

ALCOHOLIC BEVERAGES

CHAPTER 69

HOUSE BILL NO. 1124

(Representatives Roers Jones, Becker, Heinert, Jones, Paulson, Vetter)
(Senators Bakke, Dwyer, Hogue, Larson, Myrdal)

AN ACT to amend and reenact section 5-01-08 of the North Dakota Century Code, relating to evidence-based alcohol and drug education program for individuals under twenty-one years of age who purchase, possess, or consume an alcoholic beverage; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³¹ **SECTION 1. AMENDMENT.** Section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Individuals under twenty-one years of age prohibited from using alcoholic beverages or entering licensed premises - Penalty.

1. Except as permitted in this section and section 5-02-06, an individual 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 individual for the purchase of an alcoholic beverage.
2. An individual under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:
 - a. A restaurant if accompanied by a parent or legal guardian;
 - b. In accordance with section 5-02-06;
 - c. 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;
 - d. If the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or
 - e. If the individual enters the 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.

³¹ Section 5-01-08 was also amended by section 1 of House Bill No. 1223, chapter 70, section 2 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2264, chapter 176.

3. A violation of this section is a class B misdemeanor. For a violation of subsection 1 or 2, the court also ~~shall~~may sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 50-06-44.
4. The court, under this section, may refer the individual to an outpatient addiction facility licensed by the 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. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals ~~that~~who may be immune for any one occurrence is five individuals.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 70

HOUSE BILL NO. 1223

(Representatives Ista, Adams, Mock, O'Brien, Roers Jones, Vetter)
(Senators Bakke, Heckaman, Kreun, Meyer)

AN ACT to amend and reenact section 5-01-08 of the North Dakota Century Code, relating to the penalty for an individual under twenty-one years of age who consumes, purchases, or possesses an alcoholic beverage; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³² **SECTION 1. AMENDMENT.** Section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Individuals under twenty-one years of age prohibited from using alcoholic beverages or entering licensed premises - Penalty.

1. Except as permitted in this section and section 5-02-06, an individual 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 individual for the purchase of an alcoholic beverage.
2. An individual under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:
 - a. A restaurant if accompanied by a parent or legal guardian;
 - b. In accordance with section 5-02-06;
 - c. 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;
 - d. If the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or
 - e. If the individual enters the 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.
3. ~~A violation of this section is a class B misdemeanor.~~An individual who violates this section is guilty of an infraction. For a violation of subsection 1 or 2, the court also shall sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 50-06-44.

³² Section 5-01-08 was also amended by section 1 of House Bill No. 1124, chapter 69, section 2 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2264, chapter 176.

4. The court, under this section, may refer the individual to an outpatient addiction facility licensed by the 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. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals that may be immune for any one occurrence is five individuals.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 71

SENATE BILL NO. 2321

(Senators D. Larsen, O. Larsen, Meyer, K. Roers)
(Representatives Becker, Toman)

AN ACT to amend and reenact sections 5-01-14 and 5-01-21 of the North Dakota Century Code, relating to microbrew pubs and brewer taprooms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-14 of the North Dakota Century Code is amended and reenacted as follows:

5-01-14. Microbrew pubs - Licensing - Taxes.

1. A microbrew pub shall obtain a brewer license and a retailer license as required under this title. A microbrew pub may manufacture on the licensed premises, store, transport, sell to wholesale malt beverage licensees, and export no more than ten thousand barrels of malt beverages annually; sell malt beverages manufactured on the licensed premises; and sell alcoholic beverages regardless of source to consumers for consumption on the microbrew pub's licensed premises; and sell or direct ship malt beverages manufactured on the licensed premises to an individual in this state for consumption in accordance with section 5-01-16. A microbrew pub may not engage in any wholesaling activities. Except as provided in subsection 3, all sales and delivery of malt beverages to any other retail licensed premises may be made only through a wholesale malt beverage licensee. Beer manufactured on the licensed premises and sold by a microbrew pub directly to the consumer for consumption on or off the premises is subject to the taxes imposed pursuant to section 5-03-07, in addition to any other taxes imposed on brewers and retailers. A microbrew pub is required to file a monthly sales report with the tax commissioner by the fifteenth day of the month following the month in which the sales are made. The report must be prepared and submitted in a form and manner as prescribed by the tax commissioner. A microbrew pub is not precluded from retailing beer it purchases from a wholesaler. Complimentary samples of beer may not be in an amount exceeding sixteen ounces [47 liter] per patron. ~~Licenses under this section entitle the microbrew pub to sell beer manufactured on the premises for off-premises consumption, in brewery-sealed containers of not more than three gallons [11.36 liters]. A licensee may not sell beer to any person for off-premises consumption more than two hundred eighty-eight ounces [8.51 liters] of beer per day, if sold in any size a brewery-sealed container of not more than three gallons [11.36 liters] and the total amount sold to each person does not exceed five and sixteen-hundredths gallons [19.53 liters] per day. This section may not be superseded under chapters 11-09.1 and 40-05.1.~~
2. The tax commissioner may issue a special event permit for not more than ~~twenty~~forty days per calendar year to a microbrew licensee which allows the licensee to give free samples of beer manufactured by the licensee, sell beer manufactured by the glass or in closed containers, or dispense beer manufactured by the licensee at a designated trade show, convention, festival,

