

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1383

2005 HOUSE JUDICIARY

HB 1383

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1383

House Judiciary Committee

☐ Conference Committee

Hearing Date 2/9/05

Tape Number	Side A	Side B	Meter #
1	xx		0-end
1		xx	0-11.3
2	xx		2.2-11
Committee Clerk Signature <i>R. Penrose</i>			

Minutes: 14 members present.

Chairman DeKrey: We will open the hearing on HB 1383.

Rep. Rick Berg: Sponsor of bill, introduced the bill. This bill, from my perspective, was a bill that we looked at last session, did pass the House, and what we're seeing in Fargo obviously is strong competition in the Moorhead area. I think when I look at this bill, I really look at it as a bill about local control. The confidence I've had in the local people and their ability to make decisions, that's what this bill will do. Let's let the local people make this decision.

Rep. Ron Iverson: Support (see written testimony).

Representative Klemin: What are SD and MT hours.

Rep. Ron Iverson: I believe MT is 2:00 am and SD is 2 am. All our neighboring states are 2:00 am and ND is 1 am.

Chairman DeKrey: Thank you. Further testimony in support.

Mayor Bruce Furness, Fargo: Support (see written testimony).

Representative Bernstein: Do you see any possibility of getting into competition with the neighboring states about who is going to stay open later; because there are states in the United States that have much later bar closings. Is this going to be a competition.

Mayor Bruce Furness, Fargo: I don't know the answer to that. I hope it is not. I think what we're trying to do is to respond to a situation that was created by MN. I think our preference would be to have 1 am closings. I've heard that MN might go back to that. I certainly don't think we want to get into the kind of competition you are describing.

Representative Zaiser: I'm curious about the law enforcement issue. What kind of impact does the fact that Fargo has a 1:00 closing time and Moorhead has a 2:00 closing time. Does this stretch the law enforcement efforts thin during those high stress times or likelihood of DUI drivers on the road.

Mayor Bruce Furness, Fargo: I wish Chief Magnus were here to answer that question. He did have some concerns two years ago, when this occurred, and I think those concerns are alleviated now. What really seems to happen is we have two closings now, one in Fargo and people go to Moorhead and go through that type of activity again and then people come back from Moorhead. It seems like it's complicated it, caused more issues with the two separate closings. I think having one time would be preferable. Our ultimate preference would be 1:00 am, but that's not the way it is right now, so that's why we're asking for this option.

Representative Koppelman: Representative Bernstein talked about competition between the states and you indicated that MN might go back to 1:00 am. As I understand this bill, it would allow for local control. What do you think Fargo's response would be if this bill passed and MN

rolls back to 1:00 am. Is Fargo likely to say, we have an advantage now, we'll just stay open later.

Mayor Bruce Furness, Fargo: I think we would want to go back to 1:00 am and I think the industry can speak for themselves, but what they've told me is they want a level playing field, so if it's 1:00 am, that's great, if it's 2:00 am, we'll work with that. I don't think we would try to change the table, so to speak.

Chairman DeKrey: Thank you. Further testimony in support of HB 1383.

Joel Gilbertson, ND Hospitality Association: Support (see written testimony).

Representative Kingsbury: I appreciate the local control on this, but if the bars in the city decide not to go with this, except for there are nights before Thanksgiving, when college kids are home, and it might be a time when they want to stay open. Can they decide to do that on their own, or do they need to get a permit, or how would that work.

Joel Gilbertson: First of all, we have a lot of statutes with respect to control of liquor. We have since prohibition. It is a very heavily regulated industry, both federally and statewide. But in ND, the way we have set it up is we give a lot of control to the local city commission, to the counties, local authority. It entirely rested in the city's authority to regulate hours.

Representative Kingsbury: You wouldn't need to have a special permit then, depending on what the city decided, the city has set the rules over what bars do.

Joel Gilbertson: Absolutely.

Representative Kingsbury: Then they wouldn't have to get a special license to stay open till 2:00 am.

Representative Klemm: I recently read an article in the paper about the fact that the Fargo ordinance on smoking was having on revenues of the local bars, I don't recall exactly what was in the article, but it was something to the effect that there are only 6 bars where you can go to smoke and that the ones that weren't on the list, are seeing a big decline in revenue because of that. You've given us some figures on declining revenue, but it seems to me from what was said in the newspaper article if it is correct, that this 2:00 am in Moorhead is not the only reason for declining revenue. That the smoking ordinances are having a major effect on that too.

Joel Gilbertson: A couple of things. First of all, there are some people here who can address what effect that is having on business, that Fargo smoking ordinance. However, the numbers I've given you preceded any change in the smoking ordinance. It relates only to the time the change in the 2:00 am in Moorhead and it preceded any change in the Fargo smoking ordinance.

Representative Klemm: I see from John Krein, of Rooter's Bar, he is talking about the decline in the sales, do you know if Rooter's bar is on the list of smoking or non-smoking.

Joel Gilbertson: Smoking.

Rep. Merle Boucher: Sponsor of the bill, support of it. I think part of the reason I am in support of this bill is a couple of issues in the bill. Number 1, having to do with the 2:00 am opening law. It's an optional law that communities across the state of ND are not compelled to follow the law, they can make their own decisions. I think when we consider what has taken place in the state of MN, at the present time, and what exists along the border, and one of the compelling issues that peaked my interest is the issue of safety. I think we all remember back here in the communities of Bismarck/Mandan, when the City of Mandan was on Mountain time and the city of Bismarck was on Central time and you had the hour difference. It was quite

common to see and read in the paper, even in my corner of the world, where there was an accident on Memorial Bridge as people were going back and forth to take advantage of the one hour time difference. I can envision that is a possibility that could develop between the border communities, Fargo, Grand Forks and other border communities along the MN side of ND. In fact, I have read comments in the paper from law enforcement people, that was to them a growing concern. A couple of other aspects of this law, the power hour, I think we have addressed that, making those establishments that have those kinds of incentives, or policies, to police their policies and practices, where you don't have people coming in, for one hour and pumping down 20 shots and being responsible for that. Another thing that's curious about this, and I think we've all been there on our 21st birthday, that was a big day, a monumental occasion in the lives of each and every one of us. I like that definition there, 21 years of age means it is after 3:00 am on the day of the 21st birthday of the person. In other words, again, even with the 2:00, 1:00 or 12:00, wherever we set the time, I guess tradition has been that when you turn 21, you've got to pop in and take advantage of that particular moment in time. I think there are some very socially responsible things in this bill dealing with the power hours that have been used as promotions in bars across the state, making bars responsible for that, and the age. Frankly the 2:00, again is a community determination, probably a lot of the communities across ND, especially as you move into the interior of the state, may remain at 1:00 am or what their local time hours area. I think if you drive across ND, you may even have communities that still have a 12:00 closing. It's been basically a local decision. But it does play out as a safety issue, an important safety issue for the border cities, just based upon the historical experience Bismarck/

Mandan had when they had the one hour time difference between mountain and central, and how they came to a solution to it and how Bismarck and Mandan came on the same time zone.

Representative Klemin: As far as the spread of this time change across the state, you gave the example of Bismarck/Mandan, I guess I can perceive that sort of situation arising again, say for example Mandan decides to go to 2:00 am and Bismarck doesn't, we would be back to exactly the same way we were years ago, and then Bismarck would have to follow suit to stay even, and really even though this is phrased in terms of helping the border cities compete with somebody across the river, it seems to me it's really going to be 2:00 am everywhere in ND, because everybody is going to have that same argument right across the street. Do you think that's likely to happen.

Rep. Merle Boucher: I can see that, especially that debate and scenario developing in your larger cities, like in Bismarck and Mandan, it's going to be a matter of if one does it, most likely the other is going to have to do it because it's a competitive market that they're operating in. In the communities across the state of ND, I really feel the community culture of each city is going to dictate whether or not they are going to be open at a given time. I think in western ND you may even still have a little of that, because we have parts of the west that are on mountain time and I guess if people are going to drive 60 miles to make that last call, they may be doing that now. I guess my experience, and maybe my hometown is different than the more metropolitan areas, but the guys that are there at closing time, could just as well have gone home at 10:00 p.m. or earlier as well. They're not anymore intelligent than they were at 6:00 p.m. when they came in.

Representative Klemin: Your home area is up close to the Manitoba border, do you see an exodus of people going across the border there to take advantage of the 2:00 am closing in Canada.

Rep. Merle Boucher: We live next to the border. Manitoba has an 18 year old drinking law, and ND is 21. We do have some flow back and forth in those particular age groups, and it has been a problem. But I think most of that problem is pretty much solved because most of the border openings are closed at 10:00 or 11:00 p.m. and so the traffic back and forth is dictated by the crossing and the hours of the particular customs location. If you want to drive 60 miles to get over to the Peace Garden, I guess I would have to suggest that you have a designated driver.

Chairman DeKrey: Thank you.

Rep. Scott Kelsch: Support of HB 1383. Casual conversations over the last interim with my constituents and friends and acquaintances in Fargo, ranging from police officers to highway patrolmen to bar owners, all have indicated to me that there is widespread support for this bill. In fact, some police officers have indicated to me that it's probably becoming a safety issue where you have en mass hordes of people leaving the bars at 11:30 p.m. in Fargo and going across the river to catch that last hour, and get another hour of drinking in before they have to retire for the evening.

Chairman DeKrey: Thank you.

Representative Galvin: You mentioned about all those bottles of beer that Fargo has gone down and Moorhead has come up, is all that beer consumed between 1:00 and 2:00 am. I'm not sure if I would want to accommodate that.

Joel Gilbertson: No, in fact, what we have found out in the experience in Fargo, in many cases, 21-22 year olds have totally different schedules than the rest of us. They will be studying until 10:00 but what happens when they are going to go and get together with friends, they have not gone to a place in Fargo, and then go across the border, they simply go across the border, they skip Fargo all together. It is much broader than that. I have one other thing to mention, Jason Ramstad (see written testimony). He is a 3rd generation owner, has a place in Fargo. Ted O'Shaughnessy will tell you a story next about what has happened to his business.

Chairman DeKrey: Thank you. Further testimony in support of HB 1383.

Ted O'Shaughnessy: Support (see written testimony).

Representative Klemin: I asked earlier about the smoking ordinance, is your place smoking or non-smoking.

Ted O'Shaughnessy: There are 29 places where smoking is allowed now, and I believe it's the same as it is in Moorhead. There was one week where there was not a difference, and we had our old business back, it bounced back that quick to the volume we used to experience because of the smoking, one weekend, and then Fargo and Moorhead now have the same ordinance.

