

2015 HOUSE JUDICIARY

HB 1464

# 2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1464

1/28/2015  
22737

Subcommittee

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the prohibition of powdered alcohol products.

## Minutes:

Testimony 1, Handout #2, Testimony #3

**Chairman K. Koppelman:** Opened the hearing with testimony in support.

**Rep. Alisa Mitskog:** (See Testimony #1) (Handout #2) (1:23-6:46) (Handout #2)

**Rep. Lois Delmore:** Is there a taste to this?

**Rep. Mitskog:** I have not tasted this. I don't know. That is the risk.

**Rep. Lois Delmore:** It isn't available right now anywhere, but it is coming with marketing. Is that what you are saying?

**Rep. Mitskog:** Yes. Some things have slowed it down. The alcohol and tobacco and trade bureau had initially granted approval of this product last spring due to some technical error on the labeling so they pulled it within two weeks. I think that is what brought attention to this product nationally.

**Rep. L. Klemin:** It seems like we have had this bill before here. How is different from somebody carrying a little shot of alcohol with them?

**Rep. Mitskog:** What is different about this product is it is powdered and easier to conceal. Maybe the one that was in front of your before was the vaporized alcohol.

**Rep. L. Klemin:** Your focus seems to be on youth. This would prohibit anybody from using this. I could go to jail for a Class B misdemeanor why should I be prohibited from using this if I canted to?

**Rep. Mitskog:** In my studies of this product I would encourage you to do on line checking because it doesn't taste quite as good as our regular alcohol. The Attorney General hasn't even classified this product yet. Something needs to be done to protect our youth.

**Rep. L. Klemin:** Exceptions in this bill? What is a state institution and why should they be able to use a controlled and why should a state institution be able to use this powdered alcohol product if no one else can?

**Rep. Mitskog:** This would not be good at our state institutions of higher education to have this made available for that exception. I believe it is for educational purposes and research.

**Rep. L. Klemin:** Private College or University of the University of Mary can have this, but I can't. Is that rational research?

**Rep. Mitskog:** You have pointed out some language that should maybe be corrected in this bill.

**Rep. Maragos:** If you make something illegal then the kids will pay extravagant prices for it. Every time we make something illegal in the state. I am bothered by the idea that every time we make something illegal if the substance finds itself into the state then we have set up a cottage industry. Then we have to try to catch these people and then we have to put them into jail; wouldn't you believe we should probably authorize it and regulate it just like regular alcohol and then we could regulate and track it?

**Rep. Mitskog:** I would argue that this product is being marketed to our underage consumers.

**Rep. Maragos:** What happens if it is legal to purchase alcohol in if they cross the borders because it is legal there?

**Rep. Mitskog:** That would be an issue. We are seeing that with other substances now.

**Rep. Mary Johnson:** I see your concern. It is the convenience of this that could cause this product.

**Rep. K. Wallman:** If I were to go to alcohol.com will I be able to order it on line to my house?

**Rep. K. Hawken:** Our alcohol taxing laws are significant. If it were regulated would that be helpful in keeping it out? If you order wine on a website it will tell you what states it can ship to. They can't ship to every state because of their laws.

**Rep. Lois Delmore:** Date rape drug was discussed here a long time ago. Have you looked at the research on some different things that we have regulated and outlawed because in other states and countries there have been instances on this.

**Rep. Mitskog:** In your packet it will give you a bit of history on powdered alcohol we need to get something defined on this subject. I don't have specifics on adverse events that have

surrounded the substance. There is probably going to be an online market and I would be open to anything to regulate this product.

**Chairman K. Koppelman:** It is not a new idea. Looking at the handouts do you have any information from those states that have been attempting on the success or failure of their efforts?

**Rep. Mitskog:** It took off within the last 12 months. Utah and Vermont had drafted early legislation regarding this.

**Chairman K. Koppelman:** In your handout it says California in 1978 adopted regulations on powdered distilled spirits and they regulate and tax it and Alaska in 1980 passed a law that says substance having alcohol content and intended for human consumption may not be sold in this state unless in liquid form so they outlawed it. In those state how that is working?

**Rep. Mitskog:** I can certainly attempt to get more information from those states that have been using these laws.

**Chairman K. Koppelman:** Legislative Counsel or the Attorney General can probably help you.

**Rep. Maragos:** You should look at some fashion of making it a regulatory environment where it is controlled and taxed and regulated and someone has to be responsible for it just like we do with regular alcohol.

**Chairman K. Koppelman:** That maybe a good way to kill the industry too.

**Kurt Snyder, Executive Director, Heartview Foundation:** (See testimony #3) (28:22-33:20) Changing the container you could lose the directions when you mix this. I am very concerned about the form this is. Also I am worried about the available and the effects it will have on a person. I do encourage you to support this bill.

**Rep. Maragos:** We are a small state so when we are analyzing statistics. In your profession of addiction concerning how do we rate with all the other drugs per capita. Are we also the largest consumer of meth, or heroin per capita? What is it about the data that can help us address these problems?

**Kurt Snyder:** Those are great questions. ND continues to lead the nation is binge drinking is cultural. We have rural and frontier status and they struggle to maintain stores, but almost every small town in ND has one bar on this corner and another one in the other corner. It is part of our social fabric.

**Chairman K. Koppelman:** You talked about the different forms of alcohol and ingestion.

**Kurt Snyder:** I don't have extensive knowledge on this particular thing. I can talk about alcohol

**Rep. Lois Delmore:** Rep. Mitskog made a statement that the powder seem to appeal to the youth the way it does? Do you know why the

**Kurt Snyder:** It is a ritual and an enjoyment out of that you will not see the population change and approach this at all. Alcohol is kind in ND. It far surpasses all other drugs. Accessibility is one of the things. The changing of the form is my biggest issue with this.

**Chairman K. Koppelman:** In your testimony you talked about the different forms of ingestion and the different ways the body absorbed them and reacts to them. Do you know any information about this powders alcohol?

**Kurt Snyder:** There are different ways of how people ingest it that give a quicker and more profound effect. Some of them are obscene.

**Rep. Lois Delmore:** I respect a lot of what you have done with addiction issues etc. Rep. Mitskog made a very interesting statement when she said that the powder probably would not appeal as much to adults as it would to young adults. Do you know anything about why it is the powders form seems to appeal to the youth in the way it does?

**Kurt Snyder:** Most people who drink alcohol in a social manner have their night cap or social drink at 5:00; it is a ritual and a certain kind they like and the way they do it and there is a real enjoyment out of that and you take that and put it into a powdered form and it tastes different and doesn't quite have that affect you are not going to see that population change or approach that at all. The youth will like this because of accessibility.

**Rep. Maragos:** As a professional addiction counselor do you get data that compared ND nationally that might describe us as compulsive society?

**Pam Sagness, Department of Human Services:** When we look at the national rates and compare them to the state rate; population is considered they have to be comparable so most of our rates are 100,000 per 1,000. It depends on what we are looking at. The question is there something specific about ND on why we see the rates we do. Our illegal drug rates are lower and some of the lowest among the national rate. We are seeing increases for prescription drugs and heroin so I don't want to minimize that issue. Alcohol is the primary issue in ND. Referred the handout yesterday. When you look at our youth data in ND we have higher alcohol rates in rural areas, but urban areas also have high rates. Contributing factors to the state is the rural culture and then there also things that are imbedded in who we are. Celebrating weddings and there is a bit of work hard play hard mentality.

Opposition: None

Neutral: None

Hearing closed.

# 2015 HOUSE STANDING COMMITTEE MINUTES

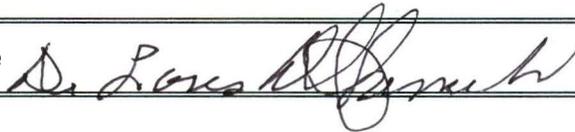
House Judiciary Committee  
Prairie Room, State Capitol

HB 1464  
1/28/2015  
22750

Subcommittee

Conference Committee

Committee Clerk Signature



**Minutes:**

**Chairman K.Koppelman** reopened the hearing on HB1464.

**Tom Trenbeath:** Would it be nice to get ahead of the game. We don't have any objections to the bill other than as you get down into it some of the exceptions might be tuned more. This is a bill that would ban it. The alternative if you wanted to control it would be a bill to license and regulate it. They both have their dangers for abuse in either instance. You could just redefine alcoholic beverage to include this; which it doesn't now.