fundraiser, or other related special event hosted by a nonprofit organization unaffiliated with the licensee, or a similar event approved by the tax commissioner. This subsection is subject to local ordinances.

3. A microbrew pub may transfer beer in bulk, as defined by section 5-01-01, manufactured by the microbrew pub to an affiliated microbrew pub licensee. For purposes of this subsection, "affiliated microbrew pub licensee" means a microbrew pub of which at least an eighty-five percent interest is owned by the microbrew pub measured annually and:
 - a. The microbrew pub does not own more than three affiliated microbrew pub licensees;
 - b. The microbrew pub licensee receiving the beer in bulk has produced no less than five thousand gallons [18927.06 liters] of beer on the premises in the preceding calendar year. For the purpose of calculating the production requirements, the production must be prorated based on the number of days beer was produced;
 - c. The beer in bulk transferred in any calendar year constitutes no more than fifty percent of the beer being produced by the microbrew pub licensee receiving the beer; and
 - d. For purposes of determining whether the ten thousand barrel production limit under subsection 1 is being exceeded, the beer being transferred is credited to the microbrew pub that manufactured the beer.
4. A contractee brewer may contract with a contractor brewer to produce beer for the contractee brewer to the extent allowed by federal law under the following conditions:
 - a. The contractee brewer and the contractor brewer must be licensed and owned separately;
 - b. The contractee brewer must have a proper license issued under this section and maintain a physical brewing presence in the state;
 - c. Beer brewed for a contractee brewer counts toward the contractee brewer's annual barrels produced, and the beer does not count toward the contractor brewer's annual barrels produced;
 - d. The contractee brewer retains ownership of the product; and
 - e. Each brewer is separately and distinctly responsible for compliance with this chapter.

SECTION 2. AMENDMENT. Section 5-01-21 of the North Dakota Century Code is amended and reenacted as follows:

5-01-21. Brewer taproom license.

1. The tax commissioner may issue multiple brewer taproom licenses to the owner or operator of a brewery producing no more than twenty-five thousand barrels of malt beverages annually. A brewer with multiple taproom licenses must produce malt beverages at each location and the total amount of malt beverages produced at all locations combined may not exceed twenty-five

thousand barrels of malt beverages annually. Each brewer taproom license may be issued and renewed for an annual fee of five hundred dollars, which is in lieu of all other state license fees required by this title. All provisions of this chapter which apply to a retail license must apply to a license issued under this section unless the provision is explicitly inconsistent with this section.

2. A brewer holding a brewer taproom license may:
 - a. Manufacture on the licensed premises, store, transport, sell, and export no more than twenty-five thousand barrels of malt beverages annually.
 - b. Sell malt beverages manufactured on the licensed premises or through a contract for consumption on the premises of the brewery or a restaurant owned by the licensee and located on property contiguous to the brewery.
 - c. Sell beer manufactured on the licensed premises or through a contract for off premises consumption in brewery-sealed containers of ~~not less than twelve ounces [36 liters]~~ and not more than five and sixteen-hundredths gallons [19.53 liters].
 - d. Sell and deliver beer produced by the brewery to licensed beer wholesalers.
 - e. Dispense free samples of beer offered for sale. Complimentary samples of beer may not be in an amount exceeding sixteen ounces [.47 liter] per patron.
 - f. Sell and deliver beer produced by the brewery to licensed retailers within the state, but only if:
 - (1) The brewer uses the brewer's own equipment, trucks, and employees to deliver the beer;
 - (2) Individual deliveries, other than draft beer, are limited to the case equivalent of eight barrels per day to each licensed retailer;
 - (3) The total amount of beer sold or delivered directly to all retailers does not exceed ten thousand barrels per year; and
 - (4) A common carrier is not used to ship or deliver the brewery's product to the public or to licensed retailers. All other sales and deliveries of beer to licensed retailers in this state may be made only through a wholesaler licensed in this state.
 - g. Sell or direct ship beer produced by the brewery to an individual in this state for consumption in accordance with section 5-01-16.
3. The tax commissioner may issue special event permits for not more than ~~twenty~~forty days per calendar year to a brewer taproom licensee allowing the licensee, subject to local ordinance, to give free samples of its beer, sell its beer by the glass or in closed containers, or dispense beer manufactured by the licensee at a designated trade show, convention, festival, fundraiser or other related special event hosted by a nonprofit organization unaffiliated with the brewer taproom licensee, or a similar event approved by the tax commissioner.

