

2011 SENATE JUDICIARY

SB 2133

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2133
1/17/11
Job #12972

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to using false identification to obtain alcoholic beverages

Minutes:

There is attached written testimony

Senator Nething – Chairman

Senator Olafson – Vice Chairman – conducting the hearing

Senator Flakoll – District 44 – Introduces the bill – see written testimony

Senator Olafson – Asks him to address the concern with what happens if an establishment confiscates an ID which later proves to be a valid ID. He is especially concerned if someone were to confiscate a passport.

Senator Flakoll – Responds that the establishments should have server training and they should have a policy in place. He said they also want to stop the illegal use of legal ID's. That is a total legitimate ID being used by the wrong person.

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

Robert Vallie – Executive Commissioner for Governmental Relations and Inter-Collegiate Affairs – NDSU Student Government – See written testimony.

Senator Olafson – Asks if he knows the source of fake ID's on campus.

Vallie – Relates that it his understanding that many come from the internet.

Senator Sitte – Wonders if an amendment shouldn't be added stating that if the ID is valid it should be available for pickup within 24 hours.

Rudy Martinson – Director of ND Hospitality Association – In support of this bill. He mentions that every bar has a policy on what they will accept as an ID. He says the key point of this bill is the illegal use of legal ID's. His industry has absolutely no interest in selling alcohol to people that aren't legally qualified to buy it. This bill clears up confusion

on a local Police Departments deal with coming to get a fake ID. This would give us a standardized process.

Senator Olafson – Asks him if he thinks amending the bill with a time frame to return an ID that is valid.

Martinson – Replies it is up to law enforcement.

Jeff Balentine – Chief of Police – City of Minot – Relates this is a problem across the state. He said it isn't only the colleges but also the Air Force Base and in the oil industry. He said the Chiefs of Police Association supports this bill. He said the law enforcement agency would get a valid ID back to the person immediately.

Senator Lyson – Asks him if he would like to see the establishment turn over the ID within 24 hours.

Balentine – Believes it is a fairly good practice by bar owners that they immediately notify law enforcement. Sometimes law enforcement may have to travel a long way to pick up that ID so this gives them some time as well. He would like to see the ID's turned over to law enforcement immediately.

Senator Olafson – Asks if there is any reason not to amend language into the bill that the establishment call law enforcement immediately. Would the Police Chief's support adding that language?

Balentine – Yes they would support that, it is just practicality.

Mike Rud – President of the Petroleum Marketers and Retail Association – In support of this bill. It's a huge issue even in retail stores.

Senator Lyson – Agrees with the bill. He still thinks it needs an amendment to have these fake ID's turned over immediately.

Rud – Agrees

Senator Olafson – Asks him if he would support this bill to include tobacco when seizing ID's.

Rud – Said his association would stand in full support of that. He said they take it very seriously.

Opposition

Mike Blumhagen – Said he opposes the bill in its current form. He totally agrees with its intent but is concerned with confiscating a legal ID. He relates his son looks very young and if he goes into any establishment and the confiscate his ID he'll have to drive home without a driver's license.

He would like to see the bill amended so they can give back the ID before 24 hours he would be very much in support of this.

Senator Olafson – Agreed with his testimony and would see what they could do to address those concerns.

Close the hearing on 2133.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2133
1/17/11
Job #12969

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to using false identification to obtain alcoholic beverages

Minutes:

Senator Olafson conducts the committee work

Senator Lyson tells the committee he has an amendment to clarify that law enforcement will be contacted by 24 hours. Senator Lyson thinks leaving the 24 hours in will be fine because of some of the rural communities. He said law enforcement will go there when they get the call. Senator Olafson thinks some language should be put in the bill that the establishment call law enforcement and they will pick up the fake ID. Senator Nelson asks what protection is in there for a legal ID being used. The committee has concern that the legal ID be in the hands of its rightful owner ASAP. They mention that if it is the right ID they are not going to give it up; they are not going to leave without it. Senator Lyson will work on the amendment.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2133
1/26/11
Job #13506

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to using false identification to obtain alcoholic beverages

Minutes:

Senator Nething – Chairman

Senator Lyson moves the amendment
Senator Olafson seconds

Discussion

Committee discusses the amendment put on the bill. Senator Nelson asks if you have 24 hours to produce a driver's license if you don't have it on you.


Verbal vote on the amendment – all yes, 0 no

Senator Lyson moves a do pass as amended
Senator Olafson seconds

Committee gives a synopsis of the bill to the Chairman.

Roll call vote – 6 yes, 0 no
Senator Lyson will carry

January 27, 2011


1-27-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2133

Page 1, line 21, replace "must" with "shall"

Page 1, line 22, after "seizure" insert "and the law enforcement agency shall take possession of the identification within twenty-four hours after receipt of the notice"

Renumber accordingly

Date: 1/26/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2133

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 S. Lyson Seconded By S. Olafson

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Verbal yes - pass

Date: 1/26/11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2133

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 S. Lyson Seconded By S. Olafson

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) 6 No 0

Absent _____

Floor Assignment S. Lyson

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

REPORT OF STANDING COMMITTEE

SB 2133: Judiciary Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2133 was placed on the Sixth order on the calendar.

Page 1, line 21, replace "must" with "shall"

Page 1, line 22, after "seizure" insert "and the law enforcement agency shall take possession of the identification within twenty-four hours after receipt of the notice"

Renumber accordingly

2011 HOUSE JUDICIARY

SB 2133

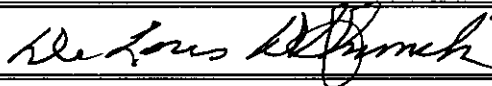
2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB 2133
March 7, 2011
15005

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on SB 2133.