**Rep. L. Klemin:** Why shouldn't I be able to buy dry mix alcohol that I just add water to and I have the same thing?

**Tom Trenbeath:** I think fear is that it will do other things in this form.

**Rep. L. Klemin:** There are all kinds of products that people could snort like paint and we don't ban people from buying paint.

**Tom Trenbeath:** That is a good point. That is why I think the Legislature would want to weigh the advantages and disadvantages of regulating it or banning it.

**Rep. K. Hawken:** We talked about that this morning. In some of the research we got I believe it was Alaska that it could only be sold in liquid form. If we go down the regulation path how do we go down that path?

**Tom Trenbeath:** That is hard. Look at the years we have had the war on drugs. Would it have been better to regulate in the beginning rather than outlaw and prosecute? I don't know.

**Rep. Brabandt:** Haven't we spent \$4-\$5 Trillion in enforcement in the last 40 years?

**Tom Trenbeath:** That sounds reasonable.

Rep. Brabandt: How do you inject?

**Rep. Lois Delmore:** Yes you can add water to it. It is my understanding that right now the law says sales of alcohol is liquid. Right now for the sales of alcohol it does say liquid.

**Tom Trenbeath:** The only reasonable interpretation is it is talking about a liquid form.

**Rep. G. Paur:** Would it make sense to draw up two amendments. One which would make powdered alcohol and if we pass it then have another amendment to fix these other things and then do with the remaining bill as we wish. It would give us the option of either putting it under the alcohol criteria or to address it separately.

**Tom Trenbeath:** They equally effective

**Rep. D. Larson:** I don't like powdered milk so it seems to me if this were to become legal that there may not be much of a market here for it and it would be in the stores maybe not many would want to use it?

**Tom Trenbeath:** The potential for outdoors people that maybe a use for it.

**Rep. P. Anderson:** How are they going to find this? I can see this powdered alcohol being everywhere.

**Chairman K. Koppelman:** We asked Rep. Mitskog Is there any way we can get information

**Tom Trenbeath:** We did put some of that information on line so it did come through our office.

**Chairman K. Koppelman:** If the FDA did approve it would it be legal here? Discussed the handout. Several states are working on this.

**Tom Trenbeath:** Some of the information you have come through our office.

**Rep. Brabandt:** Where is it made?

**Tom Trenbeath:** The FDA approved it for two weeks and then they found out they had made a mistake and they rescinded it.

**Chairman K. Koppelman:** In your opinion if the FDA did approve it would it be legal in ND because it doesn't fall into the liquor statute.

**Rep. Brabandt:** Where is this stuff made?

**Tom Trenbeath:** I have no idea. I believe it came from Europe.

Chairman K. Koppelman: Do you know the consequences of this product in your body?

Tom Trenbeath: It might hasten another drug that is commonly injected if you were to mix the two. I have no idea and I suggested no one knew what heroin would do either before they started doing it either.

**Rep. Lois Delmore:** Would you be willing to work with some people from this committee??

**Tom Trenbeath:** Yes I would be happy to do that.

Hearing closed

**Subcommittee: Rep. D. Larson: Rep. Brabandt: Rep. Lois Delmore:**

Minutes of the

(HOUSE) (SENATE) BILL NO. 464 SUBCOMMITTEE OF THE

Judiciary STANDING COMMITTEE

Meeting location: Chief Clerk

Date of meeting: Feb 9, 2015

Time meeting called to order: 2:35 PM

Members present: Brabandt, Delmore, Larson

Others present (may attach attendance sheet): \_\_\_\_\_

Topics discussed:

Amendments by Tom Trendbath  
from A.G. office

Motion and vote:

Rep Lois Delmore moved & Rep  
Roger Brabandt seconded to  
adopt the amendment. which  
motion carried unanimously.

Time of adjournment: 2:45

Note: If a motion is made, a description of the motion must be provided along with the member seconding the motion. A recorded roll call vote must be taken and reported for any nonprocedural motion.

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1464  
2/9/2015  
23531

- Subcommittee  
 Conference Committee

*Omonola Muscha*

## Minutes:

Proposed amendment #1

Chairman K. Koppelman: Opened discussion on HB 1464. This is a reengrossed bill correct? This is not an amendment. (Attachment #1)

Rep. D. Larson: This is an amendment and I would wish to move them.

Chairman K. Koppelman: If you're going to move this amendment, I will ask out intern to prepare this as a Hog House, which would say remove, everything after a bill and insert the following.

Representative Delmore: Seconded the motion.

Representative Larson: I should also mention I spoke with Representative Mitskog about this amendment and though she prefers all the things she had in her bill, she is not opposed and understand that this is probably the best first step of getting something in the books regarding powdered alcohol. As the committee may remember, when Karen was here from Bismarck, I asked her if she had heard of this powdered alcohol and she said yes and that the kids with their social media have talked about it; but she hasn't seen any.

Chairman K. Koppelman: So the effect of this would be that powdered alcohol would be regulated just like regular alcohol. So I would assume someone needs a liquor license in order to sell it and purchase it.

Representative Mary Johnson: Did you have any discussion about FDA? It was my understanding that the FDA hasn't approved this yet, so whatever you do, or will you allow the sale of it without FDA approval? How will that work?

Representative Larson: We did not discuss the FDA, my assumption that it will not be approved for sale unless they do. I thought that Representative Mitskog had mentioned but I would be mistaken.

Representative Klemin: It is my understanding that if this substance is required to have FDA approval it will not be sold in retail in North Dakota until it gets it, but once it does get it we have the mechanism in place to regulate it.

Chairman K. Koppelman: So what the bill would also do, is since it changes in our current statute any liquid suitable for drinking, it changes the alcoholic beverage definition to any substance. So if someone were to try to sell this in North Dakota without the approval they could go after them for violation of these laws?

Representative Mary Johnson: I am going to resist this motion because it is the portability of this powder. Polls were taken in the Grand Forks Herald and 66.76% of them wanted it banned.

Representative K. Wallman: I don't know what  $\frac{1}{2}$  of 1% of alcohol is? Does this count for mouth wash?

Representative G. Paur: Current law... (Microphone not on)

Representative Lois Delmore: The Attorney's General office is interested in this. Wither ban it or regulate it. The Attorney General thought just put it under under regulation so there would be an enforcement measure. Then it would have something with some teeth. I think it is a good solution to looking at what could be coming down the pipe. Banning it sometimes only glamorizes it. I think it is a good solution as to what could be coming.

Representative Brabandt: Banning anything will create another prohibition scenario because they will get it so regulate it and be done with it.

Representative Klemin: Are we discussing a motion to amend?

Chairman K. Koppelman: Yes, the bill bands it and the amendment would regulate it. Although it is banned until the FDA approves it.

Representative K. Wallman: Are we actually including things that we don't intend to? Is everybody fine with this language? Alcoholic beverage means any substance suitable for ingestion by human beings which contains  $\frac{1}{2}$  of 1% or more by alcohol by volume. I don't know what that means. Representative Delmore's point is that this only addresses things that are already but that are not how I read it.

Representative Lois Delmore: That  $\frac{1}{2}$  of 1% is already in there so they wanted to make it the same because it is already in law.

Representative Paur: I am repeating what Representative Delmore said and I concur what she said about it.

Representative Kretschmar: We are amending a section of the alcoholic beverages for the liquids but we are seeing  $\frac{1}{2}$  of 1% of alcohol by volume and that is generally a liquid measure. How would you have  $\frac{1}{2}$  of 1% of volume of alcohol in an envelope? It should be by some other measure.

Chairman K. Koppelman: If it is a percentage, if it is meant to be diluted is this how it works? Do they dilute the powder? If they dilute it with water it would be even less in the diluted form than it is in the concentrated form.

Rep. Mary Johnson: You can still measure the volume of a solid I believe. In the other sections Rep. D. Larson that the amendment addresses there are exclusions for Nyquil, vanilla extract, those other things.

Rep. D. Larson: I would assume so, Tom from the Attorney General's office has a lot of knowledge about this and these are his words so I assume that is covered because it is already not illegal for you to drink some Nyquil at bedtime if you have a cold. I am assuming that is already covered.

Chairman K. Koppelman: Who ever carries this bill you need to visit about some of these questions.