4. For any month in which a brewery has made sales to a wholesaler licensed in this state, that brewery shall file a report with the tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after that day.
5. A brewer taproom licensee is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all beer sold by the licensee at retail or to a retail licensee, including all beer sold directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the year following the year sales were made. When the fifteenth of January falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after that day. The report must provide the detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require the report be submitted in an electronic format approved by the tax commissioner.
6. A brewer may have multiple taproom licenses, but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of any other manufacturer, brewer, importer, wholesaler, or retailer, or be an affiliate thereof, whether the affiliation is corporate or by management, direction, or control. A brewer may transfer beer in bulk, as defined by section 5-01-01, manufactured by the brewer to an affiliated brewer. For the purposes of this subsection, an "affiliated brewer taproom" means a licensed brewer taproom of which at least an eighty-five percent interest is owned by the brewer taproom, measured annually and:
 - a. The brewer does not own more than three affiliated brewer taprooms;
 - b. The licensed brewer taproom receiving the beer in bulk has produced no less than five thousand gallons [18927.06 liters] of beer on the premises in the preceding calendar year. For the purpose of calculating the production requirements, the production must be prorated based on the number of days beer was produced;
 - c. The beer in bulk transferred in any calendar year constitutes no more than fifty percent of the beer being produced by the licensed brewer taproom receiving the beer; and
 - d. For purposes of determining whether the twenty-five thousand barrel production limit under subsections 1 and 2 is being exceeded, the beer being transferred is credited to the brewer that manufactured the beer.
7. A contractee brewer may contract with a contractor brewer to produce beer for the contractee brewer to the extent allowed by federal law under the following conditions:
 - a. The contractee brewer and the contractor brewer must be licensed and owned separately;
 - b. The contractee brewer must have a proper license issued under this section and maintain a physical presence in the state;

- c. Beer brewed for a contractee brewer counts toward the contractee brewer's annual barrels produced, and the beer does not count toward the contractor brewer's annual barrels produced;
- d. The contractee brewer retains ownership of product produced by a contractor brewer; and
- e. Each brewer is separately and distinctly responsible for compliance with this chapter.

Approved April 14, 2021

Filed April 14, 2021

CHAPTER 72

SENATE BILL NO. 2220

(Senators Meyer, Holmberg, Poolman, K. Roers)
(Representatives Howe, Mock)

AN ACT to amend and reenact subsection 2 of section 5-01-17, subsection 2 of section 5-01-19, and section 5-02-05 of the North Dakota Century Code, relating to the dispensing and selling of alcoholic beverages on Sunday; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between ~~twelve noon~~eight a.m. and twelve midnight. The tax commissioner may issue special events permits for not more than forty events per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at off-premises events. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

SECTION 2. AMENDMENT. Subsection 2 of section 5-01-19 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between ~~twelve noon~~eight a.m. and twelve midnight. A domestic distillery may hold

events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue event permits for not more than forty event days per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at off-premises events. A domestic distillery may not engage in any wholesaling activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales.

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

5-02-05. Dispensing prohibited on certain days - Penalty.

A person may not dispense or permit the consumption of alcoholic beverages on a licensed premises between two a.m. and ~~eleven a.m. on Sundays, between the hours of two a.m. and eight a.m. on all other days of the week, or,~~ on Christmas Day, or after six p.m. on Christmas Eve. In addition, a person may not provide off sale after two a.m. on Thanksgiving Day or between two a.m. and ~~eight a.m.~~ on Sundays. A person that violates this section is guilty of a class A misdemeanor.

Approved April 1, 2021

Filed April 1, 2021

CHAPTER 73

HOUSE BILL NO. 1286

(Representatives Mock, Becker, Kasper, Keiser, O'Brien, D. Ruby)
(Senators Kreun, Weber)

AN ACT to create and enact section 5-01-19.2 of the North Dakota Century Code, relating to a manufacturing distillery; to provide for transition; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 5-01-19.2 of the North Dakota Century Code is created and enacted as follows:

5-01-19.2. Manufacturing distillery - Satellite locations.