Chairman DeKrey: Thank you. Further testimony in support.

Kim Levine: I am the owner of East 40 Chophouse and Tavern here in Bismarck. I am representing bars and restaurants that are not on the border. We really like the local option that this bill provides and I'm not sure if we would stay open every night until 2:00 am but it is a good option for us to have on certain nights. It makes sense to me to have this available to bars and restaurants in areas that are greatly affected, the border towns. We need to give the community the flexibility the 2:00 am closing allows.

Chairman DeKrey: Thank you. Further testimony in support.

Jon Bonzer: Support (see written testimony).

Chairman DeKrey: Do you know why the different hours that college kids keep these days. In a report I heard on TV, the college kids now go to bed between 3:00-4:00 am. Do you know what has caused that phenomena.

Jon Bonzer: I have a son that attends UND and he's on the swim team and he gets good grades, but my wife and I can't understand why his evening doesn't begin, he comes to our house for supper on Sunday nights, he goes to UND so he lives in town, we don't understand why his evening begins at 11:30 or 12:00 because when I went to UND, I would usually be retiring at 11:30 or 12:00. I wish I could explain that to you, but it certainly is a fact of life and our closing hour needs to reflect that change, those trends have changed. I wish I had an answer to that, and if somebody in the room does, I'd like to hear it, then I could keep better track of my son.

Chairman DeKrey: Thank you. Further testimony in support.

Greta Lauerman: Support of this bill. My brothers and I are running the business now, our dad just passed away and to come into this business and it's so drastically different than when we were growing up. We didn't have much to do with the business when we were younger, he kept us out of it, but just the lifestyle we had, and now we did notice a change, we got all the numbers from our beer and food companies, and as far as Sundays, we have totally shut down on Sundays, because nobody is around downtown. As far as being open until even 1:00 am, we should probably just close down at 9:00 p.m. because people don't even come downtown Fargo. The kids skip downtown Fargo, because the lines for the Moorhead bars are so long, and to even get a spot to sit down to drink at 11:00 p.m., in Moorhead, is very difficult, you're not going to waste

your time in Fargo, if they can go and wait last call in Moorhead, standing in line outside of the bar. It's hard for us right now, my family and my youngest brother, we live above the bar because it's free and we can't afford to live anywhere else. I used to have a nice place and I had to get rid of that lease because we owned the building. It's free for us, we couldn't afford to do that, like Ted was saying, his daughter had to get out of the business because it's not supporting her lifestyle, it's not supporting ours either. This is, in essence, our family farm, and this has had a very, very serious impact. The issues relating to the power hour and whatever time the birthday happens, that's a separate issue. There won't be a 2 hour power hour. The police have trained us to be responsible servers. I'm learning with the insurance and liability, we're not going to risk the two hour power hour, we're not going to risk that. We're responsible bar owners and I believe that, because I've been to the classes with these men. As far as our family goes, it would be nice to stay in this business, but since it is so new to us, with our dad passing away, it's a very easy opportunity for us to just pack up and leave too. We really don't need to stay in business if it's not going to support our future.

Representative Meyer: Did you and the other owners see an immediate drop when the 2:00 am started in Moorhead.

Greta Lauerman: Absolutely, at first they stayed in our bars until 12:30 am and then they left. They'd go to Moorhead, then the lines got longer and longer. So at first it wasn't so bad, but then when people were leaving at 11:00 and then 10:00 and then altogether just stopping even going downtown.

Chairman DeKrey: Thank you. Further testimony in support.

David Anderson, President of Downtown Community Partnership in Fargo: Support. I

knew Greta's father. He was an interesting fellow. He was a great business owner. We spoke the morning after the change and the impact was something like a bell going off in the evening when it was time to shift over to the Moorhead side. That has changed now, to the point where the patrons that came to the downtown establishments, simply don't come downtown anymore, they just go to MN. We've had almost 100 projects in our Renaissance Zone, nearly \$50 million dollars in reinvestment and great growth downtown in property valuation and businesses moving to downtown. We put the downtown through 3 years of construction, which was part of the project and that made it tough enough for them, but the 2:00 am closing in MN was just another hand dealt against them.

Representative Maragos: Thank you. Further testimony in support.

Rep. Blair Thoreson: Support. I can tell you from what you've heard from the people testifying here today that these stories are absolutely true, I know this because I've gone out to check them out myself. The Fargo bars and establishments have seen a drop in the evenings and it's not between midnight or 1:00 to 2:00. It's not a rush over to Moorhead at that time. It's at 9:00 and 10:00, their not as full, in fact, a lot of them are sitting pretty empty. Yet you can drive across the border, and at 10:00 p.m. you will find parking lots full and all of the seats full in these establishments. Where I live in Fargo, the traffic flow back towards NDSU, and one evening I watched and stayed up late and at about 2:10 am you would have thought it was 5:00 traffic jam, the cars coming back into the city and going west towards the campus. It's amazing to see how this has changed the way people have looked at going out in the evening in our area and with those vehicles, people and dollars flowing across the river. I think this is important that we pass

this bill, give the local municipality the option to do this. I know that in the Twin Cities area, in Minneapolis/St. Paul, we all know how many different suburbs and cities there are, you don't know which city you are in, a lot of those areas each have different laws also. Some are 1:00 am and some are 2:00 am, some may be even earlier than that, yet the pressure has not been there to change. I think just as today, there are different laws between Bismarck and Mandan and other issues, there could be the case where this is the same also, where one may choose to stay.

Representative Zaiser: Do you see any kind of trend at all of folks moving across the river, so they would be closer to the bars rather than having to put up with the hassle of living on the ND side. Have you seen any of those kinds of trends in your district.

Rep. Blair Thoreson: I guess I can't answer that directly. I don't know about the actual physical living arrangements of these people, but what I do see is that they are again leaving the city for longer periods of time and as that happens, maybe I could foresee a situation where that a more favorable lifestyle for them would cause them to move to MN. I don't know this for certain but there is a possibility of that. I wouldn't be comfortable in saying that is occurring now, but I think it is yet one more area where young people in our state, could see that laws around them are more accommodating to the lifestyle they are choosing at that point.

Chairman DeKrey: Thank you.

Rep. Stacey Horter: Support. From a young person's point of view, we really do keep different schedules. There's a lot of pressure to succeed in college, on top of that, students have jobs to accommodate the growing cost of higher education, so you often have a job that goes along with that, so it really puts a strain on your time, and I know from personal experience, lots of folks

will work, come home study, and then go out and only have about one hour or 1½ hr or so under current law.

Chairman DeKrey: Thank you. Further testimony in support.

Robert Hansen, ND Wine and spirits Wholesalers' Association and ND Beer Wholesaler's

Association: Support (see written testimony).

Chairman DeKrey: Thank you. Further testimony in support.

Jerry Hjelmstad, ND League of Cities: Basically I'm hear to speak relating to section 3 of the bill, relating to local regulation. When we first reviewed this bill, we saw that the new language on page 2, relating to determining whether the bars would stay open from 1:00 am to 2:00 am, and our first reaction was why is that needed, because at the bottom of page 1, there is language relating to local regulation related to the setting of hours. Upon taking a closer look at that, we found that there was a change made in the 1997 legislative session that some wording was added into that section of the law, and at that time, an and was used, rather than a comma, and it would be interpreted to give that a different meaning related to the setting of hours. Before it was clear that the locals could regulate the setting of hours and with the amendment of 1997, it muddled it up a little bit, so our suggested amendment would be... (see attached amendment). That would clarify that local authorities do have the authority to regulate the setting of hours, and with that amendment and the new language on page 2, would no longer be necessary. Just to clarify the authority related to setting of hours, any business does need both the state and local license, so a local authority relating to the setting of hours, they would not be able to extend hours beyond what the state provides, but they would be able to regulate within those limitations.

Chairman DeKrey: Thank you. Further testimony in support of HB 1383. Testimony in opposition.

Kari Olson, student at St. Mary's Central High School, Bismarck: Opposed (see written testimony).

Representative Zaiser: I'm vehemently opposed to driving while intoxicated. In fact, I introduced a bill last session that would have stiffened the penalties. Do you have any statistics that show that changing the hours when one drinks, maybe they go later, between 1-2 am, in other states do you have any statistics in other states, where it actually increases the automobile accidents.

Kari Olson: No, I'm sorry I don't.

Representative Zaiser: How can you translate that one more hour to increase auto fatalities because of drunken driving, it could be earlier.

Kari Olson: Not sure.

Representative Charging: I just want to commend you for coming to testify today, in following this legislation.

Chairman DeKrey: Thank you. Further testimony in opposition.

Representative Koppelman: We've heard a lot today about the changing habits of youngsters, and I've got a 19 year old son, who doesn't drink but he has followed his generation in the hours they keep, and I've noticed that. What about the older patrons, have they taken to going over to Moorhead.

Joel Gilbertson: First I should tell you, in order to do some research on this project last summer, and I did go over to Moorhead, and I knew I was going to have to stay up until 2:00 am

so I took two naps that day. There have been a couple of people in the business who have mentioned to me that actually it's not just the young people. That's a lot of it. They do have some regular patrons, customers, that stay up. One thing that has not been mentioned, but those of you who go out to your hometowns and you are seeing some of the new businesses that are coming in, we have a lot of different working schedules now. Let's say some of us older folks that have jobs, so you might get off work at 10:00 pm so that's their time. Absolutely, it affects some of us older folks as well.

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

(Reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to HB 1383.

Representative Maragos: I move the Hjelmstad amendments.

Representative Delmore: Seconded.

Chairman DeKrey: Motion carried.

Representative Bernstein: I move to add an emergency clause.

Representative Delmore: Seconded.

Chairman DeKrey: Motion carried.

Representative Maragos: I move a Do Pass as amended.

Representative Boehning: Seconded.

13 YES 1 NO 0 ABSENT DO PASS AS AMENDED CARRIER: Rep. Maragos

FISCAL NOTE
Requested by Legislative Council
01/18/2005

Bill/Resolution No.: HB 1383

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1383 enables communities to authorize the consumption of alcohol in licensed establishments until 2:00 AM, if they choose to do so.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

It is not known how many communities may choose to allow on-premise liquor sales until 2:00 AM, or what the possible increase in sales tax revenue will be.