A Voice Vote Was Taken: All in favor

The bill was amended

Representative Delmore: Move a do pass as amended

Representative Larson: Seconded

A Roll Call Vote Was Taken: Yes 11, No 2, Absent 0

Motion carries

Representative Larsen will carry the bill

2/9/15

February 9, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1464

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 5-01-01 of the North Dakota Century Code, relating to the definition of alcohol.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 2 of section 5-01-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Alcoholic beverages" means any ~~liquid~~substance suitable for ~~drinking~~ingestion by human beings, which contains one-half of one percent or more of alcohol by volume."

Renumber accordingly

Date: 2-9-15  
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1464

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: Hog house (15.0889.01001)

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
Other Actions:  Reconsider

Motion Made By Rep Larson Seconded By Rep Delmore

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Date: 2-9-15  
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1464

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By L. Delmore Seconded By D. Larson

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson	✓	
Vice Chairman Karls	✓		Rep. Delmore	✓	
Rep. Brabandt	✓		Rep. K. Wallman	✓	
Rep. Hawken	✓				
Rep. Mary Johnson		✓			
Rep. Klemin	✓				
Rep. Kretschmar		✓			
Rep. D. Larson	✓				
Rep. Maragos	✓				
Rep. Paur	✓				

Total (Yes) 11 No 2

Absent ~~1~~

Floor Assignment Rep Larson

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

**REPORT OF STANDING COMMITTEE**

**HB 1464: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1464 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 5-01-01 of the North Dakota Century Code, relating to the definition of alcohol.

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Renumber accordingly

**2015 SENATE JUDICIARY**

**HB 1464**

# 2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Fort Lincoln Room, State Capitol

HB 1464  
3/10/2015  
24549

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Spencer*

**Minutes:**

1,2

Ch. Hogue: We will open the hearing on HB 1464.

Rep. Alisa Mitskog: Sponsor, support (see attached #1, #2).

Ch. Hogue: Did your original bill call for a ban of this substance.

Rep. Alisa Mitskog: Yes, it did.

Ch. Hogue: So we're just changing the definition of "alcoholic beverages" to include powder or liquid.

Rep. Alisa Mitskog: In my early meetings with the Attorney General and his assistant, they were very encouraged that we would be acting in advance of the introduction of this product. They said it would be really refreshing to be out in front of something, rather than having to react. They told me that they would support a ban but they'd like to see it classified, if nothing else. I think that is what the House Judiciary Committee did. They classified it and put it under the regulation of other alcohol products.

Ch. Hogue: It actually contains alcohol.

Rep. Alisa Mitskog: Yes.

Sen. Grabinger: Doing this, it would still be legal to use for people over the age of 21 in North Dakota, correct.

Rep. Alisa Mitskog: Yes, that is what the current language states that it would be classified and then is used for 21 years and older.

Sen. Nelson: So if kids were caught sneaking them in to athletic events, they would be punished just as they would by sneaking in a beer, etc.

Rep. Alisa Mitskog: Yes. I think this product is unlike any other alcoholic product because the risk of concealment and the ease of concealing it. It could be smuggled in.

Ch. Hogue: Is this a product being sold by our alcohol retailers.

Rep. Alisa Mitskog: Currently this product is not available yet. That's what is unique about this. The manufacturer of the Palcohol, the LipSmart Company they are anticipating the release of it in 2015. They did have a hang up at the federal level with the labeling and packaging.

Sen. Luick: What was the pushback in the House Judiciary Committee, why wouldn't they just take the bill as it was and ban the substance, for what it is? Did you get an idea about the contention there?

Rep. Alisa Mitskog: I don't have a clear explanation of why this was amended, other than the prohibition of alcohol. If the prohibition had remained in the bill, it probably wouldn't have passed the House.

Ch. Hogue: Thank you. Further testimony in support.

Sen. Jon Casper: Co-sponsor, support. This bill is to protect children. The way the NDCC is written, with regard to regulating alcohol in the state of ND, we call it a beverage. So this is powder; if you notice the way the bill is now, having been amended, they changed the language to substance and ingestion, so that this would fall under current law. Currently, if would take no action, you could sell this anywhere. You wouldn't have to be licensed; you could sell the product at Stop and Go to an 8 year old. We need to prevent that from happening, stop the availability. I think there is a risk of these products getting into the schools and to our children. The packet looks no different than a Kool-Aid packet that a young person might be familiar with.

Ch. Hogue: You've seen the packaging, if it's not available how do we know what the packaging looks like.

Sen. Casper: It's on-line.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition.

Pat Ward, ND Wholesale Liquor Dealers Association: Opposed. We support the concept in HB 1464 of defining these powdered alcohol substances as alcoholic beverages, so they can be licensed and taxed similar to other alcohol related products. However, we would prefer to see these substances banned altogether. I think we would be the ones that would have to ensure compliance and collect the tax and put these on the shelves. We have concerns about the consequences of these products. It is very easy to hide them and they may get into the hands of under-age kids; either by shipping directly or smuggle it out in your pocket. Alcohol is basically taxed by volume. You can make it very concentrated. I think the original bill was intended to ban these products all together. That's been happening in a lot of states. This is a hot issue in many states and the two largest wholesalers in ND are Johnson Brothers and Republic. We bring most of the wine into the state, most of the liquor into the state, and we collect the taxes, put it on the shelves, we get it to the retailers through our three tier system. We were concerned about how this product is going to be marketed and distributed. Whether it's going to bypass the three tier system, whether there are going to be ways that under-age individuals can get ahold of it. I think ND should join in the states that are banning the substances. We feel that, at least this bill is better than not regulating it at all. We would prefer to see it completely banned.

Ch. Hogue: He said the product is available on-line.

P. Ward: That's what I am hearing. I believe it can be shipped, just like you can ship wine or other products. With the wine, it is pretty obvious what's in that package when the UPS comes and it's in a big package and heavy, that they are required to check the age of the person receiving it, just like a bartender would be required to card someone. I don't think you're going to have that protection because this can be disguised in the packaging. If it comes in a regular box, it could be a small packet, or a box of small packages.

Ch. Hogue: Is your testimony in opposition to this bill because it doesn't go far enough.

P. Ward: Yes. It would be in opposition to the bill because it doesn't go far enough.

Sen. Nelson: So you'd prefer what MN, NY, NJ, and several other states have done and make it is unlawful "to possess, purchase, sell, offer to sell, or use powdered alcohol".

Mr. Ward: Yes, that would be a better result. Even though we stand to be involved in the process under this current bill, we feel that would be a better course of action.

Ch. Hogue: Thank you. We will close the hearing.

# 2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Fort Lincoln Room, State Capitol

HB 1464  
3/11/2015  
24629

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*D. Penrose*

Minutes:

#1

Ch. Hogue: Let's take a look at HB 1464.

Sen. Casper: Explained the amendment (see attached #1). Based on testimony yesterday, the decision before the committee is a policy decision of whether or not we take this new product, powdered alcohol. One right now, the feds through the Dept. of Treasury are regulating this and they haven't allowed a label so the label and the approval for the packaging need to go through the federal government and it hasn't been approved. So this isn't getting sold anywhere in the United States right now because of federal law. However, they are working on moving that forward and I think another point that wasn't brought up yesterday that's important, is the difference between powdered substance and a liquid substance. A powder substance can be snorted, as opposed to drinking regular alcohol which goes through your digestive system, where something being snorted is going directly to your bloodstream. My main concern is younger people getting this and taking it into places they shouldn't be and ingesting it that way. I think that at this time, the policy decision that came from the House, we would make powdered alcohol comply with our liquor laws in the state; you have to be 21 and all other laws we have regarding liquor. Right now, the way is written, alcohol is defined as a beverage or a liquid, so powdered alcohol would come in underneath that and the law wouldn't apply to it. So instead of liquid, it's a substance instead of drink. We'd be banning the substance, powdered alcohol in ND. The amendment would ban the substance. I think we should pass the amendment and as this product comes to market and used other places, and the proponents think it is something we should have here in the state; they can come back to us two years from now and tell us how it's working other places and what they are doing for safety.

Ch. Hogue: You are on the original bill, can you explain the exceptions in subsection 4. Why do we make exceptions if the intent is to ban the use, possession and consumption of the product?

Sen. Casper: I don't know if I have an exact answer for that. I know this is put together in conjunction with the AG's office and I think this mirrors other laws that are happening around the state/country. I don't know if anyone is researching this product at any of our state institutions, investigation, testing, and lab work being done. It is in other places. If our state colleges or businesses want to study the substance, this will allow that.

Sen. Armstrong: Yes, they are all for research.

Ch. Hogue: When I see the college or university, I immediately thought of the fraternities. That's not why you are putting that in there.

