

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2067
(Senators Heitkamp, Nething, Espegard, J. Lee)
(Representatives Gulleason, R. Kelsch)

AN ACT to amend and reenact sections 5-01-08 and 5-02-06 of the North Dakota Century Code, relating to the use of alcohol by a person under twenty-one years of age; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Persons under twenty-one years of age prohibited from ~~manufacturing, purchasing, consuming, or possessing~~ using alcoholic beverages or entering licensed premises - Penalty ~~Exceptions Referrals to addiction facilities Jurisdiction.~~

1. Except as permitted in this section and section 5-02-06, a person under twenty-one years of age may not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any person for the purchase of an alcoholic beverage, ~~or~~.
2. A person under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except a:
 - a. A restaurant ~~when~~ if accompanied by a parent or legal guardian, ~~or in~~;
 - b. In accordance with section 5-02-06, ~~or if~~;
 - c. If the person is a law enforcement officer or other public official who enters the premises in the performance of official duty; ~~or if~~
 - d. If the person enters the premises for training, education, or research purposes under the supervision of a person twenty-one or more years of age with prior notification of the local licensing authority.
3. A violation of this section is a class B misdemeanor.
4. The court may, under this section, refer the person to an outpatient addiction facility licensed by the state department of human services for evaluation and appropriate counseling or treatment.
5. The offense of consumption occurs in the county of consumption or the county where the offender is arrested.
6. For purposes of this section, a person is not twenty-one years of age until eight a.m. on that person's twenty-first birthday.

SECTION 2. AMENDMENT. Section 5-02-06 of the North Dakota Century Code is amended and reenacted as follows:

5-02-06. Prohibitions ~~as to~~ for persons under twenty-one years of age - Penalty - Exceptions.

1. Except as permitted in this section, ~~any~~ a licensee who dispenses alcoholic beverages to a person under twenty-one years of age, or who permits ~~such~~ a person 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. ~~Any~~ A person 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 person is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of a person twenty-one or more years of age and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.
3. A person may enter and remain on the licensed premises if the person is a law enforcement officer or other public official who enters the premises in the performance of official duty or if the person enters the licensed premises for training, education, or research purposes under the supervision of a person twenty-one or more years of age with prior notification of the local licensing authority. ~~Any~~
4. A person 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. ~~Any~~
5. A person who is nineteen years of age or older but under twenty-one years of age may be employed by the restaurant as provided in subsection 2 to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person 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 persons from eighteen to twenty-one years of age to work in the capacity of musicians under the direct supervision of a person twenty-one or more years of age.
6. For purposes of this section, a person is not twenty-one years of age until eight a.m. on that person's twenty-first birthday.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2067 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 40 Nays 5 Absent 2

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 79 Nays 13 Absent 2

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at ___ o'clock _____ M.

Secretary of State