Senator Flakoll: (See attachment #1). I am a sponsor of and in support of this bill. I know there are no bars or restaurants in my district that have alcohol licenses, but I was a general manager of what is called the Fargo-Moorhead RedX baseball team and had a liquor license that covered a 5,000 seating capacity for people so am familiar with the issues and situations and problems surrounding alcohol and how things can be done. First let me acknowledge that the alcohol abuse problem is a problem with many faucets to it. It is not a single problem issue and no one action or law can fix the whole problem. We can however chip away and reduce the problem. We can reduce the incidents of under aged drinking, binge drinking because again if someone goes in with a fake ID and gets into a bar they are probably going to make as good use in their mind as possible during those hours when they actually do get into the bar illegally. This bill gives the licensed retailer of alcohol or an employee of an establishment the right to seize a form of identification that they believe to be illegal or illegally used. It is optional. They do not have to or required to and I would also note that in many communities there are server training that is made available so it is not mandated. At the last meeting the ND Chief of Police Association in their September, 2010 meeting voted unanimously to support this legislation. We have worked with the ND Hospitality Association and the Attorney General's office to draft this bill. Here are some of the objectives to the bill. 1. Reduce under aged drinking. Reduce minor's consumption of alcohol. 2. Get fake ID's off the street. So if we confiscate the ID; keep in mind those fake ID's can run from \$50-\$200 to obtain an illegal ID and if we can get those off the street that burns the pocketbook of those that are using them illegally. It also discourages their use by a fear of legal actions or risks. We are trying to make legal many bars where they take them and often times the under aged person who has used it illegally or as an illegal ID just bolts. It can also not be just fake ID's, but it can also be someone using older brother or younger brother type situation where someone whose brother looks similar to them they use their ID to get into the bars and get served. They can also take that and confiscate that. There will be a legal remedy for that. I feel certain there will also be some family justice that will happen if the younger brother took the older brothers

when they get back home. We did provide that if the ID is confiscated they will be dealt with in a timely manner. We have upgraded the quality of the driver's license but they can check whether they are a fake one or not.

Rep. Delmore: Is there any penalty for the person? Obviously it could be monetary or whatever.

Senator Flakoll: We did not specify anything. Part of it was just getting them off the street and the penalty of not having them available because if they get refused at bar 1, refused at bar 2; they will just keep shopping around until they hit a spot and it is fairly well known within communities such as mine what bars pay less attention than others.

Rep. Klemin: On line 10 it refers to a valid driver's license or identification card issued by the state. I know you can go into DOT and get an ID card if you don't have a driver's license; but within that category an identification card issued by the state are you including such things as ID cards issued by state colleges or universities?

Senator Flakoll: No. There was a bill introduced in the 2005 session by Senator Brown that there was an individual that wanted an ID so that he could become a donor and it would have all the pertinent information which was very similar to what a license was, but did not allow the individual to drive. It is an age verification piece much like a passport would be an age verification piece. A military ID would be an age verification piece.

Rep. Klemin: Speaking of passports, line 15 a valid passport; does that include this card that you can get now if you just want to go back and forth to Canada?

Senator Flakoll: I would believe so. I have not seen those. I did check that portion with do we have the authority to take those if we believe they either fake or used inappropriately? I visited with the Attorney General and they indicated we do have the authority to take those. Any bar owner can say we don't take those here. There are some bars that say we don't take passports even though in my mind that is the highest level of verifiable information on who you are.

Rep. Koppelman: Is there any penalty elsewhere in law for attempting to falsify your age?

Senator Flakoll: I think there is false impersonation of another person or misrepresentation kind of language there. I don't know if we will ever get to that level. It is more about trying to do things to discourage them and get them off the street.

Rep. Koppelman: The confiscation and turning over to a law enforcement agency that is called for in the bill. What if you have something falsely ceased like we are

talking about a lot of different forms of ID. If a proprietor looks at this and says yes I have never seen anything like this and it is fake and grabs it; the bill says they have 24 hours to notify law enforcement and it has to be turned over etc. What happens to the person who may have had that legitimate ID ceased or the older brother from whom it was stolen to getting his back?

Senator Flakoll: That was discussed so I have tried to do some investigation on this on more than one occasion. If they are ceased invariably an innocent party will stay there and when they call the cops and they can get it resolved on the spot. That is why we decided to have them report it and turn it in and law enforcement believes that is a comfort level that bar owners have with that and I don't think it is overly aggressive. Again, they don't have to confiscate them.

Rep. Koppelman: I am just wondering if you had an obstinate bar owner that said OK call the cops and he says I don't have to do that. The law says I can take this and I don't have to call them for 24 hours so go cool your jets for awhile and see you later. You could have scenario like that or as you said earlier it was stolen from another party, now you have somebody else who is without their driver's license maybe or something and trying to get it back. I don't see anything in the bill that says if it is verified they have return.

Senator Flakoll: I have yet to see someone who is under 21 who doesn't have a cell phone on him. If I was that person and I wanted the police called I would call the cops myself. They have full authority to call the cops themselves. So even if the bar or restaurant owner says we are going to set on it the under aged person could call.

Rep. Boehning: Maybe we should have them be able to hold them until the cops come and arrest them for something.

Senator Flakoll: We didn't want to go that far, I guess because that does get into an area where; while bar owners and servers are trained to identify fake ID's we didn't necessarily want to give them their own to put them in handcuffs or being that aggressive with it.

Rep. Boehning: How is this going to work when they do all these sting operations in Fargo on a regular basis and checking to see if they are going to serve minors. If they take this minors ID what is going to happen when they are doing stings.

Senator Flakoll: That was a question we asked the Attorney General and essentially in those situations law enforcement is with them. At this point law enforcement is with them and they acknowledge that they are trying to stop an illegal ID on behalf of law enforcement.

Rep. Boehning: How about with smoking. Say a minor comes into a convenience store and tries to buy a pack of cigarettes at 17. Would we take and so something with that as well where they pull the license? It is just a thought.

Senator Flakoll: That is a good thought. There is actually somebody in the chambers that would like to have that, I believe. We did not go to the level; we just stayed with alcohol. It came out of an alcohol taskforce so we just stayed with that. We certainly know there is a big problem in ND with alcohol. I know this would not solve the whole problem.