Sen. Nelson: I still have a problem with 4b and 4c. I understand the health providers and the pharmaceutical companies. The way it is written, you could use it up at the Univ of Mary or Jamestown College, or a state institution, how broad is that, do they mean the State Hospital or any institution of higher ed.

Sen. Casper: I think the way this is drafted, it has to be used by the institution. Students aren't going to be able to use powdered alcohol if this became law. The institution was using it.

Ch. Hogue: All of them would be using it for research.

Sen. Casper: That's my understanding, yes. We could add the word "research" in there.

Ch. Hogue: The word research in 4a for healthcare providers.

Sen. Armstrong: There is a drafting issue here because is it a semi-colon or a colon after (a). I think the word "for research" in #4 and that would cover all subsections. I move the amendment 15.0889.02001 as further amended.

Sen. Grabinger: Second the motion.

Ch. Hogue: We will take a voice vote. Motion carried. We now have the bill before us as amended.

Sen. Armstrong: I move a Do Pass as amended.

Sen. Luick: Second the motion.

**6 YES 0 NO 0 ABSENT**

**DO PASS AS AMENDED**

**CARRIER: Sen. Casper**

March 10, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1464

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 5-01-22 of the North Dakota Century Code, relating to the prohibition of powdered alcohol products.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** Section 5-01-22 of the North Dakota Century Code is created and enacted as follows:

**5-01-22. Powdered alcohol products prohibited - Penalty - Exceptions.**

1. As used in this section, "powdered alcohol product" means any alcohol prepared or sold in a powder form for either direct use or reconstitution in a liquid beverage or food.
2. A person may not sell, offer to sell, purchase, offer to purchase, possess, or consume a powdered alcohol product.
3. A violation of this section is a class B misdemeanor.
4. This section does not apply to the use of powdered alcohol products by a:
  - a. Health care provider that operates primarily for the purpose of conducting scientific research;
  - b. State institution;
  - c. Private college or university; or
  - d. Pharmaceutical or biotechnology company."

Renumber accordingly

March 11, 2015

TD  
3/11/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1464

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 5-01-22 of the North Dakota Century Code, relating to the prohibition of powdered alcohol products.

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4. This section does not apply to the use of powdered alcohol products for research by a:
  - a. Health care provider that operates primarily for the purpose of conducting scientific research;
  - b. State institution;
  - c. Private college or university; or
  - d. Pharmaceutical or biotechnology company."

Renumber accordingly

Date: 3/11/15  
Voice Vote # 1

2015 SENATE STANDING COMMITTEE  
VOICE VOTE  
BILL/RESOLUTION NO. 1464

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 15.0889.02002

- Recommendation:  Adopt Amendment
- Do Pass     Do Not Pass     Without Committee Recommendation
- As Amended     Rerefer to Appropriations
- Place on Consent Calendar
- Other Actions:     Reconsider     \_\_\_\_\_

Motion Made By Sen. Armstrong    Seconded By Sen. Grabinger

Senators	Yes	No	Senators	Yes	No
Ch. Hogue			Sen. Grabinger		
Sen. Armstrong			Sen. C. Nelson		
Sen. Casper					
Sen. Luick					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Voice Vote - Motion Carried.

Date: 3/11/15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTE

BILL/RESOLUTION NO. 1464

Senate \_\_\_\_\_ **JUDICIARY** \_\_\_\_\_ Committee

Subcommittee

Amendment LC# or Description: 15.0889.02002 03000

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. Armstrong    Seconded By Sen. Luick

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6    No 0

Absent 0

Floor Assignment Sen. Casper

**REPORT OF STANDING COMMITTEE**

HB 1464, as engrossed: **Judiciary Committee (Sen. Hogue, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1464 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 5-01-22 of the North Dakota Century Code, relating to the prohibition of powdered alcohol products.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** Section 5-01-22 of the North Dakota Century Code is created and enacted as follows:

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  - a. Health care provider that operates primarily for the purpose of conducting scientific research;
  - b. State institution;
  - c. Private college or university; or
  - d. Pharmaceutical or biotechnology company."

Renumber accordingly

2015 CONFERENCE COMMITTEE

HB 1464

# 2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee  
Prairie Room, State Capitol

HB 1464  
4/21/2015  
26306

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the prohibition of powdered alcohol products.

## Minutes:

**Rep. Larson, (Chair):** Opened the conference committee meeting on HB 1464. All members were present. Does the Senate want to explain why they didn't like the bill?

**Senator Casper:** There are two positions here. Our reading of what was sent over was that powdered alcohol is or alcohol is called palcohol for simplicity here. That legislation would fall under our other liquor licensing and liquor beverage laws so it would be illegal to sell in ND would fall under the code that is there and existing that is used to sell other liquor in the state. The Senate took the position that it would be illegal to sell palcohol in ND. This is a new product and something not being sold any other place in the country. Because it is new and could be easily accessible by people under the legal drinking age we thought it would be sensible for us to favor prohibition. If the folks want to come back two years from now they could do that. The wholesale distributions are opposed to having the legislation the way it came over from the House. They would rather probation rather than legalization.

**Rep. D. Larson:** The Houses version was put in that there were strong feelings that some on our committee that this should be regulated and taxed. I spoke with some of our committee members yesterday and Rep. Maragos felt it should be regulated and taxed. Rep. Mitskog was the prime sponsor and several pages from NCSL talking about how many states are looking at prohibiting it. This information has that some are prohibiting it and some are regulating it. There are only six that have actually even passed both chambers and been made law to prohibit it. So there is a feeling from our committee that there should be something we should not be just outlawing it. There is new information here and I think there is information that makes us think we should prohibit it. It does create a situation where it could lead to abuse and people bringing palcohol it into sporting events where alcohol would be prohibited and mixing it with water etc. We do recognize there are several reasons why this would be hard to control. Kids are well aware of this on the internet. We did have several people on our committee that felt in two years when there is more information about this we could look at it.

**Rep. Lois Delmore:** Alcohol wholesalers are not interested in this product. Now I would lean toward banning it. When we heard the bill on the House side the attorney general was very clear. You can do one or the other; either will work and states are doing both.

**Rep. D. Larson:** That is where we got the language for the bill we engrossed and passed to the Senate. Where did you get the language for the amended language?

**Senator Casper:** That came from the original 1000 version of the bill. It was with legislative counsel so I don't have an explanation beyond that. It was fashioned off other states.

**Senator Luick:** I feel we are in better position to prohibit it now. I think we should see where we are at in two years.

**Motion Made by Rep. Paur that the House accede to the Senate Amendments. Seconded by Senator Nelson.**

**Discussion:**

**Rep. D. Larson:** I think both sides of this have really been debated in both of our committees. I don't think we feel real strongly and that is the side we came down on.

**Senator Casper:** I think both positions are valid. I would rather put the burden of folks to come here and say this is taking place other places and it is working well.

**Senator Luick:** I stand for that point too. We need to stand on caution side; especially dealing with children and the availability of abuse in this condition and just don't need to go there.

**Rep. Lois Delmore:** That will provide us some time to see what this product really does and it is a way for us to do a little wait and see where it is going to go next.

**Rep. D. Larson:** The hospitality concerns were not something that weighed heavily with me. I did think I needed to carry out committees stand to this committee and I will support the motion as well.

Adjourned.

2015 HOUSE CONFERENCE COMMITTEE  
 ROLL CALL VOTES

BILL HB 1464 as (re) engrossed

House Judiciary Committee

- Action Taken  HOUSE accede to Senate Amendments  
 HOUSE accede to Senate Amendments and further amend  
 SENATE recede from Senate amendments  
 SENATE recede from Senate amendments and amend as follows
- Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Paur Seconded by: Senator Nelson

Representatives	4-21		Yes	No	Senators	4-21		Yes	No
Rep. D. Larson (Chair)	X		X		Senator Casper	X		X	
Rep. G. Paur	X		X		Senator Luick	X		X	
Rep. L. Delmore	X		X		Senator C. Nelson	X		X	
Total Rep. Vote					Total Senate Vote				

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier No Carrier Senate Carrier No Carrier

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**HB 1464, as engrossed:** Your conference committee (Sens. Casper, Luick, Nelson and Reps. Larson, Paur, Delmore) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ page 1003 and place HB 1464 on the Seventh order.

