VETOED MEASURES

CHAPTER 517

SENATE BILL NO. 2055
(Goldberg)

PEDESTRIANS CROSSING AT INTERSECTIONS

AN ACT to create and enact subsection 2 of section 39-10-28 of the North Dakota Century Code, and to amend and reenact subsection 1 of section 39-10-28 of the North Dakota Century Code, relating to pedestrians crossing at intersections.

VETO

March 6, 1973

The Honorable Wayne G. Sanstead
President of the Senate
North Dakota State Senate
State Capitol
Bismarck, North Dakota 58501

Dear Mr. President:

Subsection 1 of Section 39-10-28 of the North Dakota Century Code, as it presently exists, along with the laws of 32 states and a District of Columbia regulation is in verbatim conformity with Section 11-502(a) of the Uniform Vehicle Code. Only four states do not have laws comparable to this subsection. This statute describes the duty of a motorist to yield the right-of-way to a pedestrian in a crosswalk not controlled by traffic signals. Senate Bill 2055, however, would cause significant deviation from the Uniform Vehicle Code and it would also change completely the law regarding pedestrians. It appears that Section 1 of Senate Bill 2055 would always give the pedestrian the right-of-way even when there are traffic signals. I believe that such a change would not be in the best interests of this state as it is a substantial deviation from the uniformity of the other state laws. Also it would invite confusion out of the fact that motorists would have to yield the right-of-way to all pedestrians and pedestrians may naturally conclude from the wording of the bill that it would be proper to cross a street even against a traffic control signal.

Subsection 2 of Section 39-10-28 of the North Dakota Century Code, as it presently exists, along with the laws of 30 states, is in substantial conformity with Section 11-502(b) of the Uniform Vehicle Code. This provision concerns the duty of a pedestrian to refrain

from suddenly leaving a curb and entering the path of an oncoming vehicle. Section 2 of Senate Bill 2055, however, would incorrectly "create" and "enact" when there already is an existing Subsection 2 to Section 39-10-28 of the North Dakota Century Code. Even if correctly written, the amendment would appear to be completely out of order. The amendment is in verbatim conformity with the existing Subsection except that it adds the following language (without the benefit of the legislative aids of triple parentheses or underscoring): "provided that a driver's duty to yield does not relieve a pedestrian from the requirement to care for his safety." When taken with the contents of the current Subsection 2, that language serves only to confuse.

Therefore, I veto Senate Bill 2055.

Sincerely yours,
ARTHUR A. LINK

Governor

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

SECTION 1. AMENDMENT.) Subsection 1 of section 39-10-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter;

SECTION 2.) Subsection 2 of section 39-10-28 of the North Dakota Century Code is hereby created and enacted to read as follows:

2. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield provided that a driver's duty to yield does not relieve a pedestrian from the requirement to care for his safety.

Disapproved March 6, 1973

Filed March 21, 1973

CHAPTER 518

SENATE BILL NO. 2062
(Melland)

SALE OF SANDWICHES FROM VENDING MACHINES

AN ACT to allow the sale of preserved sandwiches, prepackaged under federal inspection, from vending machines without the purchase of a restaurant license.

VETO

March 13, 1973

The Honorable Wayne G. Sanstead
President of the Senate
North Dakota State Senate
State Capitol
Bismarck, North Dakota 58501

Dear Mr. President:

Senate Bill 2062 provides that the vendor of certain prepackaged, preserved sandwiches would not be required to purchase a restaurant license. This bill, therefore, would exempt such vendors from adhering to the basic health, sanitation, or safety standards which are required of others dispensing food for consumption in this state. This is neither desirable nor acceptable.

Currently, those dispensing sandwiches must obtain a restaurant license for a minimal fee of $5 per year. The license may be granted only after the vendor's facilities are inspected and certified to meet statutory health and sanitation requirements (N.D.C.C. Chapter 23-09). But, this bill would exempt prepackaged preserved sandwiches from similar regulation. Minutes of the Senate Committee on Industry, Business and Labor (January 3, 1973) reveal the reason for requesting the exemption:

> Mr. Lowell Harris, District Manager for Stuart Sandwich Company of Minneapolis, appeared on behalf of the bill stating they do business in 13 surrounding states and would like to expand their business to gas stations, motel lobbies, etc. This bill was introduced because the demand for sandwiches in small businesses and towns which have no cafes has been so great. Many places wish to serve these sandwiches but do not want to have to obtain a restaurant license. Senator Reiten asked whether the cost of such a license is a factor. Mr. Harris states it was not but many of the establishments would not be able to meet the qualifications for a restaurant license. The fee for such license is $5.00. He went on to say the Stuart route men maintain the cleanliness of the vending machines and normally reach these establishments

every two weeks. He added that most of their customers have vending machines but there are those who would like to go into refrigeration-type operations since vending machines are so costly.