Rep. Steiner: My son is a bouncer at a bar in Dickinson and he had a group of international young people there and he said he could tell from the passport it was illegal and he said he threw the passport back at him and the guy cursed him in a foreign language and they had trouble getting him out because he said this is a legal passport in my country. In fact if he held that passport and this person barely speaks English and wondering around the community without a passport for 24 hours and they get picked up by INS; you have those 24 hours without your passport. I know when I travel abroad I am a nervous wreck about my passport.

Senator Flakoll: That would be the maximum time allowed. The individual could stay there and wait until law enforcement or an interrupter because if this would go to court in some way they would have to have an interpreter available. That is a problem in some communities where you have the international student population who are using illegally and again the bar owner can refuse service to anyone whether they think it is real or fake.

Rudy Martinson, Executive Director, ND Hospitality Association: I am here today in support of SB 2133. I think Senator Flakoll did a good job of laying out what the bill does. I would just add as an industry we don't really have any interest in serving alcohol to minors. If we need to serve alcohol to minors then there is no reason we need to be in business. We actively work with law enforcement with these server trainings and within the industry itself in some educational ways we actively work to avoid having that happen. We are in favor of this bill just because it does put another tool into our tool box in terms of helping to cut down on that problem. From a statewide prospective is that there is some confusion amongst local law enforcement entities on whether or not this is allowable under current law. There are some cities that say where the local police department doesn't have a problem with it; and there are cities that say you absolutely cannot do that. You have to give it back if they ask for it back. So we are in support of this change so it does clarify that on a statewide level and our members can stop calling each other and trying to figure it out. Regarding the compliance checks that law enforcement does; my understanding is that not only when they bring in those minors to you; not only is there a law enforcement person with that person, but they don't use fake or altered ID's. They use their actual ID and the test essentially is can the bar tender or waitress alert enough and can they do the math to figure that out. I don't know if that is an obstacle for them because they are not using the fake or altered ID's. In terms of the 24 hour period, we did work with Senator Flakoll in drafting this legislation. The 24 hour period is the maximum period and we discussed that at length of time. It gives some time if the ID has been confiscated on Saturday night for the 24 hours

for the law enforcement officer so they don't necessarily need to drop everything they are doing and run over in a more rural area or even in an urban area when there are more important things on their agenda that evening so looked at it for that reason and addressed it that way. I would stand for any questions.

Rep. Klemin: On that notice thing it is really two 24 hour period's isn't it? They have to notify law enforcement within 24 hours after they seize it and then law enforcement has 24 hours after notice to come and get it.

Rudy Martinson: Correct. That is the way the bill reads. I don't anticipate that whole 48 hours being taken except in extraordinary circumstances. Most of the time if they call the police with a fake ID an officer is there within a few minutes. It is almost a source of some amusement for the operators and the law enforcements to try and catch people with this. We wanted to build in some flexibility for out in rural western ND in a county where the law enforcement officer may have to travel some distance to come and retrieve that ID.

Rep. Klemin: Last December I went down to Missouri. I stopped at Council Bluffs, Iowa in a hotel that was connected to one of these floating casinos on the river. When you are in the hotel part where the restaurant's where and then you went into the casino part there was a guard point there and you had to go through a turn style and if they thought you looked like you weren't 21 then they would ask for ID and when they did that they scanned that ID to make sure that was the right ID etc. Why don't we do that here?

Rudy Martinson: There are establishments that own and operate that kind of equipment around the state. It is not every establishment because I understand the equipment to do that is fairly expensive and there is obviously a maintenance and upkeep to it. That might be a question for law enforcement.

Rep. Delmore: You said sometimes they are seizing these now. Do you have any idea of the number of incidents where they have taken somebody's ID? How big of a problem is this?

Rudy Martinson: I don't have any hard numbers to answer that question. I can tell you I have been through server training by various police departments around the state and everyone that I go to the law enforcement officer that is giving that training walks in with a box full of fake and illegally altered ID's that have been confiscated over time. For the most part those are confiscated over time by bars and not law enforcement so it happens fairly often.

Rep. Delmore: Are there other states that are doing this?

Rudy Martinson: The original piece of language that he brought to the group when he started drafting this bill was based on Minnesota's language. There is other nearby states that do this.

Rep. Delmore: It is voluntary to seize, but if I do take somebody's ID it says I shall notify so I have to go to law enforcement? Correct?

Rudy Martinson: That is correct. That is how we intended it to read.

Rep. Koppelman: What is the normal drill if somebody presents a fake ID; now some seize it and some don't? What else happens?

Rudy Martinson: It varies. Most of the time there is a threat to call law enforcement. As Senator Flakoll said it is a pretty good indicator if you threaten to call law enforcement and that person isn't running down the street it is a good ID. If you are under age and you are trying to sneak your way into a bar you as that patron know that you are under age so once challenged on that those people don't hang around to wait for consequences. Some better educated might demand their ID back and in some cities the cities are advised they cannot cease those things.

Rep. Koppelman: So they threaten to call law enforcement and person says go ahead if they are bold or they think their ID is a good enough fake they can fool even law enforcement and law enforcement is called and they determine that it is not valid, and then what happens? Are there any consequences for that individual?

Rudy Martinson: I don't know the Century Code citation, but there is a penalty in a different section of the code attempting to use fake ID to purchase alcohol and there is a penalty for successfully purchasing alcohol with a fake ID as well.