Statistics show that some Fargo businesses have experienced a significant drop in on-sale liquor sales since Minnesota authorized a 2:00 AM closing time. For those Fargo businesses that have experienced a sales drop, their combined liquor sales were \$1.022 million less in the first three quarters of 2004 compared to 2003, which translates to a reduction in state sales tax revenue of \$72,000 for the three quarters, or an estimated \$96,000 per year. It is possible that a portion - or all - of that decrease would be made up if HB 1383 is enacted, and if Fargo authorizes 2:00 AM closing. Any positive fiscal impact from other communities opting to authorize 2:00 AM closing cannot be determined.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/08/2005

House Amendments to HB 1383 - Judiciary Committee 02/10/2005

Page 1, line 3, remove the first "and"

Page 1, line 4, after "beverages" insert "; and to declare an emergency"

Page 1, line 24, overstrike "and" and insert immediately thereafter an underscored comma

Page 2, line 1, remove "determining whether licensees may dispense or permit the consumption of"

Page 2, line 2, remove "alcoholic beverages after one a.m. and until two a.m. subject to section 5-02-05."

Page 2, after line 3, insert:

"SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

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

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1383

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Maragos Seconded By Rep. Boehning

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

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Maragos

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

REPORT OF STANDING COMMITTEE

HB 1383: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1383 was placed on the Sixth order on the calendar.

Page 1, line 3, remove the first "and"

Page 1, line 4, after "beverages" insert "; and to declare an emergency"

Page 1, line 24, overstrike "and" and insert immediately thereafter an underscored comma

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2005 SENATE JUDICIARY

HB 1383

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1383

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 7, 2005

Tape Number	Side A	Side B	Meter #
1	X		0.0 - 3750
Committee Clerk Signature <i>Maria L. Salberg</i>			

Minutes: Relating to sales and consumption of alcoholic beverages; emergency.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Senator Hacker, Dist. #42-Grand Forks (meter 4) Introduce Bill

Rep. Berg, Dist #45 - Gave his support. Give the local/city commissioners the chance to make the choice on this matter. This has been a big impact in the Farrago area.

Rep. Ron Iverson, Dist. #27 -(meter 373) Gave Testimony - Att. #1. ND is a 1:00 AM island in a 2:00 AM sea.

Sen Joel Heitkamp, Dist #26 I am located 5 miles from the SD boarder and 10 miles from the MN boarder. This bill is about Commerce and this is how you do business. The time has come to change as all the states around us has. Times have changed, the laws have gotten tougher. Due to that there is less trouble then there was in the past.

Sen. Trenbeath questioned the argument from saying that why give it any time frame why not let the establishment decide? That is an argument to be discussed in the future. This legislation will be hard enough to pass. Mentioned the "power hour bill".

Testimony in Opposition of the Bill:

Kari Olson, Student (meter 909) Gave Testimony Att. #2.

Testimony In Support of the Bill:

Rep. Blair Thorson, Dist #44 (meter 1409) In support of this bill. I have seen the heavy traffic at 1:00 a.m. driving across the river to MN bars.

Bruce Furness, Mayor of Fargo (meter 1500) Gave his testimony - Att. #3.

Joel Gilbertson - Bismarck Attorney (meter 1690) Att. #4 Quoted the Fargo Police Chief and he supports this bill. Business should have a uniform closing time.

ND Coin Operators Assoc. - Submitted their signature in support of the bill - Att. #4a.

John Krein - Rooter's Bar, Inc. Owner and Operator, **Jason Ramstad**, Chub's Pub & Packaging, **Mike Anderson** manager Old Broadway - Submitted Testimony Att. #4b also submitted an article from the inForum - Att. #4c

Ted O'Shaughnessy, Coleharbor bar owner - Att. #5 (meter 2900)

Jon and Cindy Bonzer, Bonzer Restaurant owner - Att. #6 (meter 2390)

Gretta Lauerman, Lauerman's Bar (meter 2780) Gave Testimony - Att. # 7.

Dave Anderson, Pres. CEO Fargo Downtown Community Partnership (meter 3200) Att. # 8

Additional Attachments Submitted:

St. Paul Article - Att. #9

E-Mail from **Kathryn Strombekc** - Att. #10

Page 3.

Senate Judiciary Committee

Bill/Resolution Number HB 1383

Hearing Date March 7, 2005

Taxable Sales & Purchases Chart - Att. #11

Senator John (Jack) T. Traynor, Chairman closed the Hearing

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1383

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 7, 2005

Tape Number	Side A	Side B	Meter #
1		X	370 -980
Committee Clerk Signature <i>Maria L. Selby</i>			

Minutes: Relating to sales and consumption of alcoholic beverages.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Senator Syverson questioned if it would merit the bill to include the 21 years of age restriction.

Discussed the bill in the house. **Senator Syverson** preference the language of the 1383 bill.

Senator Hacker stated that if the house does not pass the other bill this would be the only bill.

The committee discussed the similarities and differences of the two bills.

Sen. Nelson made the motion to do pass and **Senator Syverson** seconded the motion. All

members were in favor and the motion passes. **Sen. Trenbeath** made the comment that this bill

is about is the competition situation. The argument of public safety argument could also be made against the uniformity of states.

Carrier: **Senator Syverson**

Page 2

Senate Judiciary Committee

Bill/Resolution Number HB 1383

Hearing Date March 7, 2005

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Date: 3/7/05

Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1383

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Nelson Seconded By Senator Syverson

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Syverson

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

REPORT OF STANDING COMMITTEE (410)
March 7, 2005 12:59 p.m.

Module No: SR-41-4265
Carrier: Syverson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1383, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1383 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1383

Testimony in Favor of H.B 1383
Joel Gilbertson
On Behalf of the North Dakota Hospitality Association
February 9, 2005
House Judiciary Committee

Mr. Chairman, members of the Committee, I am Joel Gilbertson with the Bismarck office of the Vogel Law Firm. I appear this morning on behalf of the North Dakota Hospitality Association in support of House Bill 1383.

We have said, "Let the locals decide" and that is our foundation. However, some more explanation is necessary before reiterating the importance of that mantra. I will begin with a short review of the bill.

Section 1. This is meant to be a proactive approach to what has become a problem in some areas – the so-called "power hour," when newly-turned twenty one year olds walk into an establishment at 12:01 on their birthday and immediately attempt to consume 21 (or some other incredibly high number) of drinks by closing time. Under this section, a person, for purposes of being eligible to be served liquor, would not turn 21 until 3:00 a.m. on his or her birthday.

Section 2. This is the language that sets the latest possible closing time at 2:00 a.m.

Section 3. This sets the decision responsibility and authority with local authorities to decide if the closing time will be extended to 2:00 a.m. This is the so-called local option.

I will advise you that Jerry Hjelmstad of the North Dakota League of Cities will offer an amendment, a "friendly amendment," I guess you could say, to Section 3 to clarify some language. We have no objection to that amendment and, in fact, would support it.

You have heard from several in support. You will hear more.

I could not be so presumptuous as to tell you I could explain in great detail, in financial terms and in human terms, what is happening now in some of our border cities. However, we have several people here who will tell you their story. You will be amazed, I think. I know that I was. The cost, again in both financial terms and human terms, has been enormous. You will hear from family businesses in their second or third generation that are being forced out of business by laws in another state that gives them no opportunity to compete. You will hear them say that they would be happy to compete with those businesses in the neighboring state if they can possibly compete with the same rules. Simply stated, we have many businesses who are losing money every single night.

We have many to speak. There are many others here who would love to speak but will not in the interest of time. This is a change whose time has come. We owe it to North Dakotans to let them

compete in this industry, or for that matter, in any industry. There are many other reasons for passage of this bill. The safety factor now in Fargo and Moorhead is important. Just as important is a recognition of the different schedules of young people today. Similarly, we must recognize the changing schedules, with night shifts and other differing work schedules, of a North Dakota workforce that is becoming more and more divergent.

There are a couple of other items I would like to mention, both to save overall time and to represent the interests of the North Dakota Hospitality Association. You will hear a lot of testimony about how all of this is affecting Fargo and, of course, soon to affect Grand Forks. I want to make sure you know that support for this change is statewide – from members of this association all over the state and many others as well.

Secondly, I would like to talk about some statistics for a bit. Please know that I will be happy to share with you exact dollars and exact figures. In the interest of time, and recognizing many others will testify, I want to give you some visible and recognizable visions of what is now happening.

I have looked at the sales numbers of the one of the distributors in the Fargo area. Just as importantly, this distributor also is a distributor in the Moorhead area. This distributor, they have told me, has a 40% market share. They have provided me with Fargo on premises sales figures and they have provided me with Moorhead on premises sales figures. The 2:00 a.m. closing in Minnesota went into effect on July 1, 2003. From July 1, 2003 to June 30, 2004, 6,280 fewer cases of beer were sold in Fargo from the previous year and, instead, were sold in Moorhead. I want to expand on this a bit, because it is very important. If you multiply this out, assuming this distributor has 40% of the market, this means that sales in Fargo of cases of beer from all beer wholesalers dropped 15,700 cases in one year. There are 24 bottles (or cans) in a case. The total of all of this is 376,800 bottles. Let's keep it simple. On the average, there are more than 1,000 bottles of beer going across the Red River to Moorhead every day.

Let me move quickly and briefly to two more areas. The first is law enforcement. I have met with Fargo Police Chief Chris Magnus. I said, "Chief, I understand you do not oppose our 2:00 a.m. opening bill." He said that he not only did not oppose it, he supports it. I said, "can I quote you on that?" He said, "Absolutely."

Some say this will cause a safety problem throughout the state. I have attached to my testimony and materials a very interesting article from the Forum that looks into a recent NDSU study. The study examined any possible link between the later 2:00 a.m. closing time in Moorhead and a higher incidence of DUI charges. The conclusion of the study is that, other than an immediate and short spike after the new law went into effect, there was no higher incidence.

I could go on, but I will not. In all of this and especially in this bill, the importance of letting local communities decide is paramount. I started with local control and I will finish with it. This bill is meant to give communities the tools to address huge problems in those communities, while allowing other local communities to decide to make that change only if they would like to do so.

Feb 7, 2005

To Whom it May Concern;

My name is John Krein, owner and operator of Rooter's Bar,
107 Broadway, Fargo ND.

This letter is to voice my support for allowing liquor
establishments to remain open until 2:00 AM.

I have been running a viable business in downtown Fargo
since 1986.

I am providing gross sales, ND sales taxes paid and payroll
from 2002, 2003 and 2004 to stress how much my previously
successful business has suffered since Moorhead MN initiated
its 2:AM closing law in July 2003.