The testimony points out several fatal errors in the bill:

1. The bill was introduced because certain establishments cannot meet existing basic sanitation and health standards to secure a restaurant license.

2. Cleanliness of the "vending machines" is to be maintained by the "route men" during visits which may "normally" occur every two weeks. But, basic sanitation and health standards demand daily - or more frequent - attention.

3. The testimony reiterated that there would be no statutory regulation of the types of "vending machines" to be used; the bill would allow sales "from any vending machine or appliance or any other medium, device, or object designed or used for vending purposes." This could apparently include everything from a refrigerated vending machine to a cardboard box in a cool room.

Perhaps the statutory requirements for restaurant licenses are too stringent for the vendors selling prepackaged preserved sandwiches. However, in the absence of other safeguards to guarantee a wholesome product to the consumer, I believe it would be much better to require adherence to strict standards rather than to none at all.

Therefore, I veto Senate Bill 2062.

Sincerely yours,
ARTHUR A. LINK

Governor

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

SECTION 1. SALE OF PREPACKAGED SANDWICHES FROM VENDING MACHINES.) The sale from any vending machine or appliance or any other medium, device, or object designed or used for vending purposes, of preserved sandwiches, prepackaged under federal inspection, which are delivered to the purchaser with the packaging intact, shall not require purchase of the restaurant license provided for in section 23-09-16.

Disapproved March 13, 1973

Filed March 21, 1973

CHAPTER 519

SENATE BILL NO. 2189
(Nething, Melland)

SALE OF JAMESTOWN LAND

AN ACT to authorize the state health officer of the state department of health to sell and convey certain land owned by the state of North Dakota by the North Dakota state hospital.

VETO

March 29, 1973

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58501

Dear Mr. Meier:

This bill, as originally introduced, would have transferred state-owned land to the Jamestown Industrial Development Corporation for not less than one hundred fifty dollars per acre. It was soon amended to provide for a sale price of not less than three hundred dollars per acre. The bill was finally amended to require a public sale of the land.

This 34 acres of prime hay land is adjacent to the main facilities of the State Hospital. For this reason, sale of this land would be inappropriate because there is no way of knowing who may be the successful bidder or how the land may ultimately be used. Furthermore, as the property is an integral part of the State Hospital agricultural program, it would not be appropriate to sell at this time.

Therefore, I veto Senate Bill 2189.

Sincerely yours,
ARTHUR A. LINK
Governor

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

SECTION 1.) The state health officer of the state department of health is hereby authorized to sell and convey certain land described herein and owned by the state of North Dakota, under conditions hereinafter stated, at public sale according to section 54-01-05.2. Before advertising the sale of such land, an appraisal of such property shall be obtained from a duly qualified appraiser. The property, if sold, shall be sold to the highest bidder for cash which, in no event, shall be less than the appraised value. The state health officer is hereby authorized to reject any or all bids. The land consists of and is described as located within the northeast quarter of section six, township one hundred thirty-nine, range sixty-three, Stutsman County, North Dakota; and more particularly described as follows:

A tract of land, bounded on the north by the highway right-of-way for Interstate 94, bounded on the east by the right-of-way for Stutsman County road no. 39, bounded on the south by the Roeske property and bounded on the west by the Midland Continental Railway right-of-way, said tract containing approximately thirty-four acres.

Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed. Upon the sale of such land, the proceeds shall be deposited in the general fund in the state treasury. The said real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

Prior to execution of the sale herein authorized, the purchaser shall arrange for a survey of said tract and agreement between the purchaser and the state health officer shall be reached as to said tract's precise location, boundaries, and legal description in accordance with the express intent of this Act. The legal description thereby agreed upon shall be contained in the terms of the contract.