Robert Vallie, Executive Commissioner for Governmental Relations and Inter-Collegiant Affairs for NDSU Student Government: (See testimony #2). For myself as a student of NDSU as well as a member of Farmhouse fraternity at NDSU I am a person at the age of 21 that I never once consumed alcohol under age; however even though I am a proud fraternity member of a fraternity that is a dry fraternity by choice and an individual will look at me and see as nothing more than a frat boy or see me as nothing more than just a college student who is looking to go have a good time and completely take too much alcohol and do irresponsible things and that is because a few individuals have done actions that helped to create these stereotypes. A few NDSU students have attempted to alleviate those stereotypes both as a fraternity system as well as college students to show what we are doing in the community as well as community service projects like the Big Event where we go around the city of Fargo in order to help in community service projects. Individuals that use fake ID's or individuals who consume alcohol irresponsibly even if it is only a few help to create and inflame these stereotypes. We think the passage of this bill will help to alleviate some of these stereotypes by stopping those individuals who would create those problems for NDSU students and for others. We whole hearted support the passage of 2133. If there are questions I would be more than happy to take them.

Jane Vagsness Frisch, Director of the Higher Education Consortium for Substance Abuse Prevention: (See testimony #3).

Mike Rudd, ND Petroleum Marketers and ND Retail Association: We support 2133. We come at it with a little different angle. We have more and more members who are getting into the business of selling off sale so this is a huge issue with us as well. It is another revenue stream for us but we want no part of selling alcohol or cigarettes to minors. I think we utilize the We Card Program. Essentially the We Card Program tells you to check ID's of people who don't look at least 27 years old so a lot of our members are doing that. I think you can see from our compliance rates were probably in that 97%-98% range across the state regarding tobacco compliance and I think alcohol would get the same rating. We like nothing better than to catch people doing this and we like nothing better than to call the police and have them come and visit with these folks. It is a serious issue for us; not only to stop the folks from drinking; obviously that aren't of age, but from a liability standpoint for a business it could make or break you if you got caught selling this alcohol to a minor and there was some kind of incident where someone was killed or injured.

Rep. Beadle: What is the significance of the age of 27?

Mike Rudd: I cannot answer that question. That is how the federal law talks about the age of 27 as being a point where you can card up to that point. I have carded people who are as old as 50.

Rep. Klemin: Discussed fact that when he was traveling last summer and stopped at a convenience store which sold beer and cigarettes that they carded him because other states card everyone. Do you know of states that have that requirement to check all ID's?

Mike Rudd: I do not know of the specific states that do that. I know a lot of our marketers in ND do that. It is a great policy, but it is a little more work.

Opposition: None

Rep. Koppelman: Requested Pat Heinert come forward for questions. You heard questions earlier about the illegality of this practice, but I realize that this bill deals with a difference piece of it, but what is your experience when people try to do this. Are they charged? Is there a law against this? Maybe you could just elaborate on that for a moment.

Pat Heinert, Burleigh County Sheriff: We have a couple things we can do. Typically if we get called to a liquor establishment where a minor is trying to purchase or get in the door typically we charge them with minor in a liquor establishment. That is the easiest one for us to do.

Hearing closed.

Rep. Maragos Moved a Do Pass; Seconded by Rep. Delmore

Discussion:

Rep. Kretschmar: Listening to the testimony but it just seems to me it is just another step in the attack on freedom of adults in our state. If you are 18 years old you are an adult and I wonder what would happen if some young person who is 21 years and 5 days was asked for an ID and they said you were going to keep this ID because you don't look 21. Tomorrow morning I have to leave on a plan for college; I need my ID so I think it is another small attack on individual freedom in our country and I don't always like that.

Chairman DeKrey: I can guarantee the bartender in Pettibone, ND is never going to grab anybody's ID because if he has to get that to Steele within 24 hours or call the sheriff and tell the sheriff you want to come and pick up this ID. What, he would say give it back I am not coming to Pettibone for that. So vote how you feel.

Rep. Beadle: As somebody who is a manager of a restaurant in Fargo, ND where we serve beer and wine and when I try to take someone's fake ID they grab it and ran across the street to Buffalo Wild Wings. There is definitely a problem with young people.

Vote: 11 Yes 3 No 0 Absent Carrier: Rep. Beadle

Date: 3/7/11
Roll Call Vote #

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2133

House 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 Rep. Maragos Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt	✓	✓			
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar		✓			
Rep. Maragos	✓				
Rep. Steiner	✓	✓			

Total (Yes) 11 No 3

Absent 0

Floor Assignment Rep. Beadle

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

REPORT OF STANDING COMMITTEE

SB 2133, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2133 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2133

Proposed Amendment to SB 2133

Page 1, line 22, remove "of the seizure" and insert "who must respond within the time limit provided and take possession of the identification"

SB 2133 – Fake ID bill

Senator Tim Flakoll

District 44 of Fargo

January 17, 2011

Senators Nething – Olafson – Lyson – Sorvaag – Sitte - Nelson

Mr. Chairman and members of the Senate Judiciary committee. For the record I am Senator Tim Flakoll of District 44 of Fargo. In the way of background information it was not till last night that I realized that I am likely uncommon in that I have not have any bars or restaurants with liquor licenses in my district. I however am one of a few legislators who can claim to have had a liquor license. That was during my time as General Manager of the FM RedHawks minor league baseball team so I had a liquor licenses that covered a facility capacity of nearly 5,000 people.

First I want to acknowledge that alcohol abuse is a problem with many facets to it. It is not a single problem issue and no one action or law can fix the whole problem. We can however do things to chip away and reduce the problem. We can reduce the incidence of under-age drinking, binge drinking (because if someone who is underage gets served, they want to make the most of it), and take action keep our kids and our roads safer to everyone.

This bill gives a licensed retailer of alcohol or an employee of the establishment the right to seize a form of identification that they believe to be illegal or illegally used.

Note that the bill does not mandate that the establishment seize the document. It is permissive language. However as you will see on lines 20-22 it does require the retailer to notify law enforcement within 24 hours of seizure.

Also covered under this bill would be the illegal use by under age brother of their older brother's ID (over 21 years old).

At the last meeting of the North Dakota Chiefs of Police Association held in September, 2010 they voted unanimously to support this legislation. We have also worked in concert with the ND Hospitality Association and the Attorney General's office in the drafting of this bill.