My gross sales are down 23%, ND sales tax down 2.3% and payroll
down 29%. In 2002 I had 18 full and parttime employees.
Currently I have 11 full and parttime employees.

I am a single store "Mom and Pop operation," and this
unequal footing as a border business has put me in a
seriously precarious financial position.

As any business owner knows, there are fixed business costs
(mortgages, Real estate taxes, insurance, utilities etc) that must be
paid. I am at break-even. No matter how hard I work and
promote I cannot overcome this unequal business climate.

I'm sure you'll concur that working for nothing is not what
makes our state great.

I'm 52 years old and life-long North Dakotan. I have con-
tributed very much to this state. Please change this law and
allow myself and others like me to fairly compete and remain in
this state. Thank you.

Sincerely
John S. Krein

ROOTER'S BAR, INC.

107 Broadway St. No.

Fargo, ND 58102

Initials Date

Prepared By

Approved By

		1	2	3
1	2002	GROSS SALES	547681.00	
2		GROSS PAYROLL (18 EMPLOYEES)	84071.00	
3		ND SALES TAX PAYABLE		44929.00
4				
5				
6				
7				
8				
9				
10				
11	2003	GROSS SALES (2AM IN EFFECT JULY)	487823.00	
12		GROSS PAYROLL (15 EMPLOYEES)	81933.00	
13		ND SALES TAX PAYABLE		36858.00
14				
15				
16				
17				
18				
19				
20				
21	2004	GROSS SALES	425775.66	
22		GROSS PAYROLL (10 EMPLOYEES)	59513.00	
23		ND SALES TAX PAYABLE		31787.00
24				
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Mike Anderson
Fargo, ND
Testimony in support of HB 1383

I am Mike Anderson and I was the manager at Coaches Sports Pub in Moorhead from October 2003 until December 2004. I currently work at the Old Broadway in Fargo. Having worked on both sides of the river, I can attest to the huge impact Moorhead's 2 a.m. closing law has had on Fargo liquor businesses.

The volume of business Coaches in Moorhead experienced after 2 a.m. closing went into effect was significant. On Thursdays, Fridays and Saturdays the number of customers typically averaged about 100 to 150 from 7 p.m. to 11 p.m. From 11 p.m. until 2 a.m. the volume would spike to 640 people. People would wait in line to get into Coaches most weekend nights. About 80 to 90 percent of this traffic was Fargo bar patrons crossing into Moorhead to frequent our bar that was open later. Total sales averaged about \$8000-\$10,000 per night on weekends.

In order to handle this huge influx of customers, Coaches had to significantly increase staffing, especially on weekends. We had 17 staff working from 9 p.m. to close on weekends, these included bartenders, cocktail waitresses and doormen. Contrast this with many previously busy Fargo night spots that were essentially empty after 11, had to cut staff and experienced significant financial losses.

The current situation in Fargo/Moorhead has created a business climate that is extremely unfair to Fargo liquor establishments. No matter what they do to attract business, they simply cannot compete and overcome the advantage Moorhead bars have with 2 a.m. closing.

This law offers a very sensible solution to this problem by allowing communities to decide if the 2 a.m. closing is best for them. I urge you to vote in favor of small businesses and in favor of a level playing field by voting yes on HB 1383.

IN-FORUM

City's DWI levels rise, then drop: Later bar closing in Moorhead not causing problems

By Joy Anderson

The Forum - 04/03/2004

Though drunken driving offenses in Moorhead spiked when bars were first allowed to stay open until 2 a.m., arrests fell to previous levels within months.

That's according to a study of Moorhead police records by researchers from North Dakota State University, seeking to discover whether Moorhead's decision last summer to let bars stay open one hour later was affecting drunken driving arrests.

"It looks like there was that novelty right after the change, and people have taken advantage of it to the extent that they want to," said Leana Bouffard, principal investigator on the study and an assistant professor of criminal justice at NDSU. "Now they're going back to business as usual."

The study examined DWI arrests for the previous two years, before and after the July 1, 2003, change to a 2 a.m. closing time.

Researchers found a 51 percent increase in arrests after the change went into effect, but by December, the number of DWIs was actually lower than the number for the same month the previous year.

The study also found, however, that officers were more aggressive in looking for drunken drivers after the change -- they were more likely to initiate stops and to test drivers for drunkenness.

Though the percentage of people arrested for DWI in Moorhead who were from outside Minnesota rose slightly after the change, the characteristics of those arrested stayed largely the same, the study shows.

Of particular interest, those arrested did not have higher blood alcohol levels after the change than before.

Moorhead Police Chief Grant Weyland said he had expected the later closing time to create far more problems. Instead, though officers have noticed an increase in late-night traffic from Fargo, the flood of drunken drivers opponents of the later closing time feared has not materialized, he said.

"We have not found it's causing us problems we were not able to manage," Weyland said.

Just after the change was introduced, many people shifted from bars in Fargo over to Moorhead, said Gary Score, manager at Playmaker's in Fargo. Now, fewer people leave, and those are largely the college students, he said.

"Right at the start, we lost quite a few," Score said. "You can almost see it at 12, 12:30, the crowd's thinning, and that's where they're going."

On the other side of the river, Coach's Sports Pub and Buffet owner Kent Tweten said he's simply seen a change in people's attendance habits.

People were already driving between bars in the city; now they just end up at different places than before, he said.

"We used to be the middle-of-the-night bar, and now we're the end-of-the-night bar," Tweten said.

The later closing hasn't brought his bar enormous amounts of money, but it's definitely worth the \$500 he had to pay to receive a special license.

"It changes a little bit, but it's not the huge big boost that everyone thinks it is," he said.

With bar business up and problems fewer than expected, Moorhead's decision has turned out to be the right one, said

Councilwoman Nancy Otto, who voted against keeping the earlier closing time.

The results of the study confirmed Otto's expectations that the change wouldn't create large problems, she said.

"Anything that was illegal at 2 in the morning is just as illegal at 1," Otto said. "Our young people are smart enough to figure that out."

Readers can reach Forum reporter Joy Anderson at (701) 241-5556

Given out by
Joel Gilbertson

Date: 02/09/05
Re: 2am closing bill #1383

Dear Respected Senator or Representative,

My name is Jason Ramstad, my family owns and operates Chub's Pub and Package Place in Fargo, ND. My grandfather bought it in 1980, my uncle, and my mother have both been involved as owner/operators, and now I am a third generation trying to make a living running it for them. I am 31 years old and a graduate of Minnesota State Moorhead.

Simply put, I have worked at Chub's throughout my college years (1994-1997) and into my adult life. I understand how the Fargo-Moorhead bar market works, and how it has changed over the last decade. More businesses, mostly franchises have entered the Fargo market and people have had more choices in Fargo. This is something that business owners could adapt to. Nothing though has changed the Fargo-Moorhead landscape like 2am closing in Minnesota.

Story upon story in Fargo suggests that business is down for many bars since Moorhead, MN allowed 2am closing. A generous portion of these businesses are in the downtown Fargo area. Chub's Pub, which is just barely outside the downtown corridor, is down roughly \$65,000 in sales in 2004 from the prior year. More stories include Sports Bar in downtown Fargo that is down close to \$200,000 in gross sales since Moorhead allowed 2am closing. The Lauerman family who operates a saloon downtown has had a drastic turnover in staff, because they "were not making the tips they used to", because of decreased business. John Krein of Rooter's Bar will let you know that his once robust "college aged" business is now skipping downtown Fargo to spend their dollars in Minnesota, because of 2 am closing. There is a problem when some Fargo bars are putting up their stools at 12:30am as I witnessed on Monday 2/7/05 at Sports Bar. Yet I can drive across the river into Moorhead, MN and see about 90 to 120 people at Mick's Office at 12:50am. So you know, I did not make a purchase at Mick's Office, I just stopped in to see what was going on. As I passed back into Fargo, I noticed at least 40 cars parked in front of both Coaches Sports Pub and Vic's Lounge located in Moorhead near the river. My experience tells me that a large number of people are crossing into Moorhead to spend time and money in Minnesota bars.

In closing, I appreciate you taking your time to read my letter. As a third generation owner and operator, I know that your job as policy makers can be hard. I know it is hard to make everybody happy. This is a challenge that I face every day. This is the challenge to take care of my customers, take care of my employees and be able to make a living for my family and myself. I know that many of you may look at the 2am closing bill as just reacting to Minnesota's law, but all of our surrounding states are open until 2am. This is not a just a Fargo issue, it is a North Dakota issue, and hopefully we can keep our business dollars and tax dollars in the state.

Thank You

Jason A. Ramstad

New Text Document

In 1987, after over 20 years of working for others in the hospitality industry,

my partner and I gathered up every dollar we could and opened Sports Bar and Grill in downtown Fargo. The business was an instant success. The business did so well that in

1990 we expanded by buying an adjacent storefront and converted that to additional seating. The biggest component of our business has always been a young, late night crowd.

Its fairly common to have just a relatively few patrons at 10 pm and be full to capacity at 1030 to 11pm.

The business provided a nice income for our two families and jobs for over 20 employees. After 10 years of operations, having completely paid off everything, we began

to contemplate selling and retiring. It was at this time that my son and daughter approached me and expressed a strong desire to enter the business. So, instead of cashing out my investment, I refinanced the business to buy out my partner, and my son and daughter became my new partners.

I stayed with the enterprise an additional two years to show my kids all the nuances of the business and then sold my interest to them on a contract for deed. This

contract was my retirement income.

Everything went along smoothly for a year and a half until the summer of 2003, when

Minnesota went to 2am opening and North Dakota did not. Immediately, our business fell

off, and my retirement income not only ended, but I had to start using up my IRA to keep the business going and to pay living expenses. I had not intended to touch my IRA

for ten years, but circumstances have forced me to already use the lions share of it.

In the 12 months succeeding the law change, Sports Bar and Grill beverage revenues

have fallen over \$200,000. Thats about \$4,000 a week on average. Thats North Dakota dollars that are still being spent, but now they are being spent supporting Minnesota business

and Minnesota jobs and taxes. For the first time in its history, Sports Bar is posting

a net annual loss.

We are losing money and losing business every day to Minnesota. Please, give us

a level playing field. Everything I have spent a lifetime working and saving for is in jeopardy. Our industry is basically a family business. We are not asking for a handout,

just a chance to compete fairly.

