

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2204
(Senators Hacker, Holmberg, Lyson)
(Representatives Dahl, Delmore, N. Johnson)

AN ACT to amend and reenact sections 5-01-08, 5-01-09, 5-02-06, and 14-10-06 of the North Dakota Century Code, relating to immunity from criminal liability for consumption of alcoholic beverages by an individual under twenty-one years of age and mitigating factors for other individuals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08. ~~Persons~~ Individuals under twenty-one years of age prohibited from using alcoholic beverages or entering licensed premises - Penalty.

1. Except as permitted in this section and section 5-02-06, ~~a person~~ an individual under twenty-one years of age may not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any ~~person~~ individual for the purchase of an alcoholic beverage.
2. ~~A person~~ An individual under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:
 - a. A restaurant if accompanied by a parent or legal guardian;
 - b. In accordance with section 5-02-06;
 - c. If the ~~person~~ individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;
 - d. If the ~~person~~ individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or
 - e. If the ~~person~~ individual enters the premises for training, education, or research purposes under the supervision of ~~a person~~ an individual twenty-one or more years of age with prior notification of the local licensing authority.
3. A violation of this section is a class B misdemeanor.
4. The court, under this section, may refer the ~~person~~ individual to an outpatient addiction facility licensed by the department of human services for evaluation and appropriate counseling or treatment.
5. The offense of consumption occurs in the county of consumption or the county where the offender is arrested.
6. For purposes of this section, ~~a person~~ an individual is not twenty-one years of age until eight a.m. on that ~~person's~~ individual's twenty-first birthday.
7. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services

and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals that may be immune for any one occurrence is five individuals.

SECTION 2. AMENDMENT. Section 5-01-09 of the North Dakota Century Code is amended and reenacted as follows:

5-01-09. Delivery to certain persons unlawful.

1. Any ~~person~~ individual knowingly delivering alcoholic beverages to ~~a person~~ an individual under twenty-one years of age, except as allowed under section 5-02-06, or to a habitual drunkard, an incompetent, or an obviously intoxicated ~~person~~ individual is guilty of a class A misdemeanor, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2.
2. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene and cooperated with medical assistance and law enforcement personnel on the scene, or was the individual in need of medical assistance. The maximum number of individuals that may be immune for any one occurrence is five individuals.
3. If an individual is convicted of this section for delivering alcoholic beverages to an individual under twenty-one years of age, the court shall consider the following in mitigation:
 - a. After consuming the alcohol, the underage individual was in need of medical assistance as a result of consuming alcohol; and
 - b. Within twelve hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that the underage individual was in need of medical assistance as a result of consuming alcohol.

SECTION 3. AMENDMENT. Section 5-02-06 of the North Dakota Century Code is amended and reenacted as follows:

5-02-06. Prohibitions for ~~persons~~ individuals under twenty-one years of age - Penalty - Exceptions.

1. Except as permitted in this section, a licensee who dispenses alcoholic beverages to a ~~person~~ an individual under twenty-one years of age, or who permits ~~a person~~ an individual under twenty-one years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed, is guilty of a class A misdemeanor, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2.
2. ~~A person~~ An individual under twenty-one years of age may not remain in a restaurant where alcoholic beverages are being sold except if the restaurant is separated from the room in which alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if the ~~person~~ individual is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of ~~a person~~ an individual twenty-one or more years of age and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.

3. ~~A person~~ An individual under twenty-one years of age may enter and remain on the licensed premises if the ~~person~~ individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages; if the ~~person~~ individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or if the ~~person~~ individual enters the licensed premises for training, education, or research purposes under the supervision of a ~~person~~ an individual twenty-one or more years of age with prior notification of the local licensing authority.
4. ~~A person~~ An individual under twenty-one years of age may remain in an area of a site where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to section 5-02-01.1.
5. ~~A person~~ An individual who is nineteen years of age or older but under twenty-one years of age may be employed by a restaurant as provided in subsection 2 to serve and collect money for alcoholic beverages, if the ~~person~~ individual is under the direct supervision of a ~~person~~ an individual twenty-one or more years of age, but may not be engaged in mixing, dispensing, or consuming alcoholic beverages. Any establishment where alcoholic beverages are sold may employ ~~persons~~ individuals from eighteen to twenty-one years of age to work in the capacity of musicians under the direct supervision of a ~~person~~ an individual twenty-one or more years of age.
6. For purposes of this section, a ~~person~~ an individual is not twenty-one years of age until eight a.m. on that ~~person's~~ individual's twenty-first birthday.
7. If an individual is convicted of this section, the court shall consider the following in mitigation:
 - a. After consuming the alcohol, the underage individual was in need of medical assistance as a result of consuming alcohol; and
 - b. Within twelve hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that the underage individual was in need of medical assistance as a result of consuming alcohol.

SECTION 4. AMENDMENT. Section 14-10-06 of the North Dakota Century Code is amended and reenacted as follows:

14-10-06. Unlawful to encourage or contribute to the deprivation or delinquency of minor - Penalty.

1. Any ~~person~~ individual who by any act willfully encourages, causes, or contributes to the delinquency or deprivation of any minor is guilty of a class A misdemeanor.
2. Any ~~person~~ individual who by any act willfully encourages, causes, or contributes to the deprivation of a child less than sixteen years of age by causing that child to engage in sexual conduct as defined under section 12.1-27.2-01, in any play, motion picture, photograph, dance, or other visual representation is guilty of a class C felony.
3. If an individual is convicted of this section for encouraging, causing, or contributing to the consumption or possession of alcoholic beverages by an individual under twenty-one years of age, the court shall consider the following in mitigation:
 - a. After consuming the alcohol, the underage individual was in need of medical assistance as a result of consuming alcohol; and
 - b. Within twelve hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that

the underage individual was in need of medical assistance as a result of consuming alcohol.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2204.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 75 Nays 17 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,
at _____ o'clock _____ M.

Secretary of State