Some of the objectives and benefits of this bill include:

- Reduce under-age drinking – reduce minor's consumption of liquor
- Getting fake IDs off the street
- Discourage via fear of legal action or arrest
- Make legal what some bars do already

-

North Dakota fake ID <http://www.peiid.com/northdakota.htm>

DL

FBI

DISCOVER

SAMPLE

DIS-82-1456

01-01-1982

01-01-2010

■ Photograph	■ Magnetic Strip
■ Full Name	■ Holographic Image
■ Unique Number	■ UV Lighting
■ Bar Codes	■ Security Seals
■ Signature Strip	■ Biometric Data Storage

[illegible]



<http://joe-id.com/usfakeidthree.html>

for \$100

<http://www.theidshop.com/>

<http://sol-i-d.com/>

http://www.underground-review.com/F_ID.html

Mr Chairman, there are actions that we can do to reduce the incidence of under age drinking. Getting fake IDs off the street is one such measure.

I also have some written testimony I have been asked to share.

That concludes my testimony and I would be happy to answer any questions.

Additional information from internet searches:

Many fake driver license suppliers require customers to submit high quality photos of themselves, details about their desired age, location, and other vital pieces of information to produce a realistic and official looking fake drivers license.

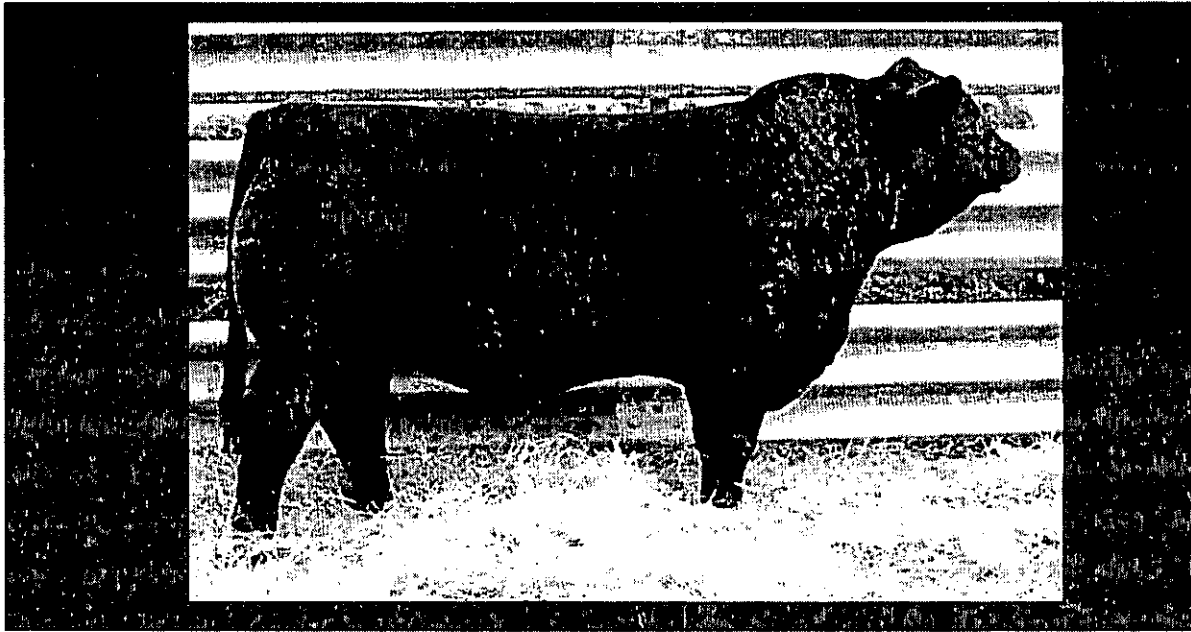
United States law enforcements have been heavily cracking down on establishments which produce fake identification cards, making it difficult for such a business in the United States of American from existing. In fact, in Belmont County, Ohio, in 2007, six suspected illegal immigrants were arrested after police said they had 150 fake identification cards! Together they had 100 fake Ohio identification cards and 50 fake Tennessee identification cards. With the United States crack down on illegal immigration, the fake identification took an ever bigger hit and has found it's ability to easily produce fake driver licenses within the United States, nearly impossible, these days.

Customers looking to buy fake driver license online find the majority of companies which are still active and continue to openly produce fake driver licenses are run in such countries as the United Kingdom, China, and Singapore.

There are even sites to inform people on how to not be scammed by bad internet sites that may use your information for other illegal purposes, may be law enforcement sting operations etc.

Since underage drinking is a criminal activity which can also cause harm to others, supplying individuals with such documents is an illegal act.

End



Mr. J (nickname)

Registered name: NO BS 2 Judiciary 2133

EPDs 9.2 1.9 54 104 3.7 6.8 34

Homozygous Black – Homozygous Polled

Contact us for video of Mr. J

Call BR459 for more information

Testimony of Bill Vandal

SB 2133 – Judiciary

January 17, 2011

Mr. Chairman, members of the Judiciary Committee. For the record, my name is Bill Vandal, Chief of Police for North Dakota State University and Third Vice President of the North Dakota Chiefs of Police Association.

I write this testimony in my capacity as the North Dakota State University Chief of Police in order to express my support in Senate Bill No. 2133: to create and enact a new section to chapter 5-01 of the North Dakota Century Code, relating to using false identification to obtain alcoholic beverages.

In my 15 plus years of University Policing, I have witnessed firsthand the devastating effects of the illegal use of alcohol by minors. I have seen promising young students potentially ruin their lifelong dreams in careers such as: aviation, the medical field, engineering, criminal justice, to mention a few, all because of underage alcohol abuse. Over the past several years I have received many phone calls from concerned parents about the use and availability of false identification. One parent called last year to inform me that he intercepted a Florida driver's license his son was waiting for in the mail. The identification was purchased on the internet and his son's date of birth was altered to make him twenty-one. The parent asked many questions about false identification and wondered what else could be done to help eliminate the use of the false identification.