Yours truly,

Ted O'Shaughnessy
Coleharbor, N.D.
9 February, 2005



ED PHILLIPS & SONS CO. OF NORTH DAKOTA

1358 North 39th St., P.O. Box 1978 • Fargo, ND 58106 • (701) 277-1499 • Fax (701) 282-8869

February 8, 2005

Chairman Duane Dekrey
Members of the ND House Judiciary Committee

My name is Rob Hansen; I am the general manager of Ed Phillips & Sons and a member of both the ND Wine and Spirits Wholesalers' Association and the ND Beer Wholesalers' Association. My company sells spirits, wine and beer in every ND community. I support H.B. #1383.

H.B. #1383 addresses two important issues: legal drinking age and legal hours of operation for beverage alcohol licenses. Considering the health and safety concerns the current "Power Hour" practice produces, it is easy for me to support the change in the definition of "21 years of age" from 12 midnight to 3am, effectively making the "Power Hour" irrelevant.


Changing the closing time for beverage alcohol licenses from 1 AM to 2 AM also makes good sense. I don't think this will have any impact on safety issues or the number of impaired drivers. It could, however, have a very positive impact on the 1100-plus beverage alcohol licenses in the state. This will result in increased tax revenues at both state and local levels, increased revenues for businesses who elect to stay open until 2am, and bigger paychecks for employees who work in these establishments. It will also level the playing field for communities who share borders with cities in our three neighboring states – all of whom have provisions for 2am closing.

By leaving the decision to allow 2 AM opening at the local licensing level, the state recognizes the value of making local decisions at the local level.

The decision to remain open for one more hour will ultimately be up to the retailer. Many already close earlier than the closing time mandated by North Dakota law as a pure business decision. No business is currently forced to be open until 1 AM and, when this bill is passed, no business will be forced to be open until 2 AM.

H.B. #1383 is a good bill with a lot of upside and no downside. I urge you to vote "Do Pass" on this bill as it is currently written.

Thank you for your consideration.


Robert L. Hansen
General Manager

To: House Judiciary Committee
From: North Dakota League of Cities
Date: February 9, 2005
Re: House Bill No. 1383

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1383

Page 1, line 24, overstrike "and" and insert immediately thereafter an underscored comma

Page 2, line 1, remove "determining whether licensees may dispense or permit the consumption of"

Page 2, line 2, remove "alcoholic beverages after one a.m. and until two a.m. subject to section 5-02-05,"

Renumber accordingly

* * * * *

1997 amendment:

HOUSE BILL NO. 1371
(Representatives DeKrey, Weisz)

AN ACT to amend and reenact section 5-02-09 of the North Dakota Century Code, relating to the establishment of local regulations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-09 of the North Dakota Century Code is amended and reenacted as follows:

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

REP WEISZ: This bill was introduced at the request of constituents. Its purpose is to make the private clubs follow the same rules as public bars and clubs. Defers to Dave Meiers for specifics.

DAVID MEIERS: (ND Hosp. Ass.) The purpose of this bill is to level the playing field on gaming. It makes the private clubs stay private if they have charitable gaming. Some clubs that claim to be private have an open door policy and allow anyone to come in and use the facility. Thus, they compete with private bars and clubs. Private clubs get their gaming license based on the fact that they are private, and they use the gaming revenue to keep their other prices down. That is unfair competition.

Mr. Chairman, Members of the committee. My name is KARI OLSON. I am 14 and a freshman at St. Mary's Central High School here in Bismarck. I am here in opposition to House Bill 1383. I do support having twenty-one year olds wait until after the bars close on their birthday to be considered of legal age because that may help avoid "Power hours" and alcohol poisoning. As a babysitter, I encourage you NOT to allow local authorities the option of keeping the bars open until 2 o'clock in the morning.

I understand there are a few bars in Moorhead that have chosen to stay open until 2:00 a.m. and Fargo bar owners feel they are losing business to these Moorhead bars. But please consider how keeping the bars open later will affect the innocent bystanders, babysitters, drinkers and the bars themselves. Innocent bystanders have to put up with and pay for foolish acts of drunks. Consumption of alcohol is shown to increase traffic crashes, property damage, domestic violence, date rape, drownings, fires, burns and frostbite.

Babysitters have to stay up later waiting for the intoxicated parents to get home and sometimes have to get a ride home with them or awaken their own parents who are then on the ~~road~~ ^{Road} driving drowsy or at greater risk for being hit by drunk drivers.

According to the Youth Risk Behaviors Survey of 9th - 12th graders, North Dakota is number one in the nation for the number of students riding with someone who has been drinking. This includes riding with the parents of the children we have been babysitting.

By keeping the bars open later it gives the drinkers another hour to buy another round of drinks increasing the likelihood that they will be more intoxicated when they take to the road.

As quoted by Leyton Freborg (Republican house majority leader) stated and reported on the KFYZ website. "I don't frequent the bars but something is wrong if they can't get enough drinking in between 9 am and 1 at night."

In addition to putting lives in danger, let's look at some of the real expenses. According to the North Dakota Professional Insurance Agents Association, "Alcohol-related crashes accounted for an estimated 14% of North Dakota's auto insurance payments. Reducing alcohol-related crashes by 10 % would save \$7 million in claims payments."

The people who own or work in the bar have to work another hour later and the owner of the bar has to pay them more for working that extra hour. They also put themselves at

greater risk of being sued for over-serving their customers should a crash occur. Not to mention the hour later that this puts them on the road.

According to the ND Dept of Transportation website, In North Dakota, the cost for each injured survivor of an alcohol-related crash averages \$67,000, including \$6,000 in health care costs and \$13,000.00 in lost productivity because they can't go to work.

Even the designated driver isn't always the safest way to go. The National Traffic Safety Highway Administration estimates ~~the~~ about 100,000 crashes annually involve drowsiness or fatigue as a principal factor. At least 71,000 people are injured in fall-asleep crashes each year. 23 percent of adults state that they know someone who experienced a fall - asleep crash. Fatigue also produces driver inattention and may cause them to fail to yield or drift into oncoming traffic.

According to the DOT, every weeknight between 10:00 p.m. and 1:00 a.m., one in 13 drivers is drunk. Between 1:00 a.m. and 6:00 a.m., one in 7 drivers is drunk. Let's not increase these numbers. Why keep these people up another hour? I know it wouldn't be good to put me on the road after a sleepover at someone's house.

I am scheduled to take my driver's test on February 10th. Please consider keeping the roads safer for me. And when considering the loss of income bars may experience that last hour, please consider the cost in loss of life, the increase in disabilities, loss of productivity, increase in health care cost and emergency vehicle dispatch costs related to alcohol abuse in the State of North Dakota.

Chairman Traynor and fellow member of the Senate Judiciary Committee, for the record I am Sen Nick Hacker from Dist 42 in Grand Forks,

Walk through bill

Your will hear from business in the industry following myself, I will leave their business expertise in this area up to them. What I would like to speak to you of is society and its changes over the past few years. Times are changing, remember the day that businesses closed by 6 then 7 then 8 then 9. Well today many businesses do not close their doors until 10 and sometimes even 11. The people that work these jobs tend to be younger than most, and look to go out with friends after work on the weekends. This is significant in our college towns as more and more students work part time and attend school. These students are working until 10 or 11 and at best they make it out on a Friday or Saturday night at 10:30/11 or even later. Its no longer the 9 and 9:30 trend to go out. This bill provides an opportunity for our businesses and local communities. It's not a mandate but simply the opportunity to compete. We talk of empowering our local communities all the time, this is simply one of those opportunities. Thank you and I will try and answer any questions you may have at this time.

Testimony on HB 1383
State Rep. Ron Iverson
District 27 -- Fargo

AH #1
Same
testimony given
to House
committee

Mr. Chairman and Members of the committee For the record my name is Representative Ron Iverson. I serve the constituents of District 27 which is comprised of Southwest Fargo and part of West Fargo.

I come before you today to stand in support of HB 1383. I won't be labor all of the points that were made by the previous speakers but I will state my reasons for support and I shall be brief.

#1 Fairness – Imagine if you will you're a Businessman and have poured your heart and soul into building your business only to be on the brink of losing it cause the state government across the river gives your competitors an advantage no matter how hard you try you can not overcome. You aren't asking for preferential treatment You would just want a Fair and Equal opportunity to compete. That is what America is all about, everyone gets a chance.

#2 Safety – The second reason I am asking you to support HB 1383 is safety. It is bad enough that people drive when they have been drinking. What makes it doubly worse is that in Fargo because of the different closing times you have people drinking earlier in the evening in Fargo Bars then getting in their cars and driving across the border and going to Moorhead Bars and then driving home. It would be my preference that NO

ONE drives while they are drinking but to have them get behind the wheel twice is too much.

#3 Cost Benefit -- The third reason is Cost Benefit Analysis. North Dakota is getting all of the negative aspects of 2AM closing without the Benefits. Being able to close later if they wish in neighboring states is a distinct benefit in that it directly relates to more economic activity for the State. North Dakota by contrast does not get these benefits that comes along with allowing these our establishments the ability to close at a time that is consistent with those from neighboring states.

Mr. Chairman and members of the Committee North Dakota is a 1 AM island in a 2AM sea please help our state and our businesses by passing HB 1383. I would be happy to answer any questions.

Thank You

Mr. Chairman, Members of the committee. My name is KARI OLSON. I am 14 and a freshman at St. Mary's Central High School here in Bismarck. I am here in opposition to House Bill 1383. I do support having twenty-one year olds wait until after the bars close on their birthday to be considered of legal age because that may help avoid "Power hours" and alcohol poisoning. As a babysitter, I encourage you NOT to allow local authorities the option of keeping the bars open until 2 o'clock in the morning.

I understand there are a few bars in Moorhead that have chosen to stay open until 2:00 a.m. Fargo bar owners feel they are losing business to these Moorhead bars. But please consider how keeping the bars open later will affect the innocent bystanders, babysitters, drinkers and the bars themselves. Innocent bystanders have to put up with and pay for foolish acts of drunks. Consumption of alcohol is shown to increase traffic crashes, property damage, domestic violence, date rape, drownings, fires, burns and frostbite.

Babysitters have to stay up later waiting for the intoxicated parents to get home and sometimes have to get a ride home with them, or awaken their own parents who are then on the road driving drowsy or at greater risk for being hit by drunk drivers.

According to the Youth Risk Behaviors Survey of 9th - 12th graders, North Dakota is number one in the nation for the number of students riding with someone who has been drinking. This includes riding with the parents of the children we have been babysitting.