Engrossed HB 1464 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

HB 1464

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HB 1464  
1-28-15  
pg 1

Testimony for HB 1464 House Judiciary Committee

January 28, 2015

Rep. Alisa Mitskog, District 25

Good Morning Chairman Koppelman & Judiciary Committee Members,

For the record, my name is Alisa Mitskog, I'm honored to represent District 25 and I live in Wahpeton. I work in the health care industry as a chiropractor and I am the mother of three college age daughters.

HB bill 1464 would prohibit the sale and possession of powdered alcohol in North Dakota for human consumption.

I had not heard of powdered alcohol until recently. After learning more about the product I grew concerned about the potentially negative aspects of this substance, which is marketed under the name of Palcohol.

In my written testimony, I have provided information that was presented at the National Conference of State Legislatures fall forum. In the handout you can learn about the history of powdered alcohol and the specific science behind the manufacturing of the substance. Briefly, powdered alcohol or Palcohol is a chemically derived powdered product that is packaged in a sealable pouch that is the equivalent of a shot of alcohol and comes in vodka, rum and mixed drink flavors such as cosmopolitan, mojito, margarita and lemon drop. When the powder is mixed with 5-6 oz of water or another liquid it becomes an alcoholic drink. It has also been suggested that Palcohol can also be sprinkled and added to food.

Palcohol was developed by an Arizona-based company, Lipsmark. In earlier marketing the company touted the benefits of this product which included the convenience of taking this product camping and hiking and taking it into stadiums to avoid having to pay for high price

HB1464  
1-28-15  
Pg 2

alcoholic beverages. Snorting the substance for a quick buzz has also been mentioned in earlier marketing on the Palcohol site. The manufacturer has stated on its website that the product will be available in the Spring of 2015.

There are a number of concerns that exist with this product.

First being the ease of concealment. This product could very easily be concealed and brought into schools and youth events. It could be added to other alcoholic beverages to enhance the alcoholic content or it could be added to energy drinks. And possibly more alarming is the potential for this product to be snorted, which could produce a very quick and toxic effect.

The potential for underage consumption and abuse is very concerning. Underage alcohol consumption is already a big problem in our state.

I would like North Dakota to follow what many other states—including South Carolina, Louisiana, and Utah—have done or are in the process of doing by banning this substance.

I would like us to be proactive rather than having to react to a problem in 2 years.

Let's keep our youth safe. Please consider supporting this important piece of legislation.

Thank you.

I stand for any questions.

2014 National Conference of State Legislatures Fall Forum

# STATE ALCOHOL REGULATION SHIFTS

Presented by

Steve Schmidt  
Sr. VP, Public Policy/Communications  
National Alcohol Beverage Control Association (NABCA)

December 11, 2014



# TOPICS OF DISCUSSION

- History of Powder Alcohol
- The Science
- The Concerns
- The State Responses

HB1444  
1-28-45  
pg 3

# DAI COHOL POWDER ALCOHOL

Yep, we've taken liquid

**Palcohol.**

**Palcohol.**  
Palcohol Powder

**Powdered Alcohol**

And add water for an instant cocktail

10% Alcohol by Weight  
100g net

**Palcohol.**  
Palcohol Powder

**Powdered Alcohol**

**POWDERITA**

Tastes just like a Margarita that  
takes for an instant cocktail

10% Alcohol by Weight  
100g net

**Palcohol.**  
Palcohol Powder

**Powdered Alcohol**

**LEMON DROP**

Just add water for an instant cocktail

10% Alcohol by Weight  
100g net

nb **newsbreaker**

# a p . 11

# HISTORY OF POWDER ALCOHOL, CONT.

2005

German product called Subyou entered the marketplace first online, then in stores.

- Product contained 4.8% dried alcohol or 1.5 drinks.
- Early success did not last, the company went out of business.

2007

Dutch students developed Booz2Go as part of a school project.

- The Netherlands Ministry of Health, Welfare and Sport said there was no border to bringing the product to consumers.
- Booz2Go is not available to buy as of today.

2010

- Pulver Spirits asks TTB for approval on an alcoholic powder but decides not to proceed due to "regulatory hurdles."

2014

- Palcahol approved by TTB. Subsequently, label approved is pulled.



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# HISTORY OF POWDER ALCOHOL

#2 p.6

2/26/64

1964

- Harold Bode of the Sugar Research Foundation submits a patent application for an "alcoholic dry beverage powder"

Early 1970's

- Japanese company Sato Foods Industries begins to sell alcoholic capsules as a food additive

1974

- General Foods filed a patent for an "alcohol-containing dextrin powder" with the hope of using it both in food and as "a high ethanol-containing powder which can be used as a base for alcoholic beverage (This product never came to market.)"

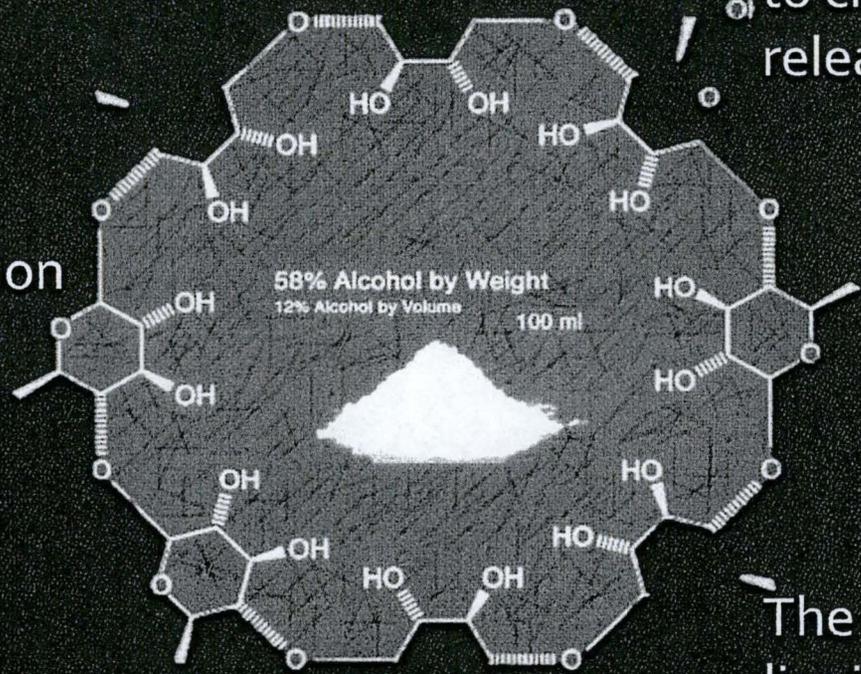


# THE SCIENCE

Alcohol is absorbed by a sugar derivative (dextrin)

According to food research and flavor design company Bompas & Parr, the scientific process is similar to creating longer flavor release in chewing gum.

Through the encapsulation process, capsules of powdered alcohol are created



Dextrin can hold 60% of their own weight in alcohol

The capsule can become a liquid alcoholic product in water but also may be taken in capsule form orally as you would medication

# THE CONCERNS

CHILD ACCESS

SNORTING

OVERUSE:  
MULTIPLE  
PACKETS  
TOGETHER

USED IN FOODS, COMBINED WITH OTHER  
ALCOHOL-INFUSED PRODUCTS

COMBINING  
WITH LIQUID  
SPIRITS

EASY TO HIDE  
IN PROHIBITED  
EVENTS

COMBINED  
WITH ENERGY  
DRINKS

477  
9182-1820

#2 p.8

456  
5

# STATE RESPONSES TO POWDERED ALCOHOL



# STATE RESPONSES TO POWDERED ALCOHOL

## California

- 1978 - Adopts Regulation 2557 on "powdered distilled spirits"
  - Regulated and taxed as any distilled spirit with volume calculated in wine gallons

# STATE RESPONSES TO POWDERED ALCOHOL

## Alaska

- **1980** - Governor signs law that a “substance having alcoholic content and intended for human consumption may not be sold in the state unless in liquid form”
- **1995** – language is updated to state “a person may not sell an alcoholic beverage if it is intended for human consumption and is in powdered form”

# STATE RESPONSES TO POWDERED ALCOHOL

2014

- Vermont, Louisiana, South Carolina and Michigan legislatures pass bans on the sale and possession of powdered alcohol.
- Minnesota, Ohio, Michigan, New York and New Jersey are considering similar bans.