SECTION 2.) The state shall not be responsible for the payment of any special assessments levied and assessed by any taxing district against property subject to sale and conveyance pursuant to this Act.

Disapproved March 29, 1973

Filed March 29, 1973

CHAPTER 520

SENATE BILL NO. 2190
(Nething, Melland)

SALE OF STATE HOSPITAL LAND

AN ACT to authorize the state health officer of the state department of health to sell and convey certain land owned by the state of North Dakota, which land was used by the North Dakota state hospital.

VETO

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58501

March 29, 1973

Dear Mr. Meier:

Senate Bill 2190, as originally introduced, would have transferred state-owned land to the Jamestown Country Club for not less than one hundred fifty dollars per acre. The bill was soon amended to provide for a sale price of not less than two hundred dollars per acre. The bill was finally amended to require a public sale of the land and any reference to the Jamestown Country Club was deleted.

The 40 acres of agricultural property is part of a 120-acre tract located near the main facilities of the State Hospital. For this reason sale of this land would be inappropriate because there is no way of knowing who may be successful bidder or how the land may ultimately be used.

Furthermore, as the property is an integral part of the State Hospital agricultural program, it would not be appropriate to sell at this time.

Therefore, I veto Senate Bill 2190.

Sincerely yours,
ARTHUR A. LINK

Governor

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

SECTION 1.) The state health officer of the state department of health is hereby authorized to sell and convey certain land described herein and owned by the state of North Dakota, under conditions hereinafter stated, at public sale or by sealed bids. Before advertising the sale of such land, an appraisal of such property shall be obtained from a duly qualified appraiser. The property, if sold, shall be sold to the highest bidder for cash which, in no event, shall be less than the appraised value. The state health officer is hereby authorized to reject any or all bids. The land consists of and is described as the southeast quarter of the northeast quarter of section eight, township one hundred thirty-nine, range sixty-three, Stutsman County, North Dakota.

Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed. Upon the sale of such land, the proceeds shall be deposited in the general fund in the state treasury. The real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

SECTION 2.) The state shall not be responsible for the payment of any special assessments levied and assessed by any taxing district against property subject to sale and conveyance pursuant to this Act.

Disapproved March 29, 1973

Filed March 29, 1973

CHAPTER 521

SENATE BILL NO. 2264
(Nething, Thane)

NONRESIDENT HUNTING

AN ACT to create and enact a new subsection to section 20.1-01-02, and a new section to chapter 20.1-03 of the North Dakota Century Code as contained in sections 8 and 10 of House Bill No. 1041, as approved by the forty-third legislative assembly, relating to the definition of waterfowl, and the time period during which nonresidents may hunt and possess waterfowl.

VETO

March 30, 1973

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58501

Dear Mr. Meier:

Senate Bill 2264 would reverse the modern trend of interstate cooperation by its provision that nonresident hunters may hunt waterfowl only during a ten-consecutive-day period to be selected by the license buyer at the time of application for his nonresident small game hunting license.

The apparent intent of this bill would be to ease the waterfowl hunting pressure in prime areas, to prevent the purchasing or leasing of lands for hunting purposes, and to prevent nonresidents from taking game in excess of the bag limits. But, there is no reason to believe that a ten-consecutive-day restriction for nonresident waterfowl hunters would be a solution. It may, instead, invite retaliation in the form of federal hunting regulations, federal restrictions of wetlands project funds, and hunting or fishing restrictions by other states.

Proponents of this bill contend that the ten-consecutive-day restriction would reduce the number of waterfowl hunters in the prime hunting areas. However, there is absolutely no guarantee that this objective would be obtained. If nonresident hunters are restricted to a ten-consecutive-day period, it is highly probable that most hunters would choose to hunt in the ten-day period of maximum migratory movement. The result could be an even higher number of nonresident hunters in prime areas during the best portion of the hunting season. The net effect would be to compound the existing problem.

Proponents contend that this bill would reduce the amount of land which is purchased or leased by nonresidents solely for hunting purposes. There is no assurance that a ten-consecutive-day hunting

restriction would solve this problem. The opposite could be true: nonresidents may desire purchasing or leasing to guarantee a hunting area for the short time they would be allotted to hunt.