I agree with Leyton Freborg he said "I don't frequent the bars but something is wrong if they can't get enough drinking in between 9 am and 1 at night." By keeping the bars open later it gives the drinkers another hour to buy another round of drinks increasing the likelihood that they will be more intoxicated when they take to the road. Some proponents of this bill testified that it WON'T lead patrons to consume more. If that is the case, where is the profit? You have to pay for more help for the longer hours. The bar owners also put themselves at greater risk of being sued for over-serving their customers should a crash occur. Not to mention the hour later that this puts their employees out on the road.

In addition to putting lives in danger, let's look at some of the real expenses. According to the North Dakota Professional Insurance Agents Association, "Alcohol-related crashes accounted for an estimated 14% of North Dakota's auto insurance payments. Reducing alcohol-related crashes by 10 % would save \$7 million in claims payments."

According to the ND Dept of Transportation website, "In North Dakota, the cost for each injured survivor of an alcohol-related crash averages \$67,000, including \$6,000 in health care costs and \$13,000.00 in lost productivity because they can't go to work." Even without a crash, the fact that they are out until 2:00 a.m. increases the likelihood that they will not report for work or may not be completely sober when they get there.

Even the designated driver isn't always the safest way to go. The National Traffic Safety Highway Administration estimates the about 100,000 crashes annually involve drowsiness or fatigue as a principal factor. At least 71,000 people are injured in fall-asleep crashes each year. 23 percent of adults state that they know someone who experienced a fall - asleep crash. Fatigue also produces driver inattention and may cause them to fail to yield or drift into oncoming traffic.

According to the DOT, every weeknight between 10:00 p.m. and 1:00 a.m., one in 13 drivers is drunk. Between 1:00 a.m. and 6:00 a.m., one in 7 drivers is drunk. Let's not increase these numbers. Why keep these people up another hour? I know it wouldn't be good to put me on the road after a sleepover at someone's house.

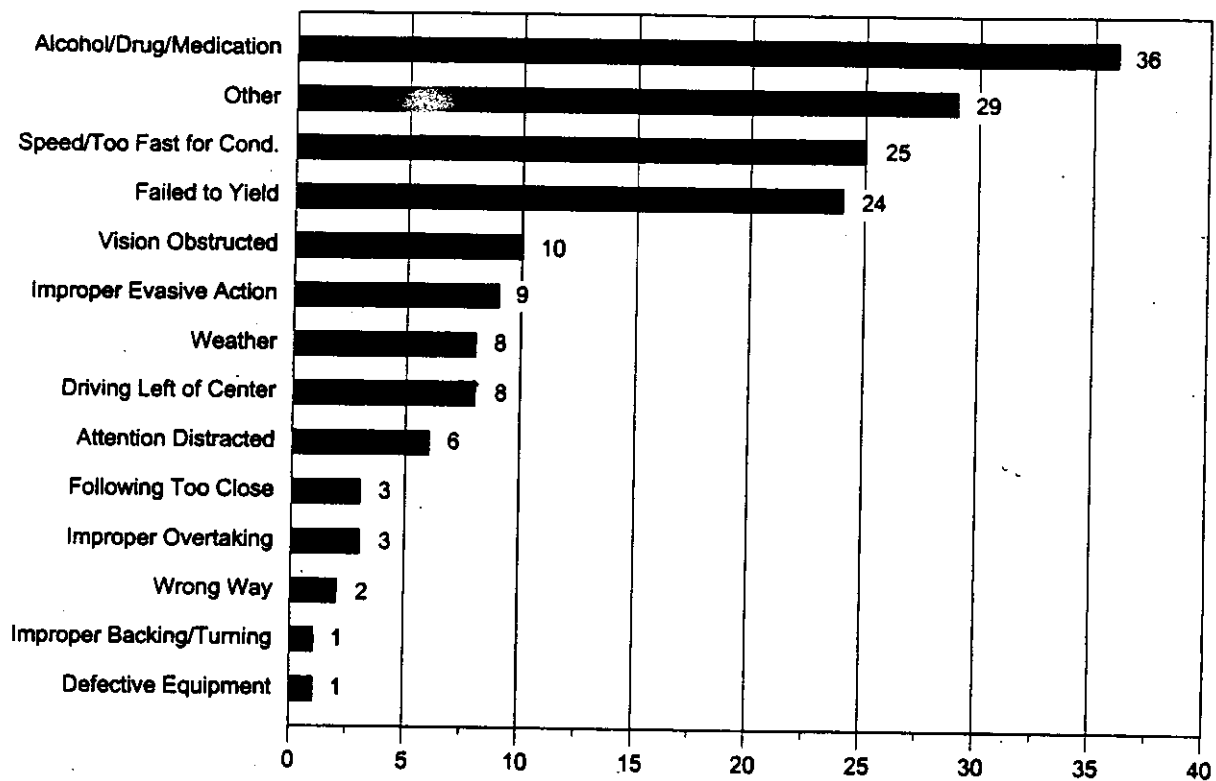
When I testified at the House Judiciary Committee, a distributor gave the cost of his losses in number of bottles of beer. How many bottles of beer is one life worth?

Proponents also say that this is locally controlled and each city can decide. Is that really what this is? It is called peer pressure in my world. The time difference between Superior, Wisconsin and Duluth, Minnesota prompted Minnesota to accept 2:00 a.m. closing. The pressure for the Twin Cities to compete nationally for convention business was also a factor. If Fargo goes to 2:00 a.m., won't Bismarck, Dickinson, Minot and Williston have to follow suit in order to keep conventions in their cities. It is a domino effect. Everyone else is doing it! In high school, we hear that all the time.

Will keeping bar closing time at 1:00 a.m. ~~cause people to drink more~~, binge drinking, or drinking and driving? Maybe not by itself but I don't quite see how it can help.

I passed my driver's test on February 10th. Please consider keeping the roads safer for me. And when considering the loss of income bars may experience that last hour, please consider the cost in loss of life, the increase in disabilities, loss of productivity, increase in health care cost and emergency vehicle dispatch costs related to alcohol abuse in the State of North Dakota. Unfortunately alcohol costs you money, even if you don't buy any.

CONTRIBUTING FACTORS IN 2003 FATAL CRASHES*



* There were 95 fatal crashes in 2003. Multiple contributing factors may be associated with one fatal crash and are based on the officer's preliminary investigation.

TOTAL AND FATAL CRASHES BY TIME OF DAY AND DAY OF WEEK

Time of Day	Total Crashes		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Sunday	
	Total	%	Fatals	Crashes	Fatals	Crashes	Fatals	Crashes	Fatals	Crashes	Fatals	Crashes	Fatals	Crashes	Fatals	Crashes
12:00 a.m. - 12:59 a.m.	525	3.2	3	47	1	47	-	48	-	53	-	78	1	143	1	119
1:00 a.m. - 1:59 a.m.	385	2.3	3	33	-	31	-	41	-	38	-	53	1	92	-	97
2:00 a.m. - 2:59 a.m.	223	1.3	3	15	-	15	1	13	-	31	1	23	-	68	-	58
3:00 a.m. - 3:59 a.m.	173	1.0	1	19	-	13	-	22	-	16	-	21	-	45	-	37
4:00 a.m. - 4:59 a.m.	158	1.0	1	21	-	14	-	13	-	21	-	26	-	38	-	25
5:00 a.m. - 5:59 a.m.	323	2.0	4	45	1	36	-	55	1	57	1	47	-	48	-	44
6:00 a.m. - 6:59 a.m.	479	2.9	6	85	-	111	2	64	1	58	-	74	1	52	1	45
7:00 a.m. - 7:59 a.m.	868	5.2	4	136	1	159	1	172	-	169	2	127	-	58	1	47
8:00 a.m. - 8:59 a.m.	677	4.1	5	132	1	115	-	135	1	94	1	129	-	46	-	36
9:00 a.m. - 9:59 a.m.	515	3.1	5	83	1	99	4	76	-	81	-	77	-	68	-	42
10:00 a.m. - 10:59 a.m.	562	3.4	3	99	-	87	1	78	-	88	-	99	-	74	1	63
11:00 a.m. - 11:59 a.m.	728	4.4	3	128	-	112	-	111	1	98	1	121	-	112	1	56
12:00 p.m. - 12:59 p.m.	928	5.6	2	169	-	128	-	161	1	145	1	152	-	98	-	76
1:00 p.m. - 1:59 p.m.	764	4.6	4	121	-	113	-	121	-	118	2	122	2	118	-	63
2:00 p.m. - 2:59 p.m.	878	5.3	3	139	-	133	1	155	-	117	-	142	1	116	-	86
3:00 p.m. - 3:59 p.m.	1,129	6.8	9	171	1	196	1	215	3	167	3	229	-	116	1	65
4:00 p.m. - 4:59 p.m.	1,112	6.1	5	163	-	175	1	173	1	139	1	169	1	121	1	72
5:00 p.m. - 5:59 p.m.	1,213	7.3	7	197	2	183	-	227	1	223	1	178	1	119	-	116
6:00 p.m. - 6:59 p.m.	1,197	6.6	3	147	-	143	-	194	1	176	1	169	-	141	1	128
7:00 p.m. - 7:59 p.m.	885	5.3	2	123	2	118	-	138	-	112	-	154	-	132	-	118
8:00 p.m. - 8:59 p.m.	763	4.6	5	117	-	94	-	111	1	99	-	134	2	111	1	118
9:00 p.m. - 9:59 p.m.	916	5.5	3	113	-	114	-	116	-	127	1	161	1	164	-	142
10:00 p.m. - 10:59 p.m.	826	5.0	4	89	-	91	-	98	1	118	-	155	1	144	1	131
11:00 p.m. - 11:59 p.m.	545	3.3	7	55	-	52	1	66	1	73	1	123	-	132	2	55
TOTALS	16,552		95	2,422	11	2,320	13	2,559	14	2,410	17	2,726	12	2,305	12	1,810

North Dakota Traffic Fatalities as of February 26, 2005

2005 fatalities to date: **12**

Alcohol related fatalities **4**

Alcohol related crashes **4**

Safetybelts not worn **8**

North Dakota Highway Fatalities for 2005

Year	Motorcycle Fatalities	Pedestrian Fatalities	Train Fatalities	Other Fatalities	Alcohol Related Crashes	Alcohol Related Fatalities	Total Crashes	Total Traffic Fatalities
2001	4	3	1	97	41	45	86	105
2002	1	2	0	94	41	48	84	97
2003	4	7	4	90	48	53	95	105
2004	9	5	1	83	38	38	95	100
2005	0	2	1	10	4	4	12	12