STATE RESPONSES TO POWDERED ALCOHOL

2014 - Louisiana

Signed by Governor June 2014

"No container sold in or shipped into this state shall include powdered alcohol"

Powdered alcohol is not defined  
in the statute

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - South Carolina

Signed by Governor June 2014

Prohibits the ability to “use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess powdered alcohol”

Powdered alcohol defined as “alcohol prepared or sold in a powder form for either direct use or reconstitution”

#2 pg 15 150000 11/11/2014

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - Vermont

Signed by Governor June 2014

Possession of a "powdered alcohol product" equals a fine of not more than \$500

Sale of a "powdered alcohol product" equals up to two years in prison and/or a \$10,000 fine

Powdered alcohol product is defined as "any alcoholic powder that can be added to water or food"

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - Michigan

Signed by Governor June 2014

Changed definition of "alcoholic liquor"  
to include "powder"

*Note: The law enacted does not include original language that banned powdered alcohol in the state. That bill is still under consideration in the state senate.*

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - Minnesota

April 2014 – Introduced in State House of Representatives

Unlawful “to possess, purchase, sell, offer to sell, or use powdered alcohol”

Powdered alcohol defined as “alcohol sold in a powder form, for either direct use or reconstitution”

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - New York

June 2014 – Passed by State Senate

Unlawful to “sell, offer for sale, or otherwise provide for off-premises consumption, any powdered or crystalline alcoholic product”

PA18-1-28-15 HRS/LLH

#2 Ag-19 1-20-14 11/11/14

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - New Jersey

September 2014 – Introduced in State Assembly

Unlawful to “sell, offer for sale, or deliver, receive or purchase for resale in this State, any product consisting of or containing powdered alcohol”

Powdered alcohol defined as “powder or crystalline substance containing alcohol...produced for human consumption”

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - Ohio

November 2014 – Passed by State House of Representatives

Prohibits the “sale or offering for sale for human consumption powdered or crystalline alcohol”

Powdered or crystalline alcohol defined as “a product that is manufactured into a powdered or crystalline form and that contains any amount of alcohol”

# STATE RESPONSES TO POWDERED ALCOHOL

2014 - Those Control States approached about the product have responded by indicating they will not list the product.

## Control State Listing

- Control states have the additional ability to decide whether or not to list a product for sale in state outlets.
- Many have stated they will not list powdered alcohol for sale regardless of legislative and regulatory action.

THANK YOU.

STEVE SCHMIDT

Sr. VP, Public Policy/Communications  
NABCA

4401 Ford Avenue, Ste. 700  
Alexandria, VA 22302

Tel: 703-578-4200

[www.NABCA.org](http://www.NABCA.org)

Handwritten notes at the bottom of the page: 1-28-15, 12/22, HB1464, and a signature.

#3  
HB 1464  
1-28-15  
pg 1

Chairman Koppelman and Members of the House Judiciary,

My name is Kurt Snyder and I am the Executive director of the Heartview Foundation. I am here to testify in support of HB 1464 on behalf of the Heartview Foundation, North Dakota Addiction Counselors Association and the North Dakota Addiction Treatment Providers Coalition.

Deaths from overdose have been rising steadily over the past two decades and have become the leading cause of injury death in the United States.<sup>1</sup> Every day in the United States, 120 people die as a result of drug overdose,<sup>2</sup> and another 6,748 are treated in emergency departments for the misuse or abuse of drugs.<sup>3</sup> Nearly 9 out of 10 poisoning deaths are caused by drugs.<sup>2</sup>

The availability of the powdered form of alcohol or "palcohol" will exacerbate this epidemic. Overdoses are unintentional 81% of the time. Most often it results from the use of pharmaceuticals. Individuals have a difficult time judging the safe amount and mix their drugs with alcohol or other drugs. Most consumers of alcohol understand their limit based upon the type or proof of the liquor and the number of drinks. When you change the form or method of ingestion, even the most experienced drinkers will find it difficult to judge the safe amount.

Finally, the population that I most concerned about is adolescents and children. As inexperienced users of alcohol, they already are at great risk for alcohol poisoning. I thank you for your time and encourage you to support HB 1464.

I would be happy to answer any questions you may have.

Kurt A. Snyder  
Executive Director  
Heartview Foundation  
701-426-8677  
[kurt@heartview.org](mailto:kurt@heartview.org)

# 3  
HB1464  
1-28-15  
Pg 2

- 1 Centers for Disease Control and Prevention. Web-based Injury Statistics Query and Reporting System (WISQARS) (online). (2014) Available from URL: <http://www.cdc.gov/injury/wisqars/fatal.html> (<http://www.cdc.gov/injury/wisqars/fatal.html>).
- 2 Centers for Disease Control and Prevention. National Vital Statistics System mortality data. (2015) Available from URL: <http://www.cdc.gov/nchs/deaths.htm> (<http://www.cdc.gov/nchs/deaths.htm>).
- 3 Substance Abuse and Mental Health Services Administration. Highlights of the 2001 Drug Abuse Warning Network (DAWN) findings on drug related emergency department visits. The DAWN Report. Rockville, MD: US Department of Health and Human Services, Substance Abuse and Mental Health Services Administration; 2013. Available from URL: <http://www.samhsa.gov/data/2k13/DAWN127/sr127-> (<http://www.cdc.gov/Other/disclaimer.html>)

#1  
HB 1464  
2-10-15

15.0889.01000

Sixty-fourth  
Legislative Assembly  
of North Dakota

HOUSE BILL NO. 1464

Introduced by

Representative Mitskog

Senator Casper

- 1 A BILL for an Act to amend and reenact Subsection 2 of section 5-01-01 of the North
- 2 Dakota Century Code, relating to the definition of alcohol.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 4 **SECTION 1. AMENDMENT.** Subsection 2 of section 5-01-01 of the North Dakota
- 5 Century Code is amended and reenacted as follows:

- 6 2. "Alcoholic beverages" means any ~~liquid~~ substance suitable for ~~drinking~~ ingestion by human beings, which contains one-half of one percent or more of alcohol by volume.

#1-1  
3/10/15

**Testimony for HB 1464 House Judiciary Committee**

**January 28, 2015**

**Rep. Alisa Mitskog, District 25**

**Good Morning Chairman Hogue & Senate Judiciary Committee Members,**

**For the record, my name is Alisa Mitskog, I represent District 25 and I live in Wahpeton. I work in the health care industry as a chiropractor and I am the mother of three college age daughters.**

**HB bill 1464 would prohibit the sale and possession of powdered alcohol in North Dakota for human consumption.**

**I had not heard of powdered alcohol until a few months ago.**

**After learning more about the product I grew concerned about the potentially negative aspects of this substance, which is marketed under the name of Palcohol.**

**In my written testimony, I have provided information that was presented at the National Conference of State Legislatures fall forum. In the handout you can learn about the history of powdered alcohol and the specific science behind the manufacturing of the substance. Briefly, powdered alcohol or Palcohol is a chemically derived powdered product that is packaged in a sealable pouch that is the equivalent of a shot of alcohol and comes in vodka, rum and mixed drink flavors such as cosmopolitan, mojito, margarita and lemon drop. When the powder is mixed with 5-6 oz of water or another liquid it becomes an alcoholic drink. It has also been suggested that Palcohol can also be sprinkled and added to food.**

**Palcohol was developed by an Arizona-based company, Lipsmark. In earlier marketing the company touted the benefits of this product which included the convenience of taking this product camping and**

1-2  
HB1464  
3/10/15

hiking and taking it into stadiums to avoid having to pay for high price alcoholic beverages. Snorting the substance for a quick buzz has also been mentioned in earlier marketing on the Palcohol site. The manufacturer has stated on its website that the product will be available in the Spring of 2015.

There are a number of concerns that exist with this product.

First being the ease of concealment. This product could very easily be concealed and brought into schools and youth events. It could be added to other alcoholic beverages to enhance the alcoholic content or it could be added to energy drinks. And possibly more alarming is the potential for this product to be snorted, which could produce a very quick and toxic effect.

The potential for underage consumption and abuse is very concerning. Underage alcohol consumption is already a big problem in our state.

Thirty four bills in twenty four states have been introduced in the 2015 legislative session. I would like North Dakota to follow what many other states—including South Carolina, Louisiana, and Utah—have done or are in the process of doing by banning this substance.

I would like us to be proactive rather than having to react to a problem in 2 years.

The language of the original bill was amended by the House Judiciary Committee and has the support of the Attorney General's office.

I would ask for your Committee's support as well in this very important piece of legislation.

Thank you.

I stand for any questions.

