

SENATE BILL NO. 2261

Introduced by

Senator Olafson

Representative N. Johnson

1 A BILL for an Act to create and enact a new section to chapter 5-02 of the North Dakota
2 Century Code, relating to costs of investigation, prosecution, and hearing; to amend and
3 reenact section 5-02-10 of the North Dakota Century Code, relating to hearing of violations; and
4 to provide a continuing appropriation.

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

6 **SECTION 1.** A new section to chapter 5-02 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Costs of investigation, prosecution, and hearing - Continuing appropriation.**

- 9 1. The local governing body or the attorney general may assess the costs of the case
10 to a licensed retailer found as a result of an adjudicative proceeding to be in
11 violation of this title. For the purposes of this section, "costs of the case" means
12 reasonable out-of-pocket costs, not including any attorney's fees, actually incurred
13 by the local governing body or the attorney general, or their authorized
14 representatives, in the conduct of the investigation, prosecution, or hearing of a
15 proceeding brought under section 5-02-10.
- 16 2. No later than thirty days after a finding of a violation of this title but before the
17 issuance of an order suspending, revoking, or taking adverse action against a retail
18 alcoholic beverage license, the local governing body or the attorney general shall
19 mail to the licensed retailer by registered mail an itemized list of the costs of the
20 case to be assessed. The licensed retailer may object to the reasonableness of
21 any cost. The licensed retailer shall deliver to the local governing body or the
22 attorney general, no later than ten days after receipt of the itemized list of costs,
23 any written objection to each cost and the reason for the objection. Upon receipt
24 and review of the objection or the failure of the licensed retailer to object to a cost

1 in the manner and within the time required by this subsection, the local governing
2 body or the attorney general may approve, deny, or modify any cost.

3 3. An order suspending, revoking, or otherwise taking adverse action against the
4 retail alcoholic beverage license by the local governing body or the attorney
5 general after a hearing held pursuant to section 5-02-10 must require that the
6 licensed retailer pay the assessed costs of the case as a condition of continued
7 licensure, reinstatement of a suspended license, or the issuance of a license,
8 whether after revocation of a previous license or upon an application for a new
9 license.

10 4. Any costs paid by the licensed retailer to the attorney general must be paid into the
11 attorney general operating fund and are appropriated to the attorney general for
12 the purposes of defraying the costs of the case for which the costs were assessed.

13 **SECTION 2. AMENDMENT.** Section 5-02-10 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **5-02-10. Hearing on alleged violations.** Any person having information that a
16 licensed retailer of alcoholic beverages has violated any provisions of this title may file with the
17 attorney general, city attorney, or state's attorney an affidavit specifically setting forth such
18 violation. Upon receipt of such affidavit, the city attorney or state's attorney shall set the matter
19 for hearing not later than the next regular meeting of the local governing body or forward such
20 affidavit to the attorney general. Upon receipt of any such affidavit, the attorney general ~~shall~~
21 may set the matter for hearing in the local county courthouse with the hearing being held not
22 less than ten days after copies of the affidavit and notice of hearing have been mailed to the
23 licensee by registered mail. If the hearing is held by the local governing body, a copy of this
24 affidavit and notice of hearing must be mailed to the licensee by registered mail not less than
25 five days before such hearing. A record of such hearings will be made by stenographic notes or
26 the use of an electronic recording device.