CRASHES BY TYPE OF DRIVER CITATION

Citation / Circumstance	All Crashes			Fatal Crashes			Injury Crashes		
	Urban	Rural	Total	Urban	Rural	Total	Urban	Rural	Total
D.U.I. (Alcohol)	299	275	574	2	10	12	116	166	282
D.U.I. (Drugs)	7	8	15	-	-	-	3	7	10
Care Required	1,174	947	2,121	-	1	1	239	289	528
Careless Driving	64	72	136	-	-	-	18	35	53
Failed to Yield	1,326	241	1,567	1	2	3	357	91	448
Failed to Stop	521	42	563	-	1	1	158	17	175
Following	575	82	657	-	-	-	163	19	182
Improper Turning	350	44	394	-	-	-	63	20	83
Improper Backing	167	39	206	-	-	-	4	1	5
Overtaking	20	28	48	-	-	-	2	6	8
Wrong Way	11	3	14	-	-	-	4	-	4
Speeding	16	6	22	-	-	-	3	1	4
Defective Equipment	8	8	16	-	-	-	1	2	3
Illegal Parking	3	5	8	-	-	-	-	2	2
Open Container	-	1	1	-	-	-	-	-	-
Improper License	88	39	127	-	1	1	26	12	38
Left Crash Scene	89	78	167	1	-	1	14	20	34
Other	737	273	1,010	1	4	5	189	101	290
None	9,535	3,548	13,083	18	95	113	2,364	874	3,238
TOTALS	14,990	5,739	20,729	23	114	137	3,724	1,663	5,387

HH #3

Same to given to Home

Testimony of Mayor Bruce Furness on House Bill 1383
Senate Judiciary Committee
March 7, 2005

Good Morning Mr. Chairman and members of the Committee. I am Bruce Furness, Mayor of Fargo, and I am speaking in favor of HB 1383 which will permit, at city discretion, consumption of alcoholic beverages until 2:00 a.m.

The hospitality industry is an integral part of our community and certainly has a major impact on our economy.

Currently, this industry suffers from unfair competition relative to the City of Moorhead which enjoys a 2:00 a.m. closing time. Competition always works best when the playing field is even; when one party does not have a competitive advantage over another. This bill provides for that.

Our hospitality businesses are hurting. Some have told us that revenues are down 35% since the 2:00 a.m. closing in Moorhead took effect. Some are here today and can provide first-hand examples of that effect.

We have found it desirable, where possible, to have consistent and uniform policies for the four cities in the Metro area. Examples are inspections of multi-family housing units, curfew for youth, and sign restrictions. This would be another example of consistency in the larger community.

Finally, this is enabling legislation that allows cities in North Dakota to make the determination on 2:00 a.m. closings. It may not be appropriate in all cities. But it is appropriate for Fargo and would allow us to adapt to changing market conditions.

I urge the Senate Judiciary Committee to recommend a "Do Pass" for HB 1383. Thank you for your positive consideration of this bill.

Testimony in Favor of H.B 1383
Joel Gilbertson
On Behalf of the North Dakota Hospitality Association
March 7, 2005
Senate Judiciary Committee

Mr. Chairman, members of the Committee, I am Joel Gilbertson with the Bismarck office of the Vogel Law Firm. I appear this morning on behalf of the North Dakota Hospitality Association in support of House Bill 1383.

We have said, "Let the locals decide" and that is our foundation. However, some more explanation is necessary before reiterating the importance of that mantra. I will begin with a short review of the bill.

Section 1. This is meant to be a proactive approach to what has become a problem in some areas – the so-called "power hour," when newly-turned twenty one year olds walk into an establishment at 12:01 on their birthday and immediately attempt to consume 21 (or some other incredibly high number) of drinks by closing time. Under this section, a person, for purposes of being eligible to be served liquor, would not turn 21 until 3:00 a.m. on his or her birthday. (As you know, SB 2067 is similar "power hour" provisions. It has passed the Senate and is now in the House.)

Section 2. This is the language that sets the latest possible closing time at 2:00 a.m.

Section 3. This sets the decision responsibility and authority with local authorities to decide if the closing time will be extended to 2:00 a.m. This is the so-called local option.

You have heard from several in support. You will hear more.

I could not be so presumptuous as to tell you I could explain in great detail, in financial terms and in human terms, what is happening now in some of our border cities. However, we have several people here who will tell you their story. You will be amazed, I think. I know that I was. The cost, again in both financial terms and human terms, has been enormous. You will hear from family businesses in their second or third generation that are being forced out of business by laws in another state that gives them no opportunity to compete. You will hear them say that they would be happy to compete with those businesses in the neighboring state if they can possibly compete with the same rules. Simply stated, we have many businesses who are losing money every single night -- and this is their livelihood..

We have many to speak. There are many others here who would love to speak but will not in the interest of time. This is a change whose time has come. We owe it to North Dakotans to let them compete in this industry, or for that matter, in any industry. There are many other reasons for passage of this bill. The safety factor now in Fargo and Moorhead is important. Just as important is a recognition of the different schedules of young people today. Similarly, we must recognize the changing

schedules, with night shifts and other differing work schedules, of a North Dakota workforce that is becoming more and more divergent.

There are a couple of other items I would like to mention, both to save overall time and to represent the interests of the North Dakota Hospitality Association. You will hear a lot of testimony about how all of this is affecting Fargo and, of course, soon to affect Grand Forks. I want to make sure you know that support for this change is statewide – from members of this association all over the state and many others as well.

Secondly, I would like to talk about some statistics for a bit. Please know that I will be happy to share with you exact dollars and exact figures. In the interest of time, and recognizing many others will testify, I want to give you some visible and recognizable visions of what is now happening.

I have looked at the sales numbers of the one of the beer distributors in the Fargo area. Just as importantly, this distributor also is a distributor in the Moorhead area. This distributor, they have told me, has a 40% market share. They have provided me with Fargo on premises sales figures and they have provided me with Moorhead on premises sales figures. The 2:00 a.m. closing in Minnesota went into effect on July 1, 2003. From July 1, 2003 to June 30, 2004, 6,280 fewer cases of beer were sold in Fargo from the previous year and, instead, were sold in Moorhead. I want to expand on this a bit, because it is very important. If you multiply this out, assuming this distributor has 40% of the market, this means that sales in Fargo of cases of beer from all beer wholesalers dropped 15,700 cases in one year. There are 24 bottles (or cans) in a case. The total of all of this is 376,800 bottles. Let's keep it simple. On the average, there are more than 1,000 bottles of beer going across the Red River to Moorhead every day.

Let me move quickly and briefly to two more areas. The first is law enforcement. I have met with Fargo Police Chief Chris Magnus. I said, "Chief, I understand you do not oppose our 2:00 a.m. opening bill." He said that he not only did not oppose it, he supports it. I said, "can I quote you on that?" He said, "Absolutely."

Some say this will cause a safety problem throughout the state. I have attached to my testimony and materials a very interesting article from the Forum that looks into a recent NDSU study. The study examined any possible link between the later 2:00 a.m. closing time in Moorhead and a higher incidence of DUI charges. The conclusion of the study is that, other than an immediate and short spike after the new law went into effect, there was no higher incidence.

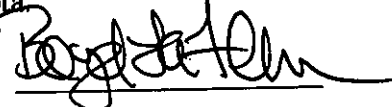
To all of this, I will simply add that we are presently a 1:00 a.m. island. Minnesota, South Dakota, Montana, Saskatchewan and Manitoba are all 2:00 a.m. closing states and provinces.

I could go on, but I will not. In all of this and especially in this bill, the importance of letting local communities decide is paramount. I started with local control and I will finish with it. This bill is meant to give communities the tools to address huge problems in those communities, while allowing other local communities to decide to make that change only if they would like to do so.

Dear Committee Members

The North Dakota Coin Operators Association would like to go on record in favor of House Bill 1383, extending the closing hours for Bars and Taverns till 2:00 A.M.. We believe this bill will give the people who have to close the many business in the state an opportunity to meet and socialize with their friends. The extra sales tax generated by this bill would certainly be a benefit to the State of North Dakota.

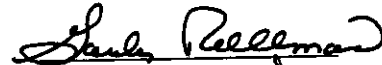
Boyd LaFleur LaFleur and Sons - Devils Lake



Mike O'Brien Dakota Music Inc. - Bismarck



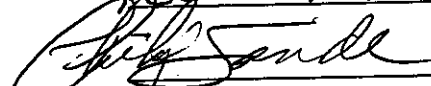
Gordy Rollman Nortana Music - Williston



Lowell Thomas Modern Coin - Minot



Phil Sande Sande Music - Dickinson



Jim Carlson A&H Vending - Grand Forks



Untitled

In 1987, after over 20 years of working for others in the hospitality industry, my partner and I gathered up every dollar we could and opened Sports Bar and Grill in downtown Fargo. The business was an instant success. The business did so well that in 1990 we expanded by buying an adjacent storefront and converted that to additional seating. The biggest component of our business has always been a young, late night crowd. It's fairly common to have just a relatively few patrons at 10 pm and be full to capacity at 10:30 to 11 pm.

The business provided a nice income for our two families and jobs for over 20 employees. After 10 years of operations, having completely paid off everything, we began to contemplate selling and retiring. It was at this time that my son and daughter approached me and expressed a strong desire to enter the business. So, instead of cashing out my investment, I refinanced the business to buy out my partner, and my son and daughter became my new partners.

I stayed with the enterprise an additional two years to show my kids all the nuances of the business and then sold my interest to them on a contract for deed. This contract was my retirement income.

Everything went along smoothly for a year and a half until the summer of 2003, when Minnesota went to 2 am opening and North Dakota did not. Immediately, our business fell off, and my retirement income not only ended, but I had to start using up my IRA to keep the business going and to pay living expenses. I had not intended to touch my IRA for ten years, but circumstances have forced me to already use the lions share of it.

In the 12 months succeeding the law change, Sports Bar and Grill beverage revenues have fallen over \$200,000. That's about \$4,000 a week on average. That's North Dakota dollars that are still being spent, but now they are being spent supporting Minnesota business and Minnesota jobs and taxes. For the first time in history. Sports Bar is posting a net annual loss. My daughter had to leave the business, beverage sales are down 37%, our payroll is down 38%, sales tax payments down 45%.

We are losing money and losing business every day to Minnesota. Please, give us a level playing field. Everything I have spent a lifetime working and saving for is in jeopardy. Our industry is basically a family business. We are not asking for a handout, just a chance to compete fairly.