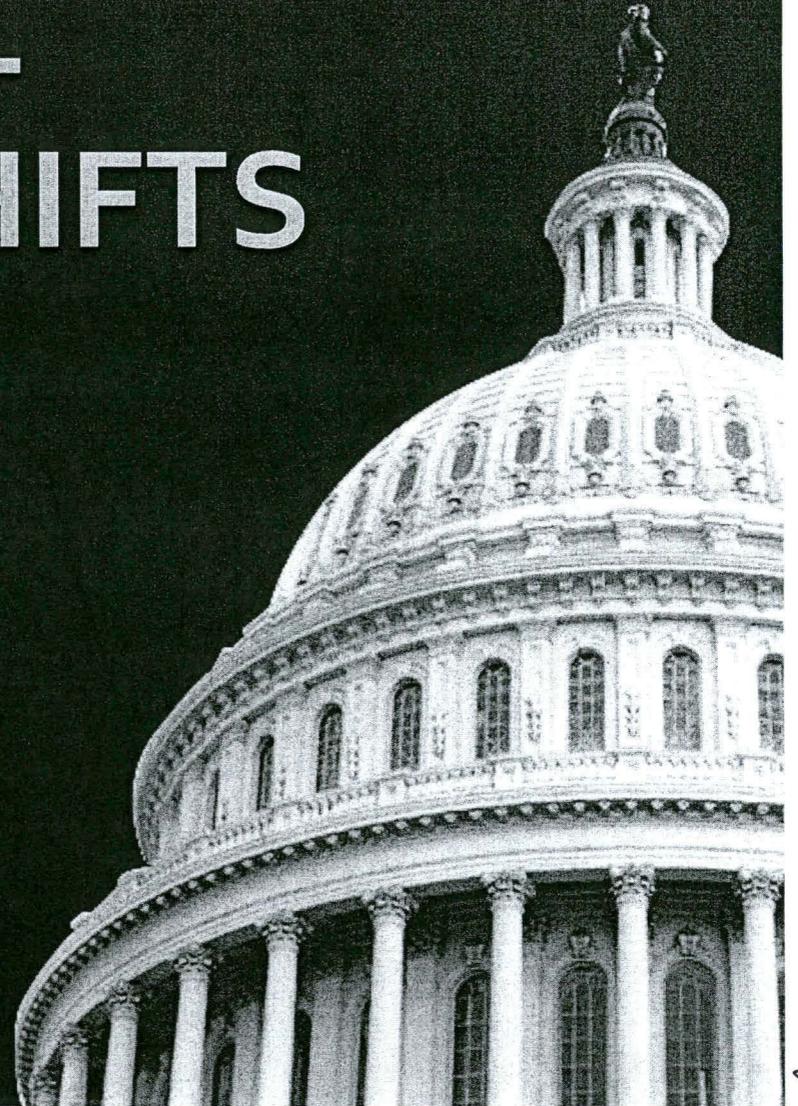
2014 National Conference of State Legislatures Fall Forum

# STATE ALCOHOL REGULATION SHIFTS

Presented by

Steve Schmidt  
Sr. VP, Public Policy/Communications  
National Alcohol Beverage Control Association (NABCA)

December 11, 2014



HB 1464  
3/10/15

#  
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# TOPICS OF DISCUSSION

- History of Powder Alcohol
- The Science
- The Concerns
- The State Responses

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**ALCOHOL  
POWDER ALCOHOL**

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Yep, we've taken liquid

**Palcohol.**

**Palcohol.**  
100% Alcohol

**Powdered Alcohol**

**COSMOPOLITAN**

And add water for an instant cocktail

100% Alcohol by weight  
100% Alcohol by volume

100g net wt

**Palcohol.**  
100% Alcohol

**Powdered Alcohol**

**POWDERITA**

Tastes just like a Margarita. Add water for an instant cocktail

60% Alcohol by weight  
100% Alcohol by volume

100g net wt

**Palcohol.**  
100% Alcohol

**Powdered Alcohol**  
**LEMON DROP**

Just add water for an instant cocktail

30% Alcohol by weight  
100% Alcohol by volume

100g net wt

nb **newsbreaker**

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# HISTORY OF POWDER ALCOHOL

1964

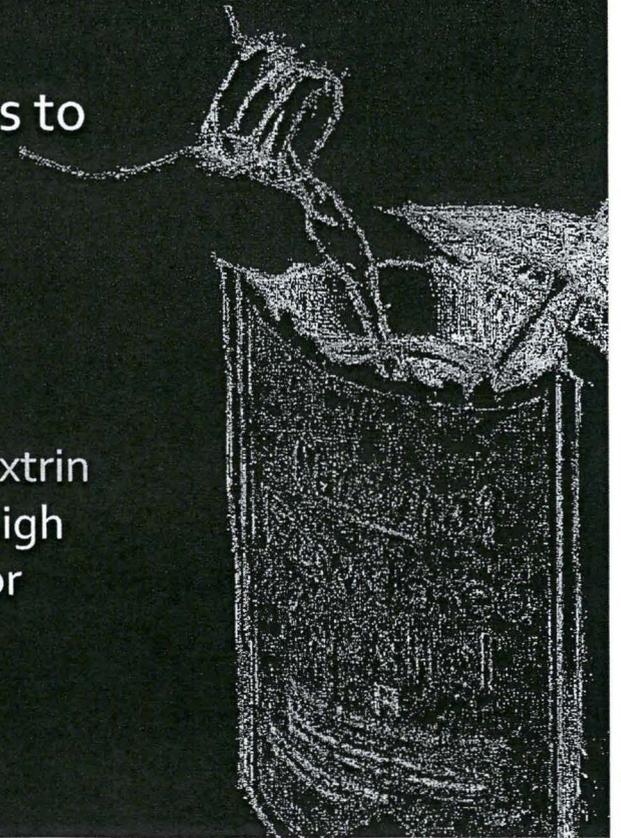
- Harold Bode of the Sugar Research Foundation submits a patent application for an "alcoholic dry beverage powder"

Early 1970's

- Japanese company Sato Foods Industries begins to sell alcoholic capsules as a food additive

1974

- General Foods filed a patent for an "alcohol-containing dextrin powder" with the hope of using it both in food and as "a high ethanol-containing powder which can be used as a base for alcoholic beverage (This product never came to market.)"



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# HISTORY OF POWDER ALCOHOL, CONT.

2005

German product called Subyou entered the marketplace first online, then in stores.

- Product contained 4.8% dried alcohol or 1.5 drinks.
- Early success did not last, the company went out of business.

2007

Dutch students developed Booz2Go as part of a school project.

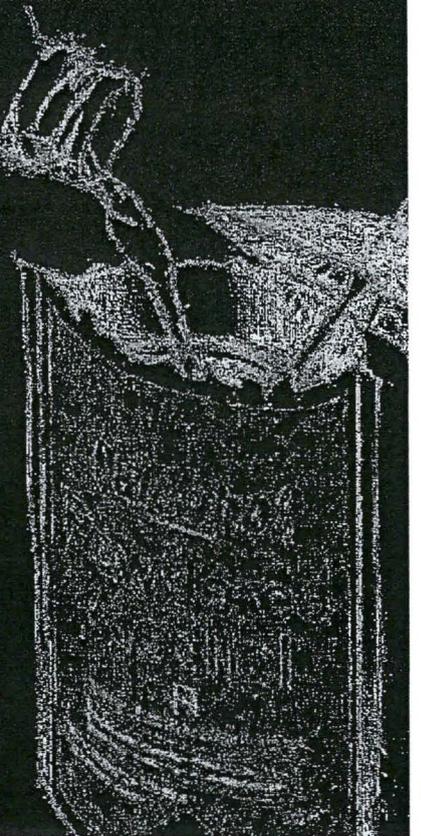
- The Netherlands Ministry of Health, Welfare and Sport said there was no border to bringing the product to consumers.
- Booz2Go is not available to buy as of today.

2010

- Pulver Spirits asks TTB for approval on an alcoholic powder but decides not to proceed due to "regulatory hurdles."

2014

- Palcahol approved by TTB. Subsequently, label approved is pulled.