Proponents contend that the ten-consecutive-day restriction will solve an enforcement problem of alleged bag limit abuses by nonresidents. If there are violations of the game laws, I do not believe the proper method of control is to reduce the number of days in which nonresidents may hunt. Nonresidents are already strictly regulated in their hunting activities. The 1972 hunting proclamation states:

> Nonresident small game hunters must tag all ducks, geese . . . with a seal provided with the license. Such seal must be attached to the leg of the bird immediately, and shall remain until such time as the game bird is consumed or removed from the state. Nonresident season limits shall be as follows: ducks, 20; geese, 6 . . .. Nonresident and resident daily bag limits are the same as set forth in this proclamation. (Resident bag limits are 5 ducks and 4 geese for every day of the season.)

Finally, North Dakota is the beneficiary of about $2.8 million yearly in federal funds under the Waterfowl Habitat Preservation Program to acquire by purchase and easement wetlands areas for waterfowl. This program is funded by receipts from the sale of federal duck stamps. In 1971, 2,420,244 $3 duck stamps were sold (totaling $7,260,732) in the United States; only 50,015 or 2% of these were sold (totaling $150,045) in North Dakota. Yet, North Dakota received nearly 40% of the duck stamp monies to fund waterfowl wetland projects in this state. I have serious doubts about further restricting waterfowl hunting by nonresidents when this state is accepting so much financing in the form of federal funds for state wetland projects.

Therefore, I veto Senate Bill 2264.

Sincerely yours,
ARTHUR A. LINK

Governor

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

SECTION 1.) A new subsection to section 20.1-01-02 of the North Dakota Century Code as contained in section 8 of House Bill No. 1041, as approved by the forty-third legislative assembly, is hereby created and enacted to read as follows:

> "Waterfowl" shall include all varieties of geese, brant, swans, ducks, cranes, rails, and coots.

SECTION 2.) A new section to chapter 20.1-03 of the North Dakota Century Code as contained in section 10 of House Bill No. 1041, as approved by the forty-third legislative assembly, is hereby created and enacted to read as follows:

TIME PERIOD DURING WHICH NONRESIDENTS MAY HUNT WATERFOWL - PENALTY.) A nonresident small game hunting license shall, except as otherwise provided in this title, entitle the licensee to hunt waterfowl for ten consecutive days in this state. The ten-day period shall be selected by the licensed buyer at the time of application

for a small game hunting license, and the commissioner or his agent shall indicate such period of time on the general game and small game hunting licenses of the nonresident licensee. A nonresident shall not be entitled to purchase more than one small game hunting license each year, and shall not hunt or possess waterfowl in this state during any time other than the ten-consecutive-day period indicated on his general game and small game hunting licenses.

In addition to the penalty provided for in this chapter, the court shall, upon conviction, suspend, for a period of two years, the hunting privileges of any person who violates the provisions of this section. Upon imposition of such suspension, the court shall take any hunting license or permit held by the defendant and forward it, together with a certified copy of the suspension order, to the commissioner. No person shall purchase, or attempt to purchase, a hunting license or permit during a suspension period.

Disapproved March 30, 1973

Filed March 30, 1973

CHAPTER 522

SENATE BILL NO. 2400
(Nething, Nasset)

SEVERANCE TAX ON COAL

AN ACT to provide for a severance tax upon coal; to provide procedures for the imposition, collection, and administration of such tax; to provide for a trust fund and for the allocation of the interest from such fund to counties; and to provide a penalty.

VETO

March 29, 1973

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58501

Dear Mr. Meier:

Senate Bill 2400 would establish a five cents per ton severance tax on lignite mined within the State of North Dakota. The present sales tax amounts to four percent (about eight cents per ton) and it would continue to be applied to lignite mined, sold, and used within the State, except that no sales tax on lignite is assessed for:

a. A lignite user who owns the mineral rights to the coal, mines and uses the lignite himself;

b. Lignite processed into either gaseous or liquid fuel;

c. Lignite mined in North Dakota but shipped out-of-state.

The above exemptions make it apparent that the sales tax on coal is not an equitable tax. A five cents per ton severance tax would merely perpetuate the inequity. The above exceptions also tend to hamper the growth of this state: taxing in-state sale or use of coal while exempting out-of-state sales discourages job-producing industries from locating in North Dakota.