Yours truly,

Ted O'Shaughnessy
Coleharbor

AH #6

Jon and Cindy Bonzer

From: "Jon and Cindy Bonzer" <bonzer@gra.midco.net>
To: "Julie Fedorchak" <jfedorchak@bis.midco.net>; "Jon and Cindy Bonzer" <bonzer@gra.midco.net>
Sent: Monday, February 07, 2005 8:09 PM
Subject: My testimony

Greetings, everybody!

My name is Jon Bonzer. I have owned and operated a restaurant and bar in downtown Grand Forks for 22 years. I rebuilt it from scratch in 1997, as it was lost to the flood and fire that ravaged Grand Forks in that year.

It is an honor for me to be able to communicate to you why we must pass 2:00AM closing legislation, and I want to hit three specific points for you.

1) Being on the Minnesota border, we North Dakotans must have a level playing field in order to compete. As you know, Minnesota has already passed a 2:00AM law, and my food and beverage colleagues in Fargo can testify to what that has done to the Fargo-Moorhead market. The East Grand Forks City Council, by one vote, decided not to go to 2:00AM as they wanted to wait to see what happens in our legislature this year and hopefully make the change as one greater Grand Forks community. But, regardless, East Grand Forks will go to 2:00AM. The Grand Forks market cannot afford to go through the horrific situation that has occurred in Fargo. Please don't let that happen. With all of the flood debt we are already carrying, the results would be devastating.

2) Drinking habits have changed drastically in the last fifteen years. People go out later, and not just to drink. Many of my latest staying customers are non drinkers, but are out to socialize. I may get a group of law students in at 11:30 after they have been studying, or people that have just come from a late movie, or people that come out after being at a sporting event of some kind. In many cases, their evening is just beginning at around 11:00; they don't want to be told that they have to leave an hour and a half after arriving! It's just a fact that people do go out later than they used to, and our closing time needs to reflect that trend.

3) There is no correlation between longer hours and overdrinking. Giving people an extra hour to be out socializing is not a bad thing, and socializing doesn't mean simply drinking. The same rules apply to us when it comes to serving intoxicated people whether we close at 1:00AM or 2:00AM. I am at my establishment virtually every night. We do not see the large numbers of intoxicated people that we used to. People have become more responsible drinkers, and most groups that come in have a designated driver.

I rebuilt in 1997 because I wanted to stay in North Dakota. Our industry is extremely competitive. Please, for the sake of our North Dakota food and beverage establishments, pass this legislation so that we can compete with our neighbors and survive. In all honesty, I don't think my particular business will survive if we don't. I need that level playing field to compete. The Minnesota border is only three blocks away.

Thank you very much!

3/6/2005

**Testimony from Gretta Lauerman
HB 1383
Senate Judiciary Committee
March 7, 2005**

Good morning. For the record, my name is Gretta Lauerman. Along with my two younger brothers, I own two Lauerman's bars in Fargo and I'm pleased to be here today in support of this legislation to let community leaders decide whether or not to allow bars in their town remain open until 2 a.m.

For my brothers and I, this law is a matter of staying in business or closing our doors. I'm 26 years old, and never intended to be running our family business at this age. Unfortunately, my father's sudden death last summer left the three of us in charge of everything he had spent his entire life building.

These bars provided a comfortable living for my family throughout our childhood. However, since Moorhead bars implemented 2 a.m. closing, Lauerman's business has been severely impacted. Our wholesale beer suppliers have told us our beer purchases in 2004 were down 24 percent compared to 2003. Our downtown bar used to be a stopping ground among downtown spots for young people. Now the crowd skips downtown Fargo altogether or essentially abandons our bars at 10 or 11 in order to get a seat at one of the packed Moorhead bars that are open until 2 a.m. Many weekend nights we could close our doors at 11 p.m. and probably come out ahead financially.

Lauerman's has decreased staff on weekends from 5 people to 2 people. My brothers and I have had to sink the proceeds from our dad's life insurance policy into the business in order to sustain it.

In this business, this is our family farm and we want to keep it. I urge you to support HB 1383 and I'd be happy to answer any questions you might have.

Testimony by Dave Anderson, President/CEO - Downtown Community Partnership - Fargo

March 7, 2005

RE: 2:00 AM Closing Time Proposed for Business Establishments in North Dakota

Mr. Chairman and Members of the Committee:

My name is Dave Anderson. I serve as the president and chief executive officer for the Downtown Community Partnership in Fargo. In that role I am called upon to speak on behalf of a very broad-based group of businesses in our downtown ... a downtown that spans the Red River and ... hence ... the North Dakota/Minnesota border.

We are bankers, shopkeepers, printers, publishers, barbers, booksellers, accountants and cooks. Together ... we strongly support this proposal!

Our downtown has experienced some very good and welcome growth in recent years ... some of it very much to the credit of the North Dakota Assembly and the creation of our Renaissance Zone as a result of the enabling legislation passed into law here in 1999. We appreciate the help and support of the Legislature in that effort. Nearly 100 projects and multiple millions of dollars have had the broad effect of a rising tide ... lifting nearly all of our downtown "boats" ...

... but not all.

While we have seen a tremendous increase in people coming downtown to work, shop, live and play, the long-established, home-owned pubs and taverns that have been familiar landmarks for generations have been drained of their customers and of their economic health by the uneven competitive playing field that spans our border. The restaurants, stores, office buildings and condo projects of our downtown are growing and thriving in a bustling competitive environment ... and, unfortunately, they are likely concealing from the community the despair of families like the Lauermands and the Kreins because everything otherwise seems so successful and prosperous.

Jim Lauermand was a friend of mine who said things as he saw them ... and he knew at the time that 2:00 AM was going to hurt the late night business. We spoke the morning after the Minnesota late closing took effect and he was devastated! Even Jim didn't expect that regular patrons would completely bypass his downtown establishment and go across the river for the ENTIRE evening. There was no great exit at midnight or one o'clock for the other side of the river because many of his regulars and their friends simply didn't bother to stop on their way out of the state.

These small businesses need your help ... they are powerless to compete in a fair marketplace unless they can match the operating environment that others enjoy just a few blocks away! The proposal calls for a very clear LOCAL decision ... we have not asked that the entire state move to the late hour ... only that communities such as ours be allowed to help our small private businesses to have a fair chance to compete.

We strongly urge you to approve this measure. Thank you for your consideration.

Bar hours no big tax windfall

Associated Press

ST. PAUL — The drinks may be flowing later, but a law that let bars stay open until 2 a.m. isn't pouring tax money into state coffers at anywhere near the rate anticipated.

The Minnesota Department of Revenue estimated Friday that the 2003 change permitting bars to stay open an extra hour produced about \$185,000 in additional tax revenue last year.

When the Legislature

debated the issue, predictions of higher revenue from food and beverage taxes were in the millions of dollars.

It means lawmakers must find other pockets of money to pay 50 troopers added to the Minnesota State Patrol as part of the deal.

The \$3.5 million annual cost of the new hires has been partly offset by federal funding and bar fees.

The department findings are based on estimates, not actual collections.

AH #70

Original sent via e-mail:

Here are some additional statistics however. The largest percentage decrease where the dollar decrease was in excess of \$10,000 was - 35.8%. There were a total of 3 businesses with liquor sales that dropped more than 30% AND the dollar decrease exceeded \$10,000. There were 4 businesses with liquor sales that dropped between 20% and 30% AND the dollar decrease exceeded \$10,000. Correspondingly, there were 5 with drops between -10% and -20%, and 10 with drops below 10% and dollar drops in excess of \$10,000. Therefore, there were a total of 22 businesses with drops in excess of \$10,000 for the quarters tabulated.

I hope this is helpful. Have a good Session!

Kathryn Strombeck

Overall, there has been growth of approx. \$1 million in Fargo's existing stores' on-sale liquor sales for the three quarters. But some businesses have reported decreased sales as well.

HH #1

**Taxable Sales and Purchases
On-Sale Liquor Establishments
(SIC 5813)
By Quarter - Most Recent Three Years**

	<u>First Quarter</u> <u>2004</u>	<u>First Quarter</u> <u>2003</u>	<u>First Quarter</u> <u>2002</u>	<u>Percent</u> <u>Change</u> <u>2004v2003</u>	<u>Percent</u> <u>Change</u> <u>2003v2002</u>
Fargo	\$ 10,026,678	\$ 9,092,364	\$ 8,679,665	10.3%	4.8%
Grand Forks	5,010,594	4,698,064	4,274,132	6.7%	9.9%
Bismarck	4,323,379	4,130,164	3,849,381	4.7%	7.3%
Minot	3,697,716	3,348,127	3,360,729	10.4%	-0.4%

	<u>Second Quarter</u> <u>2004</u>	<u>Second Quarter</u> <u>2003</u>	<u>Second Quarter</u> <u>2002</u>	<u>Percent</u> <u>Change</u> <u>2004v2003</u>	<u>Percent</u> <u>Change</u> <u>2003v2002</u>
Fargo	\$ 9,784,054	\$ 9,220,949	\$ 8,624,456	6.1%	6.9%
Grand Forks	4,491,112	4,470,617	4,268,166	0.5%	4.7%
Bismarck	4,111,174	3,800,909	3,859,479	8.2%	-1.5%
Minot	3,525,510	3,198,953	3,150,345	10.2%	1.5%

	<u>Third Quarter</u> <u>2003</u>	<u>Third Quarter</u> <u>2002</u>	<u>Third Quarter</u> <u>2001</u>	<u>Percent</u> <u>Change</u> <u>2003v2002</u>	<u>Percent</u> <u>Change</u> <u>2002v2001</u>
Fargo	\$ 9,279,828	\$ 8,951,296	\$ 8,449,607	3.7%	5.9%
Grand Forks	4,511,343	4,279,856	3,907,736	5.4%	9.5%
Bismarck	3,900,561	3,778,918	3,689,126	3.2%	2.4%
Minot	3,768,900	3,566,683	3,349,392	5.7%	6.5%

	<u>Fourth Quarter</u> <u>2003</u>	<u>Fourth Quarter</u> <u>2002</u>	<u>Fourth Quarter</u> <u>2001</u>	<u>Percent</u> <u>Change</u> <u>2003v2002</u>	<u>Percent</u> <u>Change</u> <u>2002v2001</u>
Fargo	\$ 9,682,493	\$ 9,427,265	\$ 9,116,885	2.7%	3.4%
Grand Forks	4,936,434	4,884,979	4,926,465	1.1%	-0.8%
Bismarck	4,249,399	4,035,114	3,770,436	5.3%	7.0%
Minot	3,717,213	3,445,434	3,344,909	7.9%	3.0%