That's what makes this bill so important. This bill gives a licensed retailer of alcohol, or an employee, the right to seize a form of identification, if they have reasonable belief the identification is altered, falsified, or is being used unlawfully. Current server training for individuals working in employment where alcohol is sold instructs servers to only keep the false identification if the person abandons it, or willingly surrenders it. This bill would help empower the servers and licensed retailers to seize what they believe to be a false identification and notify law enforcement within twenty-four hours.

The removal of any false identification is important. Currently, if an individual using a false identification fails in trying to purchase alcohol at one retail location, the individual will most likely continue to use the false identification at other retailers until a purchase of alcohol is made. One minor successfully purchasing alcohol with false identification usually means many of the minor's friends now have access to the alcohol. Once a false identification is confiscated it could assist law enforcement in investigating the crime, especially if the individual flees the scene. If the identification is "borrowed" from an older sibling or friend, that person could be questioned and ultimately charged with a crime, leading to a deterrent effect of the law.

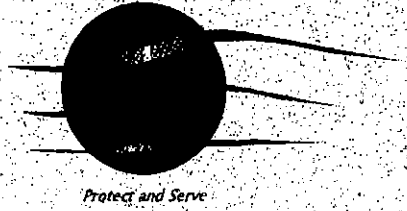
The use and access of alcohol by underage individuals will continue even with the passing of this bill, but this bill offers another tool to be used by law enforcement and other officials concerned with underage alcohol consumption.

This completes my testimony. Thank you for your time.

[Handwritten signature]

WAHPETON POLICE DEPARTMENT

413 3rd Avenue North • Wahpeton, ND 58075 • Phone 701-642-7722 • Fax: (701) 642-7842



December 16, 2010

Senator Tim Flakoll
1350 Second Street N.
Fargo, ND 58102-2725

Dear Senator Flakoll,

I write this letter in my capacity as Wahpeton Chief of Police in order to express my support for your proposed legislation defining the forms of identification constituting proof of age in regards to the consumption and/or purchase of alcoholic beverages and also allowing retailers of alcoholic beverages to seize personal identification that appears to be fake or altered, or is being used to violate any law.

In my 30-plus years of law enforcement, I have witnessed the devastation and ruination of lives that all too often is the result of the illegal use of alcohol by young people. In my opinion, the importance of law enforcement and alcoholic beverage retailers working cooperatively to prevent and inhibit the illegal access of alcohol by minors cannot be overstated and this law certainly moves us closer towards that goal.

It is worth noting that this proposed legislation was an agenda discussion item at the last meeting of the North Dakota Chiefs of Police Association, held in Bismarck on September 23, 2010, where our association members voted unanimously in support of it.

Thank you for working to safeguard the lives and well-being of the young people of North Dakota. If I can be of any assistance to you in this regard, please contact me at your convenience.

Sincerely,

Chief Scott Thorsteinson
Wahpeton Police Department
413 3rd Ave N
Wahpeton, ND 578075

Department of Criminal Justice and Political Science

College of Arts, Humanities and Social Sciences

NDSU Dept. 2315

P.O. Box 6050


Fargo, ND 58108-6050

December 20, 2010

Senator Tim Flakoll
1350 Second St. No.
Fargo, ND 58102-2725

Dear Senator Flakoll:

I have devoted a large share of my professional life to studying factors that might effectively prevent underage and/or high risk drinking. We have tried many different programs and forms of legislation over the years but young people don't always seem to listen to these messages.



It is my understanding that you are intent on sponsoring a bill to prevent and deter minors from using fake ID's. I wish to throw my support behind this bill and feel that any measures we can take to deter young people from illegally procuring alcohol is a good thing. Young people will sometimes go to great lengths to borrow ID's or construct fraudulent ID's. Being able to seize and hold such an ID and require law enforcement notification could effectively deter some of these efforts.

Such a law will give alcohol retailers more teeth by which to deal with fake ID presenters and hopefully deter others from attempting such foolish efforts.

Cordially,



Kevin M. Thompson
Department Head, Criminal Justice & Political Science
North Dakota State University

North Dakota University System

SB 2133 – Judiciary Committee

January 17, 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, the North Dakota University System, and the Higher Education Consortium for Substance Abuse Prevention support Senate Bill No. 2133: to create and enact a new section to chapter 5-01 of the North Dakota Century Code, relating to using false identification to obtain alcoholic beverages.

Research has consistently demonstrated that underage alcohol use by college students hinders students' development, health and ultimately success at college. The campuses in the North Dakota University System recognize these issues and work collaboratively utilizing the environmental management model of prevention to address them. This approach recognizes that the decisions college students make about alcohol use are shaped by their entire environment. Thus, the most effective and resource-efficient way of reducing high-risk use of alcohol in the general student population is to change that environment, primarily through institutional, community, and public policy changes.¹

Passing this bill is one such strategy that would be considered an environmental management approach to prevention. Research from 2008 North Dakota CORE Drug and Alcohol survey, which surveyed a representative sample of students from all North Dakota University System Campuses and Jamestown College, revealed that 6.6%, or approximately 2,300 students², have used a fake or false ID to obtain alcohol underage.³ Although, it is not the majority of our students that are engaging in this illegal behavior it is a critical mass of young people and is concerning, especially since research also tells us that students who use fake or false IDs also consume alcohol in more risky ways.⁴

Currently, if an underage person uses a fake ID or an ID of another individual, and the server recognizes the fraud, it is illegal for them to confiscate that ID. Often this results in the individual leaving the premises before law enforcement arrives; and the opportunity to use the fake or false ID in another establishment. The passing of this bill would allow those selling the alcohol to confiscate the fake or false ID from the individual attempting to purchase the alcohol, which are often times actual IDs that have been 'borrowed' from a friend, older sibling, or bought from someone that resembles the underage person. Removing these IDs from circulation is an important tool to help deter youth

¹ DeJong, W., Tormvick, L., & Schneider, S. (2007). Support for Alcohol-Control Policies and Enforcement Strategies Among US College Students at 4-Year Institutions. *Journal of American College Health*, 56(3), 231-236. Retrieved from EBSCOhost.

