

ALCOHOLIC BEVERAGES

CHAPTER 63

SENATE BILL NO. 2265
(Senators Maxson, Kelly, Lindgren)
(Representatives Keiser, Kelsch, Mahoney)

ALCOHOL SALES ON SUNDAY

AN ACT to amend and reenact sections 5-02-01.1, 5-02-03, 5-02-05, 5-02-05.1, and 12.1-30-03 of the North Dakota Century Code, relating to permits and fees for dispensing and consuming alcoholic beverages; and to repeal section 5-02-05.2 of the North Dakota Century Code, relating to Sunday alcoholic beverage permits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-01.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-02-01.1. Special Event permit authorized - Penalty. The local governing body may by ~~special~~ permit authorize ~~an on sale, off sale, or on or off sale a~~ qualified alcoholic beverage licensee licensed under this chapter to engage in the sale of alcoholic beverages at ~~special~~ events designated by the permit. For purposes of this section, "qualified alcoholic beverage licensee" means a licensee in a city that imposed a city lodging and restaurant tax on July 31, 1993, who paid such tax and who continues to pay any such tax imposed by the city or a licensee in a county or a licensee in a city that did not impose a city lodging and restaurant tax on July 31, 1993. A fee for the local ~~special~~ permit may be set by ordinance or resolution at not more than twenty-five dollars. The permit may not be valid for a period greater than fourteen days, and may include Sundays. The local governing body may establish rules ~~as it may deem proper~~ to regulate and restrict the operation of ~~a special~~ an event 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.

SECTION 2. AMENDMENT. Section 5-02-03 of the North Dakota Century Code is amended and reenacted as follows:

5-02-03. Local license fees. The fee for an annual local on and off sale liquor license must be set by ordinance or resolution at not less than two hundred dollars nor more than two thousand dollars, except outside the corporate limits of a city the fee shall not exceed one thousand dollars. The fee for an annual on and off sale local beer license must be set by ordinance or resolution at not less than fifty dollars nor more than five hundred dollars. The fee for an annual local exclusive on sale liquor license must be set by ordinance or resolution at not less than two hundred dollars nor more than two thousand dollars, except outside the corporate limits of a city the fee must not exceed one thousand dollars. The fee for an annual local exclusive on sale local beer license must be set by ordinance or resolution at not less than fifty dollars nor more than five hundred dollars. The fee for an annual local exclusive off sale beer or off sale liquor license must not be more than the fee charged for an on and off sale license. The local governing

body may by ordinance or resolution provide for issuance of licenses for any period not to exceed one year and may allow for proration and refunds of license fees. In addition to any other license fee permitted by this section, a license fee may be increased by not more than five dollars for each Sunday the licensee sells alcoholic beverages.

SECTION 3. AMENDMENT. Section 5-02-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ **5-02-05. Dispensing prohibited on certain days - Penalty.** ~~Except as permitted by sections 5-02-05.1 and 5-02-05.2, any~~ Any person who dispenses or permits the consumption of alcoholic beverages on licensed premises after one a.m. on Sundays, before ~~eight a.m.~~ twelve noon on ~~Mondays~~ Sundays, or between the hours of one a.m. and eight a.m. on all other days of the week, or who dispenses alcoholic beverages or permits consumption of alcoholic beverages on licensed premises on Christmas Day, after one a.m. on Good Friday or Thanksgiving Day, or after six p.m. on Christmas Eve is guilty of a class A misdemeanor.

SECTION 4. AMENDMENT. Section 5-02-05.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-02-05.1. Special Sunday alcoholic beverage permit - Penalty.

1. Any city or county may issue a ~~special~~ Sunday alcoholic beverage permit to a ~~private club, lodge, restaurant, motel, or hotel licensed as a retail qualified alcoholic beverage establishment~~ licensee licensed under this chapter 5-02, or to a publicly owned or operated facility. For purposes of this section, "qualified alcoholic beverage licensee" has the same meaning as in section 5-02-01.1. A county may not issue a permit under this section to a ~~private club, lodge, restaurant, motel, or hotel retail alcoholic beverage establishment~~ located within the geographical boundaries of a city.
2. The authority for issuing ~~such special~~ the permit rests solely with the governing body of the city or county. A ~~special~~ permit may be granted only upon proper application to and approval by the governing body, and must include payment of a fee determined by the governing body. A ~~special~~ permit granted by the city or county may be effective for more than one Sunday.
3. Under the ~~special~~ permit, alcoholic beverages may be distributed and dancing may be permitted in the ~~private club, lodge, restaurant, motel, hotel, establishment or publicly owned or operated facility.~~ 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. The general public may be permitted to participate in the consumption of alcoholic beverages distributed under the authority of the ~~special~~ permit. The ~~private club, lodge, restaurant, motel, hotel, establishment or publicly owned or operated facility~~ granted the ~~special~~ permit shall enforce the requirements of this section.

