103-110.
[3] Office of Applied Studies, Substance Abuse and Mental Health Services Administration. Treatment Episode Data Set (TEDS). (2007). *Substance Abuse Treatment by Primary Substance of Abuse, According to Sex, Age, Race, and Ethnicity.*
[4] Center for Disease Control (CDC). (2007). Youth Risk Behavior Surveillance System (YRBSS).

HB 1307 – Department of Human Services
Testimony
Department of Human Services
Judiciary Committee
Senator, Nething, Chairman
March 7, 2011

Chairman Nething and members of the Judiciary Committee, I am Pamela Sagness, Prevention Administrator with the Department of Human Services, Division of Mental Health & Substance Abuse Services. I am here today to provide testimony about concerns regarding HB 1307.

The original premise of this bill appears to have been to provide a location for families to eat in rural communities that lack eating establishments other than premises that serve alcohol. However, as the bill currently is written, it not only accomplishes this intent, but includes all communities – rural and urban and throws open the liquor establishment's doors to unaccompanied minors without any time restrictions.

As currently written, underage youth in larger communities with other eating establishments available, could enter a liquor establishment to eat versus eating at a restaurant that is separated from the bar.

The bill does not contain any time limit or restriction. For example, if a 15 year old went to the bar for supper, they would be able to stay until closing. During this time, youth will observe high risk drinking and associated behaviors. Additionally, many of these establishments offer happy hour specials during high traffic times, often in the evenings, which could now involve youth being present. North Dakota ranks number 1 in binge drinking for 12 years of age and older. The Department is greatly concerned about the impact of this atmosphere on youth and the related message it sends.

The bill does not include language requiring a guardian or a responsible party to accompany the individual under the age of 21 into the establishment. This means that a 13 year old and their friend can enter, eat supper, and stay without supervision. This leads to questions of how the 13 year old would be monitored and how their access to alcohol would be prevented.

Environments strongly influence youth behaviors. Some of the most effective prevention strategies involve changing the environment around youth; changing risky environments to positive environments to help youth make good choices. This bill would increase exposure and access to alcohol, thus ultimately increasing risks for future problems among our youth. Without time limits, community size limits and language requiring youth be accompanied by an adult, a liquor establishment is not an environment that will help youth make good choices.

This ends my testimony. I would be happy to answer any questions.

(2)
1307

BreatheND

Saving Lives, Saving Money with Measure 3.

Testimony
House Bill 1307
Senate Judiciary Committee
9:00 a.m., Monday, March 7, 2011
North Dakota Tobacco Prevention and Control Executive Committee

Good morning Chairman Nething and members of the Senate Judiciary Committee. My name is Jeanne Prom and I am the executive director of the Center for Tobacco Prevention and Control Policy, the office created by the Executive Committee. I am here to provide testimony in opposition of HB 1307 relating to individuals under age 21 allowed in alcoholic beverage establishments.

The Executive Committee supports all public places becoming smoke-free, whether places are open to minors, adults or both. This bill opens to minors those alcoholic beverage establishments that are smoke-free and serve meals. The Executive Committee sees the net public health effect of allowing minors in bars to purchase and consume food, even if the bars are smoke-free, as a negative effect.

I'll share with you three major areas to consider:

- Does allowing minors in bars -- with or without their parents -- create a new social norm around minors and alcohol consumption that might promote underage drinking? As public health professionals, we need to be concerned about youth substance use whether it is tobacco, alcohol or another substance.

- Currently 25% of the population lives in small and large communities where bars are already smoke-free by local law. Cities of all sizes can opt to make their bars smoke-free now, without allowing minors in the door.

- Will bars that are already smoke-free and serve meals now be required to allow minors? Is this a step backward for public health in these communities?

I understand that in some small towns the bar also serves as the de facto restaurant. I believe there are other approaches available to make these places smoke-free. Please consider all the public health ramifications of allowing minors in places where they are currently prohibited.

Thank you.

11.0507.02001
Title.

Prepared by the Legislative Council staff for
Representative J. Nelson
January 19, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1307

Page 1, line 14, after "age" insert "if accompanied by a parent or guardian"

Page 1, line 16, after "serves" insert "and is open to serve"

Page 1, line 18, after the underscored period insert "This subsection does not apply to a licensed premises in a city with a population that exceeds five thousand individuals."

Renumber accordingly

Amendments for HB 1307

Page 1, line 16, replace "serves at a tabletop food that is prepared in a kitchen" with "is licensed as a restaurant".

Page 1, line 17, remove "with at least an indoor grill"

Page 1, line 17, remove "and".

Page 1, line 18, after "premises", insert:

"at all times, the premises is located in a community with a population of fewer than one-thousand five-hundred residents, and the premises may not host any gambling or live entertainment between five p.m. and nine p.m. Individuals under twenty-one years of age may enter a licensed premises only between five p.m. and nine p.m.The individual under twenty-one years of age may not sit at a bar and must be accompanied by the individual's parent".