

# ALCOHOLIC BEVERAGES

## CHAPTER 107

HOUSE BILL NO. 1416  
(Representatives Stofferahn, O'Connell)  
(Senator Kelsh)

### SPECIAL LIQUOR PERMIT VIOLATION PENALTY

AN ACT to amend and reenact sections 5-02-01 and 5-02-01.1 of the North Dakota Century Code, relating to special permits for retail liquor sales; and to provide a penalty.

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

SECTION 1. AMENDMENT. Section 5-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-01. State and local retail license required - Exception. Any Except as otherwise provided in section 5-02-01.1, any person engaging in the sale of alcoholic beverages at retail without first securing an appropriate license from the attorney general and the governing body of any city, or board of county commissioners if said business is located outside the corporate limits of a city, is guilty of a class A misdemeanor. This section shall not apply to public carriers engaged in interstate commerce.

SECTION 2. AMENDMENT. Section 5-02-01.1 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-01.1. Special permit authorized - Penalty. The local governing body and the attorney general may by special permit authorize an on sale, off sale, or on or off sale alcoholic beverage licensee to engage in the sale of alcoholic beverages at special events on licensed premises as may be designated by the permit. A fee for the local special permit may be set by ordinance or resolution at not more than twenty-five dollars. The permit shall not be valid for a period greater than three consecutive days. The local governing body may establish rules as it may deem proper to regulate and restrict the operation of a special permit. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or the conditions of a special permit is guilty of a class B misdemeanor.

Approved March 27, 1985

## CHAPTER 108

HOUSE BILL NO. 1428  
(DeMers, Dorso, Timm, Gates, Lautenschlager)

## MEMORIAL DAY ALCOHOL SALES

AN ACT to amend and reenact section 5-02-05 of the North Dakota Century Code, relating to dispensing or permitting the consumption of alcoholic beverages on licensed premises on certain days.

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

SECTION 1. AMENDMENT. Section 5-02-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-05. Disposal prohibited on certain days - Penalty. Except as permitted by section 5-02-05.1, any person who dispenses or permits the consumption of alcoholic beverages on licensed premises after one a.m. on Sundays, before eight a.m. on Mondays, or between the hours of one a.m. and eight a.m. on all other days of the week, or who ~~so~~ dispenses alcoholic beverages or permits such consumption of alcoholic beverages on licensed premises on Memorial Day, Good Friday, Thanksgiving Day, Christmas Day, or after six p.m. on Christmas Eve, or between the hours of one a.m. and eight p.m. on the day of any statewide special, primary, or general election is guilty of a class A misdemeanor.

Approved March 22, 1985

## CHAPTER 109

HOUSE BILL NO. 1389  
(Payne)CIVIC CENTER SUNDAY ALCOHOLIC BEVERAGE  
PERMITS

AN ACT to amend and reenact subsections 1 and 3 of section 5-02-05.1 of the North Dakota Century Code, relating to special Sunday convention alcoholic beverage permit.

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

SECTION 1. AMENDMENT. Subsections 1 and 3 of section 5-02-05.1 of the 1983 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Any city or county may issue a special Sunday convention alcoholic beverage permit to a private club, lodge, motel, or hotel, as defined under city ordinances or county resolutions and licensed as a retail alcoholic beverage establishment pursuant to chapter 5-02, or to a civic center, which serves as the headquarters for a state, multistate, or national convention of a bona fide organization recognized by the governing body of the city or county in which the convention is held. A county may not issue a permit under this section to a private club, lodge, motel, or hotel located within the geographical boundaries of a city.
  
3. Under the special permit, alcoholic beverages may be distributed and dancing may be permitted in those rooms of the private club, lodge, motel, ~~or hotel~~, or civic center which have been specifically reserved for convention activities, but ~~shall~~ may not be permitted in bar and lounge areas containing the permanent bar fixtures and normally open to the public. A city or county may permit dancing and the distribution of alcoholic beverages between the hours of twelve noon on the specified Sunday and one a.m. on Monday. Under no circumstances ~~shall~~ may the general public be permitted to participate in the consumption of alcoholic beverages distributed under the authority and conditions of the special permit. It ~~shall~~ be ~~is~~ the duty of the private club, lodge, motel, ~~or hotel~~, or civic center granted the special permit to enforce the requirements of this section and the conditions established by the city or county under the permit.

Approved March 14, 1985

## CHAPTER 110

SENATE BILL NO. 2301  
(Krauter, Kelsh, Stenehjem)

## OPEN BOTTLE LAW PENALTY

AN ACT to amend and reenact sections 5-03-01 and 39-08-18 of the North Dakota Century Code, relating to the penalties for illegal distribution of alcoholic beverages and for consuming alcoholic beverages in motor vehicles on public highways.

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

SECTION 1. AMENDMENT. Section 5-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-03-01. State wholesale license required - Qualifications - Penalty. Before any person shall engage in the sale at wholesale of beer or liquor in this state he shall first procure a license from only the state treasurer. Such license shall only allow sale to licensed retailers, licensed wholesalers and regular retail outlets on federal military reservations. No such license shall be issued unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

1. Applicant, other than corporate, must be a citizen of the United States and a resident of the state of North Dakota and a person of good moral character. If applicant is a corporation, the manager of the licensed premises shall be a resident of the state of North Dakota, a citizen of the United States, and a person of good moral character, and the officers, directors, and stockholders must be citizens of the United States and persons of good moral character. Corporate applicants must first be properly registered with the secretary of state.
2. The state treasurer may require applicant to set forth such other information as is necessary to enable him to determine if a license should be granted.
3. No person shall be eligible for such a license unless he has a warehouse and office in this state in which is kept a complete set of records relative to his alcoholic beverage transactions in North Dakota.

Any person distributing alcoholic beverages in this state without compliance with the provisions of this title is guilty of ~~an infraction~~ a class B misdemeanor.

**SECTION 2. AMENDMENT.** Section 39-08-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-08-18. Open bottle law - Penalty.** No person shall drink or consume alcoholic beverages, as defined in section 5-01-01, in or on any motor vehicle when such vehicle is upon a public highway or in an area used principally for public parking. No person shall have in his possession on his person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It shall be unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle shall be kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers. The provisions of this section shall not prohibit the consumption or possession of alcoholic beverages in a house car, as defined by subsection 23 of section 39-01-01, if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain, or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating the provisions of this section shall be assessed a fee of ~~twenty~~ twenty five dollars; however, the licensing authority shall not record the violation against the driving record of such person unless he was the driver of the automobile at the time that the violation occurred.

Approved April 11, 1985