² North Dakota University System (2008). Retrieved from: <http://www.ndus.edu/uploads%5Cdocument-library%5C1785%5CFALL-2008-ENROLLMENT-FOR-NEWS--RELEASE.PDF>

³ 2008 North Dakota CORE Drug and Alcohol Survey Results

⁴ Martinez, J. A., Rutledge, P. C., & Sher, K. J. (2007). Fake ID ownership and heavy drinking in underage college students: Prospective findings. *Psychology of Addictive Behaviors*, 21(2), 226-232. doi:10.1037/0893-164X.21.2.226

from attempting to purchase alcohol illegally, and this bill would enable the confiscation and follow-up from law enforcement.

Although underage alcohol use will not be eliminated by passing this bill, it is one more way to partner with law enforcement officials, and the alcohol industry, in limiting underage access to alcohol and ultimately enabling some of our students to reach their fullest potential.

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

Robert Vallie

Executive Commissioner: Governmental Relations and Inter-Collegiate Affairs

NDSU Student Government

Testimony to the Senate Judiciary Committee concerning SB 2133

January 17, 2011

Mr. Chairman and members of the Senate Judiciary Committee:

In 2005 the United States Department of Health and Human Services in a survey conducted in 2005 reported that 10.8 million persons ranging from the ages of twelve to twenty reported drinking alcohol in the past month. According to the Office of Juvenile Justice and Delinquency Prevention in a report in 2005 that eleven percent of all alcohol consumed in the United States was consumed by individuals of the ages of twelve to twenty. In the June 3rd 2009 edition of the Bismarck Tribune it was reported that North Dakota held the highest rate of underage drinking in the United States. While statistics are helpful in seeing trends these figures for us as student's points to three very serious conclusions: That underage drinking is a serious problem in North Dakota that this problem presents a serious concern to college students and that further action is needed in order to help alleviate the problem. We as students feel that the options created in SB 2133 to combat the concerns of underage drinking are ones that allow for covering areas that have been difficult to stop.

With SB 2133 the ability for businesses to confiscate fake ID's from underage individuals helps to address the concerns with combating fake ID usage. While driver's licenses, passports and other forms of identification have been changed over the last several years to make it harder to copy, individuals still attempt to create counterfeits and sell them to those who would use them for the wrong reasons. SB 2133 helps to give business owners the ability to confiscate fake ids to stop individuals from potentially using them at other businesses in order to buy such products and to potentially cause harm to themselves or others. Along with these lines it also creates the possibilities for being a deterrent to both fake id usage as well as others buying for underage drinkers and giving businesses to stop these individuals before another underage person in this state becomes one of the various statistics mentioned earlier

In conclusion Mr. Chairman and members of the committee we as students of NDSU know the concerns that underage drinking places on our communities in all aspects, and while we as students attempt to work to improve our image and to mend the stereo types made in popular culture in the terms of community service and cooperation with our local communities and neighbors the problem of underage drinking directly affects that image and the usage of fake IDs by underage individuals is no exception. We as a student body commend the action taken in the creation of this legislation and whole heartedly support Senate Bill 2133 in a solid effort to work to combat and deter underage drinking and in turn to allow students both in a high school level and in Higher Education to not be a part of another statistic.

Testimony of Bill Vandal

SB 2133 – Judiciary

January 17, 2011

Mr. Chairman, members of the Judiciary Committee. For the record, my name is Bill Vandal, Chief of Police for North Dakota State University and Third Vice President of the North Dakota Chiefs of Police Association.

I write this testimony in my capacity as the North Dakota State University Chief of Police in order to express my support in Senate Bill No. 2133: to create and enact a new section to chapter 5-01 of the North Dakota Century Code, relating to using false identification to obtain alcoholic beverages.

In my 15 plus years of University Policing, I have witnessed firsthand the devastating effects of the illegal use of alcohol by minors. I have seen promising young students potentially ruin their lifelong dreams in careers such as: aviation, the medical field, engineering, criminal justice, to mention a few, all because of underage alcohol abuse. Over the past several years I have received many phone calls from concerned parents about the use and availability of false identification. One parent called last year to inform me that he intercepted a Florida driver's license his son was waiting for in the mail. The identification was purchased on the internet and his son's date of birth was altered to make him twenty-one. The parent asked many questions about false identification and wondered what else could be done to help eliminate the use of the false identification.

That's what makes this bill so important. This bill gives a licensed retailer of alcohol, or an employee, the right to seize a form of identification, if they have reasonable belief the identification is altered, falsified, or is being used unlawfully. Current server training for individuals working in employment where alcohol is sold instructs servers to only keep the false identification if the person abandons it, or willingly surrenders it. This bill would help empower the servers and licensed retailers to seize what they believe to be a false identification and notify law enforcement within twenty-four hours.

The removal of any false identification is important. Currently, if an individual using a false identification fails in trying to purchase alcohol at one retail location, the individual will most likely continue to use the false identification at other retailers until a purchase of alcohol is made. One minor successfully purchasing alcohol with false identification usually means many of the minor's friends now have access to the alcohol. Once a false identification is confiscated it could assist law enforcement in investigating the crime, especially if the individual flees the scene. If the identification is "borrowed" from an older sibling or friend, that person could be questioned and ultimately charged with a crime, leading to a deterrent effect of the law.

The use and access of alcohol by underage individuals will continue even with the passing of this bill, but this bill offers another tool to be used by law enforcement and other officials concerned with underage alcohol consumption.

This completes my testimony. Thank you for your time.

Department of Criminal Justice and Political Science

College of Arts, Humanities and Social Sciences

NDSU Dept. 2315

P.O. Box 6050

Fargo, ND 58108-6050

December 20, 2010

Senator Tim Flakoll
1350 Second St. No.
Fargo, ND 58102-2725

Dear Senator Flakoll:

I have devoted a large share of my professional life to studying factors that might effectively prevent underage and/or high risk drinking. We have tried many different programs and forms of legislation over the years but young people don't always seem to listen to these messages.