Senate Bill 2400 is an indication by the Legislature that they endorse a tax of nearly 15 cents per ton on certain mined coal. This rate - instead of an unequal application of the sales tax - should constitute the rate for a uniform severance tax to be applied on all coal mined within the State. Such a tax would be a fair and equitable method of compensating the counties and the State for the exhaustion of a valuable natural resource.

I strongly favor the concept of the severance tax. However, because of the inequities in this bill, I cannot approve of the proposed severance/sales tax combination for some users when it does not apply to all.

Therefore, I veto Senate Bill 2400. This disapproval will not result in any revenue losses to the State as the bill would not be effective until 1975. This will permit the Legislature to re-evaluate the concept of the severance tax so that a fair and equitable severance tax measure can be developed for consideration by the next session.

Sincerely yours,
ARTHUR A. LINK

Governor

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

SECTION 1. SEVERANCE TAX UPON COAL - IMPOSITION - PAYMENT TO THE TAX COMMISSIONER.) There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state on or after July 1, 1975, a tax in the amount of five cents per ton of two thousand pounds. Such severance tax shall be in addition to all other taxes imposed by law. Each coal mine owner or operator shall remit such tax for each calendar quarter, within thirty days after the end of each quarter, to the state tax commissioner upon such reports and forms as the tax commissioner shall deem necessary.

SECTION 2. WHEN TAX DUE - WHEN DELINQUENT.) The severance tax as provided in this Act shall be due within thirty days after the end of each quarter, and if not received by the thirtieth day, shall become delinquent and shall be collected as herein provided. The tax commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax and when such a request is granted the tax shall not be delinquent until the extended period has expired. The tax commissioner shall require a report

to be filed quarterly by each owner or operator of a coal mine, in such form as the tax commissioner may specify, to list a full description of the mine, the number of tons of coal severed, the amount of tax due and remitted, and any other information deemed necessary by the tax commissioner for the proper administration of this Act.

SECTION 3. POWERS OF STATE TAX COMMISSIONER.) The state tax commissioner shall have power to require any person engaged in such production and the agent or employee of such person, or purchaser of such coal, or the owner of any royalty interest therein to furnish any additional information by him deemed to be necessary for the purpose of correctly computing the amount of said tax, and to examine the books, records, and files of such person, and shall have power to conduct hearings and compel the attendance of witnesses, the production of books, records, and papers of any person, and full authority to make any investigation or hold any inquest deemed necessary to a full and complete disclosure of the true facts as to the amount of production from any coal mine or of any company or other producer thereof, and as to the rendition thereof for taxing purposes.

SECTION 4. TAX COMMISSIONER TO COMPUTE TAX ON INCORRECT RETURNS.) The state tax commissioner shall have the power and authority to ascertain and determine whether or not any report or remittances filed with him are correct, and if the owner or operator has made an untrue or incorrect report or remittance, the commissioner shall ascertain the correct amount of taxes due, and give immediate written notice to the owner or operator filing the incorrect return or remittance. Any coal mine operator or owner receiving notice from the tax commissioner that he has filed an incorrect return or remittance shall remit the tax assessed by the commissioner within fifteen days of such notice. Any owner or operator aggrieved by a decision of the tax commissioner may make application in writing within fifteen days of notification for a hearing which shall be granted not later than fifteen days after receipt of the application. The tax commissioner may grant or reject, in whole or in part, the contentions of the owner or operator and upon conclusion of the hearing shall proceed to make a final determination of taxes due. Such taxes assessed by the commissioner shall become delinquent five days after the conclusion of the hearing, except in such cases where an owner or operator shall appeal such assessment to the district court of Burleigh County, in which case they shall become delinquent five days following final judicial determination.

SECTION 5. PENALTY ON DELINQUENCY - FAILURE TO FILE REPORTS.) Where the tax provided for in this Act shall become delinquent it shall, as a penalty for such delinquency, bear interest at the rate of eight percent per annum. If the quarterly report is not filed within thirty days after the end of any quarter and taxes due paid, the tax commissioner shall notify the delinquent owner or operator of such delinquency, and if such report and remittance are not filed within an additional fifteen days, the tax commissioner shall notify the public service commission, which shall forthwith suspend such owner's or operator's license or permit until such time as payment is received, or the issues settled to the satisfaction of the tax commissioner.