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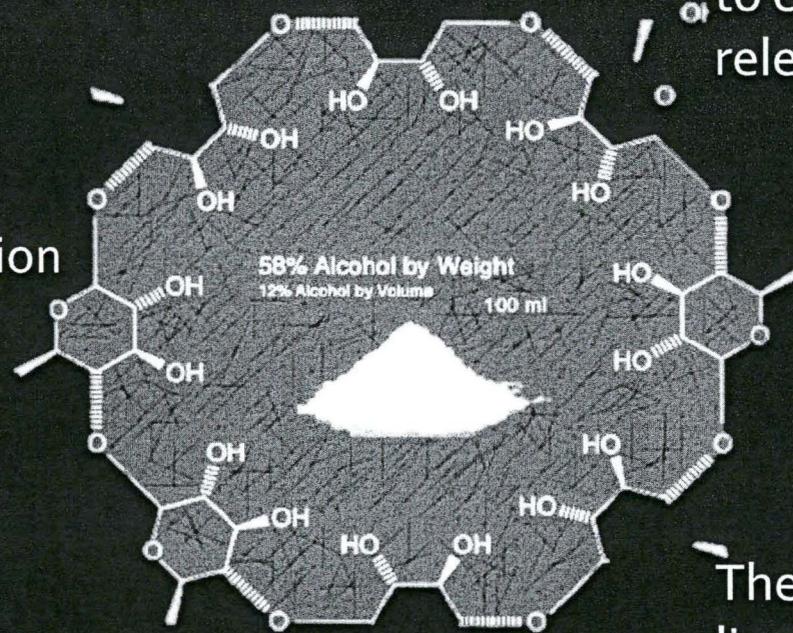
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# THE SCIENCE

Alcohol is absorbed by a sugar derivative (dextrin)

According to food research and flavor design company Bompas & Parr, the scientific process is similar to creating longer flavor release in chewing gum.

Through the encapsulation process, capsules of powdered alcohol are created



Dextrin can hold 60% of their own weight in alcohol

The capsule can become a liquid alcoholic product in water but also may be taken in capsule form orally as you would medication

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# THE CONCERNS

CHILD ACCESS

SNORTING

OVERUSE:  
MULTIPLE  
PACKETS  
TOGETHER

USED IN FOODS, COMBINED WITH OTHER  
ALCOHOL-INFUSED PRODUCTS

COMBINING  
WITH LIQUID  
SPIRITS

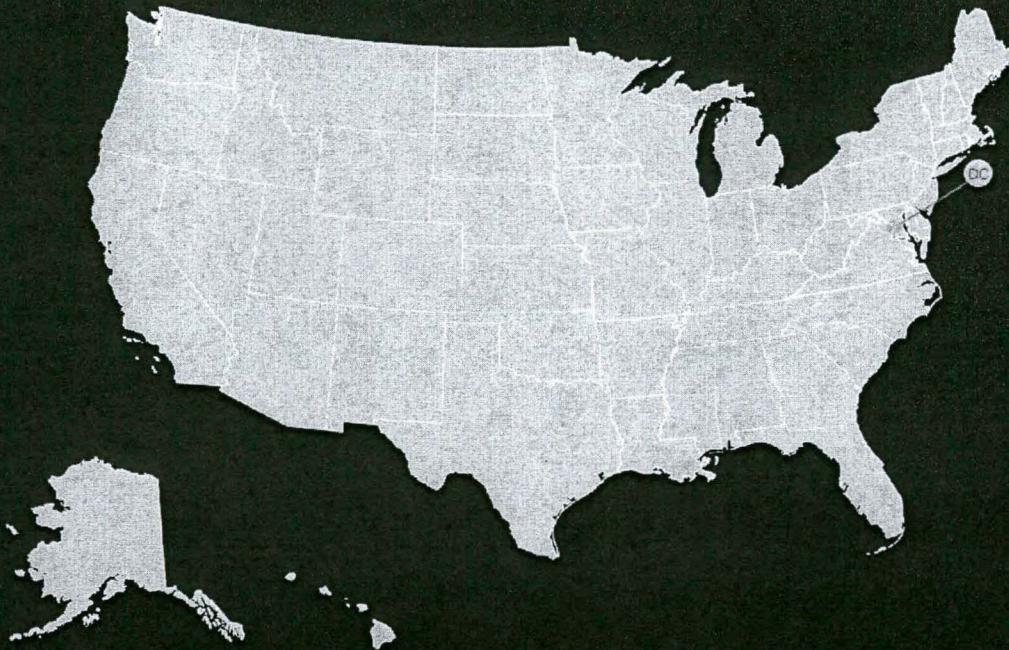
EASY TO HIDE  
IN PROHIBITED  
EVENTS

COMBINED  
WITH ENERGY  
DRINKS

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# STATE RESPONSES TO POWDERED ALCOHOL



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# STATE RESPONSES TO POWDERED ALCOHOL

## California

- 1978 - Adopts Regulation 2557 on “powdered distilled spirits”
  - Regulated and taxed as any distilled spirit with volume calculated in wine gallons

# STATE RESPONSES TO POWDERED ALCOHOL

## Alaska

- 1980 - Governor signs law that a "substance having alcoholic content and intended for human consumption may not be sold in the state unless in liquid form"
- 1995 – language is updated to state "a person may not sell an alcoholic beverage if it is intended for human consumption and is in powdered form"

# STATE RESPONSES TO POWDERED ALCOHOL

2014

- Vermont, Louisiana, South Carolina and Michigan legislatures pass bans on the sale and possession of powdered alcohol.
- Minnesota, Ohio, Michigan, New York and New Jersey are considering similar bans.

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# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - Louisiana

Signed by Governor June 2014

"No container sold in or shipped into this state shall include powdered alcohol"

Powdered alcohol is not defined in the statute

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - South Carolina

Signed by Governor June 2014

Prohibits the ability to “use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess powdered alcohol”

Powdered alcohol defined as “alcohol prepared or sold in a powder form for either direct use or reconstitution”

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - Vermont

Signed by Governor June 2014

Possession of a "powdered alcohol product" equals a fine of not more than \$500

Sale of a "powdered alcohol product" equals up to two years in prison and/or a \$10,000 fine

Powdered alcohol product is defined as "any alcoholic powder that can be added to water or food"

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - Michigan

Signed by Governor June 2014

Changed definition of "alcoholic liquor"  
to include "powder"

*Note: The law enacted does not include original language that banned powdered alcohol in the state. That bill is still under consideration in the state senate.*

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - Minnesota

April 2014 – Introduced in State House of Representatives

Unlawful “to possess, purchase, sell, offer to sell, or use powdered alcohol”

Powdered alcohol defined as “alcohol sold in a powder form, for either direct use or reconstitution”

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - New York

June 2014 – Passed by State Senate

Unlawful to “sell, offer for sale, or otherwise provide for off-premises consumption, any powdered or crystalline alcoholic product”

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - New Jersey

September 2014 – Introduced in State Assembly

Unlawful to “sell, offer for sale, or deliver, receive or purchase for resale in this State, any product consisting of or containing powdered alcohol”

Powdered alcohol defined as “powder or crystalline substance containing alcohol...produced for human consumption”

# STATE RESPONSES TO POWDERED ALCOHOL

## 2014 - Ohio

November 2014 – Passed by State House of Representatives

Prohibits the “sale or offering for sale for human consumption powdered or crystalline alcohol”

Powdered or crystalline alcohol defined as “a product that is manufactured into a powdered or crystalline form and that contains any amount of alcohol”

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# STATE RESPONSES TO POWDERED ALCOHOL

2014 - Those Control States approached about the product have responded by indicating they will not list the product.

## Control State Listing

- Control states have the additional ability to decide whether or not to list a product for sale in state outlets.
- Many have stated they will not list powdered alcohol for sale regardless of legislative and regulatory action.

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Public Policy/Communications

National Alcohol Beverage Control Association

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March 10, 2015

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HB 1464

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1464

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 5-01-22 of the North Dakota Century Code, relating to the prohibition of powdered alcohol products.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** Section 5-01-22 of the North Dakota Century Code is created and enacted as follows:

**5-01-22. Powdered alcohol products prohibited - Penalty - Exceptions.**

1. As used in this section, "powdered alcohol product" means any alcohol prepared or sold in a powder form for either direct use or reconstitution in a liquid beverage or food.
2. A person may not sell, offer to sell, purchase, offer to purchase, possess, or consume a powdered alcohol product.
3. A violation of this section is a class B misdemeanor.
4. This section does not apply to the use of powdered alcohol products by a:
  - a. Health care provider that operates primarily for the purpose of conducting scientific research;
  - b. State institution;
  - c. Private college or university; or
  - d. Pharmaceutical or biotechnology company."

For Research

Renumber accordingly