¹ NOTE: Section 5-02-05 was also amended by section 1 of House Bill No. 1388, chapter 64.

4. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section, or who furnishes information required by this section which is false or misleading, is guilty of a class A misdemeanor.
5. ~~For purposes of this chapter, unless the context otherwise indicates, "restaurant" means a commercial establishment that is licensed to engage in the sale of alcoholic beverages at retail pursuant to this chapter, and which has a city, county, or state restaurant license and has paid the appropriate city food and lodging taxes for a continuous six month period before the application for the permit, or which derives fifty percent or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.~~

SECTION 5. AMENDMENT. Section 12.1-30-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12.1-30-03. Businesses allowed to operate on Sunday - Limitations. Subject to the limitations of this section and section 12.1-30-02, a business specified in this section may operate in the business' usual manner, location, and for its usual purposes. The businesses authorized under this section to operate on Sunday include:

1. Restaurants, cafeterias, or other prepared food service organizations.
2. Hotels, motels, and other lodging facilities.
3. Hospitals and nursing homes, including the sale of giftware on the premises.
4. Dispensaries of drugs and medicines.
5. Ambulance and burial services.
6. Generation and distribution of electric power, water, steam, natural gas, oil, or other fuel used as a necessary utility.
7. Distribution of gas, oil, and other fuels.
8. Telephone, telegraph, and messenger services.
9. Heating, refrigeration, and cooling services.
10. Railroad, bus, trolley, subway, taxi, and limousine services.
11. Water, air, and land transportation services and attendant facilities.
12. Cold storage warehouse.
13. Ice manufacturing and distribution facilities and services.
14. Minimal maintenance of equipment and machinery.
15. Plant and industrial protection services.
16. Industries where continuous processing or manufacturing is required by the very nature of the process involved.

17. Newspaper publication and distribution.
18. Newsstands.
19. Radio and television broadcasting.
20. Motion picture, theatrical, and musical performances.
21. Motor vehicle service stations that sell motor fuel and motor oil, and that customarily provide daily repair services or products for any of the following systems or parts of a motor vehicle:
 - a. Air conditioning system.
 - b. Batteries.
 - c. Electrical system.
 - d. Engine cooling system.
 - e. Exhaust system.
 - f. Fuel system.
 - g. Tires and tubes.
 - h. Emergency work necessary for the safe and lawful operation of the motor vehicle.
22. Athletic and sporting events.
23. Parks, beaches, and recreational facilities.
24. Scenic, historic, and tourist attractions.
25. Amusement centers, fairs, zoos, and museums.
26. Libraries.
27. Educational lectures, forums, and exhibits.
28. Service organizations (USO, YMCA, etc.).
29. Coin-operated laundry and drycleaning facilities.
30. Food stores operated by an owner or manager in addition to not more than six employees working in the store at one time on a Sunday; however, the governing body of a city or county may, by ordinance, increase the number of employees allowed to work in a store at one time on a Sunday.
31. Bait shops for the sale of live bait and fishing tackle.
32. Floral nurseries.
33. Christmas tree stands.
34. Hobby shows, craft shows, fairs, and exhibits.

35. Occasional rummage sales, including garage sales or other sales for which a sales tax permit is not required.
36. Community festivals licensed or authorized by the governing body of a city or the board of county commissioners.
37. Premises licensed to dispense beer and alcoholic beverages within the limits prescribed in sections 5-02-05, and 5-02-05.1, ~~and 5-02-05.2.~~
38. Credit approval services, lodging and travel reservation services, and, notwithstanding section 12.1-30-02, telemarketing of goods and services.

SECTION 6. REPEAL. Section 5-02-05.2 of the 1991 Supplement to the North Dakota Century Code is repealed.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 64

HOUSE BILL NO. 1388
(Representatives Clayburgh, Gorman, Huether, Svedjan)
(Senators DeMers, Lindgren)

GOOD FRIDAY ALCOHOL SALES

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ **5-02-05. Dispensing prohibited on certain days - Penalty.** Except as permitted by sections 5-02-05.1 and 5-02-05.2, 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 dispenses alcoholic beverages or permits consumption of alcoholic beverages on licensed premises on Christmas Day, after one a.m. on ~~Good Friday~~ or Thanksgiving Day, or after six p.m. on Christmas Eve is guilty of a class A misdemeanor.

Approved March 22, 1993
Filed March 23, 1993

¹ NOTE: Section 5-02-05 was also amended by section 3 of Senate Bill No. 2265, chapter 63.