SECTION 6. LIEN FOR TAX.) The tax herein provided for shall, at all times, be and constitute a first and paramount lien

in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to the taxpayer and such lien may be foreclosed in the same manner provided for chattel mortgages.

SECTION 7. APPEAL FROM DECISION OF TAX COMMISSIONER.) Any person aggrieved because of any action or decision of the tax commissioner under the provisions of this Act may appeal therefrom to the district court of Burleigh County.

SECTION 8. RULES AND REGULATIONS - BOND.) The tax commissioner is hereby authorized and empowered to prescribe and promulgate all necessary rules and regulations for the purpose of making and filing of all reports required hereunder and otherwise necessary to the enforcement of this Act, and may, at his option and discretion, require a sufficient bond from any coal mine operator or owner charged with the making and filing of reports and the payment of the taxes herein imposed, and said bond shall run to the state of North Dakota and shall be conditioned upon the making and filing of reports as required by law or regulation, and for the prompt payment, by the principal therein, of all taxes justly due the state by virtue of the provisions of this Act.

SECTION 9. CRIMINAL PENALTY.) Any person who willfully fails to comply with the provisions of this Act or willfully delivers or makes a false statement of a material fact to the tax commissioner is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SECTION 10. ALLOCATION OF REVENUE - TRUST FUND ESTABLISHED - DISTRIBUTION OF INCOME TO COUNTIES.) Moneys collected by the state tax commissioner pursuant to the provisions of this Act shall be paid to the state treasurer and shall be credited to a special trust fund in the state treasury to be administered by the board of university and school lands, which shall have full control and authority to invest such funds and may consult with the state investment board as provided by law. Fifty percent of such moneys shall be credited to the coal producing counties in such proportion as the number of tons of coal severed in each county bears to the total number of tons of coal severed in the state during such quarterly period.

The counties' share of the trust fund may be commingled with the state trust fund for investment purposes, provided that an accurate accounting of funds allocated to each county is made. The income from each county's share shall be deposited in the county general fund.

Disapproved March 29, 1973

Filed March 29, 1973

CHAPTER 523

HOUSE BILL NO. 1401
(Dornacker, Royse, Martinson, Hilleboe, Hentges)

NINETEEN-YEAR-OLD DRINKING

AN ACT to amend and reenact sections 5-01-08, 5-01-09, and 5-02-06 of the North Dakota Century Code, relating to the purchase and consumption of alcoholic beverages by persons nineteen years of age and older.

VETO

March 28, 1973

The Honorable A. G. Bunker
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, North Dakota 58501

Dear Mr. Speaker:

House Bill 1401 would lower to 19 years the legal age for the purchase and consumption of alcoholic beverages.

It is generally conceded that it would be highly undesirable to permit use of alcoholic beverages by high school students. The Department of Public Instruction, at my request, ran a computer survey of this state's high school juniors. The survey revealed that 664 (5.3%) will be 19 years of age at some time during their senior year of high school. If our concern is real and deep, as I believe it is, to keep liquor out of high schools, this bill falls short of that goal.

Proponents contend that the right to purchase and consume alcoholic beverages should be granted along with the right to vote and other adult responsibilities that have recently been granted. They consider it illogical to consider certain youth adults for some purposes, then deny them the right to purchase and consume alcoholic beverages. However, this approach overlooks several other factors which are extremely important. I believe the vast majority of our youth from 19 to 21 years of age are responsible citizens, mature enough to handle the responsibilities of adulthood. But, the very act of lowering the drinking age to 19 would bring the legal consumption of alcoholic beverages much closer to youth who may not be as responsible and mature.

Those in favor of the bill have neglected to mention the risks involved in the use of alcoholic beverages. But, the risks are real, and to emphasize this point, I will share part of a letter from a respected North Dakota physician at one of our large clinics:

> I practice Adolescent Medicine and am well aware of the drug problem. Much as I'm opposed to drug misuse in any form, none can equal alcohol in extent and proven hazard to life.