It is my understanding that you are intent on sponsoring a bill to prevent and deter minors from using fake ID's. I wish to throw my support behind this bill and feel that any measures we can take to deter young people from illegally procuring alcohol is a good thing. Young people will sometimes go to great lengths to borrow ID's or construct fraudulent ID's. Being able to seize and hold such an ID and require law enforcement notification could effectively deter some of these efforts.

Such a law will give alcohol retailers more teeth by which to deal with fake ID presenters and hopefully deter others from attempting such foolish efforts.

Cordially,



Kevin M. Thompson
Department Head, Criminal Justice & Political Science
North Dakota State University

Robert Vallie

Executive Commissioner: Governmental Relations and Inter-Collegiate Affairs

NDSU Student Government

Testimony to the House Judiciary Committee concerning SB 2133

March 7th, 2011

Mr. Chairman and members of the House Judiciary Committee:

The United States Department of Health and Human Services in a survey conducted in 2005 reported that 10.8 million persons ranging from the ages of twelve to twenty reported drinking alcohol in the past month. According to the Office of Juvenile Justice and Delinquency Prevention in a report in 2005 that eleven percent of all alcohol consumed in the United States was consumed by individuals of the ages of twelve to twenty. In the June 3rd 2009 edition of the Bismarck Tribune it was reported that North Dakota held the highest rate of underage drinking in the United States. While statistics are helpful in seeing trends these figures for us as student's points to three very serious conclusions: That underage drinking is a serious problem in North Dakota, that this problem presents a serious concern to college students, and that further action is needed in order to help alleviate the problem. We as students feel that the options created in SB 2133 to combat the concerns of underage drinking are ones that allow for covering areas that have been difficult to stop.

With SB 2133 the ability for businesses to confiscate fake ID's from underage individuals helps to address the concerns with combating fake ID usage. While driver's licenses, passports and other forms of identification have been changed over the last several years to make it harder to copy, individuals still attempt to create counterfeits and sell them to those who would use them for the wrong reasons. SB 2133 helps to give business owners the ability to confiscate fake ids to stop individuals from potentially using them at other businesses in order to buy such products and to potentially cause harm to themselves or others. Along with these lines it also creates the possibilities for being a deterrent to both fake id usage as well as others buying for underage drinkers and giving businesses to stop these individuals before another underage person in this state becomes one of the various statistics mentioned earlier.

In conclusion Mr. Chairman and members of the committee we as students of NDSU know the concerns that underage drinking places on our communities in all aspects, and while we as students attempt to work to improve our image and to mend the stereo types made in popular culture in the terms of community service and cooperation with our local communities and neighbors the problem of underage drinking directly affects that image and the usage of fake IDs by underage individuals is no exception. We as a student body commend the action taken in the creation of this legislation and whole heartedly support Senate Bill 2133 in a solid effort to work to combat and deter underage drinking and in turn to allow students both in a high school level and in Higher Education to not be a part of another statistic.

9

North Dakota University System
SB 2133 – House Judiciary Committee
March 7, 2011
Jane Vangsness Frisch

Good morning Mr. Chairman and members of the House Judiciary Committee. 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, the North Dakota University System, and the Higher Education Consortium for Substance Abuse Prevention support Senate Bill No. 2133: to create and enact a new section to chapter 5-01 of the North Dakota Century Code, relating to using false identification to obtain alcoholic beverages.

Research has consistently demonstrated that underage alcohol use by college students hinders students' development, health and ultimately success at college. The most effective and resource-efficient way of reducing high-risk use of alcohol in the general student population is to change that environment, primarily through institutional, community, and public policy changes.¹

Passing this bill is one such strategy. Research from 2010 North Dakota CORE Drug and Alcohol survey, which surveyed a representative sample of students from all North Dakota University System Campuses and Jamestown College, revealed that 5.2%, or approximately 2,000 students², have used a fake or false ID to obtain alcohol underage.³ Although, it is not the majority of our students that are engaging in this illegal behavior it is a critical mass of young people and is concerning, especially since research also tells us that students who use fake or false IDs also consume alcohol in more risky ways.⁴

Currently, if an underage person uses a fake ID or an ID of another individual, and the server recognizes the fraud, it is illegal for them to confiscate that ID. Often this results in the individual leaving the premises before law enforcement arrives; and the opportunity to use the fake or false ID in another establishment. The passing of this bill would allow those selling the alcohol to confiscate the fake or false ID from the individual attempting to purchase the alcohol, which are often times actual IDs that have been 'borrowed' from a friend, older sibling, or bought from someone that resembles the underage person. Removing these IDs from circulation is an important tool to help deter youth from attempting to purchase alcohol illegally, and this bill would enable the confiscation and follow-up from law enforcement.

Although underage alcohol use will not be eliminated by passing this bill, it is one more way to partner with law enforcement officials, and the alcohol industry, in limiting underage access to alcohol and ultimately enabling some of our students to reach their fullest potential.

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

G:\MICHEL\2133TestimonyVangsnessFrisch HOUSE (2).docx

¹ DeJong, W., Towvim, L., & Schneider, S. (2007). Support for Alcohol-Control Policies and Enforcement Strategies Among US College Students at 4-Year Institutions. *Journal of American College Health*, 56(3), 231-236. Retrieved from EBSCOhost.

² North Dakota University System (2010). Retrieved from: <http://www.ndus.edu/uploads/reports/53/2011-resource-guide.pdf>

³ ND University System. (2011). *NDCORE 2010 Aggregate Alcohol and Other Drug Survey Report*. Bismarck, ND: ND Higher Education Consortium for Substance Abuse Prevention.

⁴ Martinez, J. A., Rutledge, P. C., & Sher, K. J. (2007). Fake ID ownership and heavy drinking in underage college students: Prospective findings. *Psychology of Addictive Behaviors*, 21(2), 226-232. doi:10.1037/0893-164X.21.2.226