

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1500
(Representatives S. Meyer, DeKrey, Delmore)
(Senators Miller, Potter)

AN ACT to amend and reenact section 5-02-06 of the North Dakota Century Code, relating to individuals under twenty-one years of age serving alcoholic beverages.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-06 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Except as permitted in this section, a licensee who dispenses alcoholic beverages to an individual under twenty-one years of age, or who permits 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. 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 individual is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an individual twenty-one or more years of age and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.
3. An individual under twenty-one years of age may enter and remain on the licensed premises if the 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 individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or if the individual enters the licensed premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.
4. 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. An individual who is ~~nineteen~~ eighteen 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 individual is under the direct supervision of 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 individuals from eighteen to twenty-one years of age to work in the capacity of musicians under the direct supervision of an individual twenty-one or more years of age.
6. For purposes of this section, an individual is not twenty-one years of age until eight a.m. on that 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.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1500.

House Vote: Yeas 84 Nays 8 Absent 2

Senate Vote: Yeas 43 Nays 4 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State