Proponents of this bill have generally dismissed the statistics which indicate that lowering the drinking age may cause an increase in the number of traffic deaths for North Dakota. This was recently discussed in the November 13, 1972, issue of the U. S. News & World Report:

> In at least two states where the legal age for drinking has been lowered to 18 from 21, officials are having second thoughts about the change.
>
> MICHIGAN. Records show that highway deaths in Michigan rose to 1,030 in the first six months of this year - after drinking at 18 became lawful - compared with 959 fatalities in the same period of 1971. The number of fatal accidents involving drinking drivers in the 18-to-21 group was 62 - up by 88 percent from 33.
>
> Richard R. Dann, executive vice president of the Automobile Club of Michigan, blames the enfranchisement of young drinkers for the "shocking" rise of 110 percent in half year's span. Mr. Dann says drivers 16 and 17 years old are supplied with liquor by slightly older friends, which tends to lower the age at which alcohol-related accidents occur.
>
> TENNESSEE. Statewide records of the impact of younger drinkers on highway safety are incomplete, but Memphis is troubled by its findings since it began compiling data on January 1. Ron Marshak, director of the Memphis and Shelby County traffic-safety coordinating committee, says that accidents among 18-to-21-years-olds are up by about one quarter from last year. Of 511 accidents in which drinking was suspected as a cause, 56 - or 10.9 percent - involved "new adults."
>
> The law, which has been in effect more than a year, was "a drastic mistake" in the opinion of Major George Currey, commander of the youth-guidance division of the Nashville police department. He says it has had bad results on younger teenagers. . .

Although these statistics on the drinking driver and motor vehicle accidents are somewhat sketchy and incomplete, they do indicate that there is a correlation between lowering the drinking age and increased accident fatalities. Should we run the risk of more highway deaths by lowering the legal age to purchase and consume alcoholic beverages?

Proponents of the bill contend that the youth are drinking anyway so it should be legalized - and the problem will be solved. Let us briefly consider this argument. Should we set the precedent of legalizing popular illegal activities merely for the benefit of those who are committing the acts? If we carry this argument to its logical conclusion, we would also have to approve of the use of illegal drugs.

Proponents point to South Dakota's lower legal age for the purchase and consumption of alcoholic beverages. Although South Dakota has lowered the drinking age for 3.2% beer, they still retain the 21 year age limit for other alcoholic beverages.

Finally, I wish to cite one of the existing problems being faced by many North Dakota communities - the sale of alcoholic beverages to minors. Numerous solutions have been proposed, but none appear acceptable. Recently, the Bismarck City Commission investigated this matter. During testimony before the Commission, one tavern operator warned, "When this 19-year-old law goes through, we're going to have trouble - real trouble." Rather than solve our existing problems, this testimony seems to indicate that our problems would increase if the legal drinking age is lowered.

For the above reasons, I believe that the risks involved far outweigh any benefits which could be received from the passage of this legislation.

Therefore, I veto House Bill 1401.

Sincerely yours,
ARTHUR A. LINK

Governor

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

SECTION 1. AMENDMENT.) Section 5-01-08 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-08. PERSONS LESS THAN NINETEEN YEARS PROHIBITED - EXCEPTIONS.) Any person under nineteen years of age purchasing, attempting to purchase, or being in possession of alcoholic beverages, or furnishing money to any person for such purchase, or entering any licensed premises where such beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian, or in accordance with section 5-02-06, is guilty of a misdemeanor.

SECTION 2. AMENDMENT.) Section 5-01-09 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-09. DELIVERY TO CERTAIN PERSONS UNLAWFUL.) Any person delivering alcoholic beverages to a person under nineteen years of age, an habitual drunkard, an incompetent, or an intoxicated person is guilty of a misdemeanor, subject to the provisions of sections 5-01-08, 5-01-08.1, and 5-01-08.2.

SECTION 3. AMENDMENT.) Section 5-02-06 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-06. PERSONS UNDER NINETEEN YEARS PROHIBITED - PENALTY - EXCEPTIONS.) Any licensee who disposes alcoholic beverages to a person under nineteen years of age or who permits such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed is guilty of a misdemeanor, subject to the provisions of sections 5-01-08, 5-01-08.1, and 5-01-08.2. Any person under nineteen

years of age may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian, or if employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an adult, and not engaged in the sale, disposition, delivery, or consumption of alcoholic beverages.

Disapproved March 8, 1973

Filed April 4, 1973