1. The tax commissioner may issue a manufacturing distillery license to the owner or operator of a distillery located within this state which uses a majority of North Dakota farm products to manufacture and sell spirits produced on the premises. A manufacturing distillery license may be issued and renewed for an annual fee of one hundred dollars. This fee is in lieu of all other license fees required by this title. The tax commissioner may not issue the manufacturing distillery license until the applicant has established the applicant has applied for and obtained the necessary federal registrations and permits, as required under the Internal Revenue Code of 1986 [26 U.S.C. 5001 et seq.] and the federal Alcohol Administration Act [27 U.S.C. 203], for the operation of a distilled spirits plant.
2. A manufacturing distillery may sell spirits produced by that distillery at off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at off sale may be made on Sundays between twelve noon and twelve midnight. A manufacturing distillery may hold events inside its premises and at its satellite location. The tax commissioner may issue event permits for not more than forty event days per calendar year to a manufacturing distillery to allow the manufacturing distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers at on-premises events and at its satellite location. A manufacturing distillery may not engage in any wholesaling activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a manufacturing distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the manufacturing distillery by the domestic winery.

3.
 - a. As used in this subsection, "samples" means the serving of free tastings of a manufacturing distillery's products not to exceed six ounces [0.18 liter] of spirits per individual per day.
 - b. A manufacturing distillery may operate one satellite location in addition to its licensed premises for the purpose of providing samples and on sale or off sale retail sales.
 - (1) The spirits sampled or sold at the satellite location must be produced by the manufacturing distillery.
 - (2) A manufacturing distillery may not produce any spirits at the satellite location.
 - (3) An event permit issued to a manufacturing distillery in accordance with subsection 2 for an indoor or outdoor event held at its satellite location does not count towards the forty event days per calendar year allowed under subsection 2. The manufacturing distillery may offer free samples of its spirits and may sell its spirits by the glass or in closed containers at the event held at the satellite location.
 - (4) The satellite location must be owned or leased by the manufacturing distillery licensee.
 - (5) A manufacturing distillery may not engage in wholesaling activities at its satellite location.
 - c. A manufacturing distillery shall obtain a satellite location license from the tax commissioner before operating a satellite location. The tax commissioner may issue and renew a satellite location license for an annual fee of one hundred dollars. This fee is in addition to all other license fees required by this title.
 - d. A manufacturing distillery is liable for any violation of alcohol or licensing requirements committed on the premises of its satellite location.
4. A person may not hold a manufacturing distillery license and a domestic distillery license.
5. A manufacturing distillery may obtain a manufacturing distillery license and a retailer license allowing the on-premises sale of alcoholic beverages at a restaurant owned by the licensee and located at the manufacturing distillery's satellite location.
6. A manufacturing distillery is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all spirits sold by the licensee at retail or to a retail licensee, including all spirits shipped directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the year following the year sales were made. The report must provide the detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require the report to be submitted in an electronic format approved by the tax commissioner.

SECTION 2. TRANSITION PERIOD. After the effective date of this Act, a domestic distillery licensee may rescind a domestic distillery license and apply for and be issued a manufacturing distillery license. After August 1, 2022, a domestic distillery licensee may not be issued a manufacturing distillery license.

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

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 74

HOUSE BILL NO. 1284

(Representatives Mock, Becker, Boschee, Howe, Kasper, Lefor, D. Ruby)
(Senators Burckhard, Klein, Kreun, Weber)

AN ACT to amend and reenact section 5-02-01.1 and subsection 5 of section 5-02-06 of the North Dakota Century Code, relating to alcohol event permits and prohibitions for individuals under twenty-one years of age; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

5-02-01.1. Event permit authorized - Penalty.

1. The local governing body may by permit authorize a qualified alcoholic beverage licensee licensed under this chapter to engage in the sale of alcoholic beverages at 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 the tax and who continues to pay any such tax imposed by the city or a licensee in a county, a licensee in a city that did not impose a city lodging and restaurant tax on July 31, 1993, or a tribal licensee. A fee for the local 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 to regulate and restrict the operation of an event permit. Any person ~~who~~that dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or the conditions of a permit is guilty of a class B misdemeanor.
2. The local governing body may authorize ~~persons~~an individual under twenty-one years of age to remain in the area of ~~attend~~ the event, or a portion thereof, ~~where beer, wine, or sparkling wine may be sold pursuant to the permit. However, this authorization must be subject to the following minimum conditions:~~
 - a. ~~The area where persons under twenty one years of age may remain must be specifically set forth in the permit;~~
 - b. ~~Only employees of the qualified alcoholic beverage licensee who are at least twenty one years of age may deliver and sell the beer, wine, or sparkling wine; and~~
 - c. ~~No person under twenty one years of age within the area described in the permit may consume, possess, or receive alcoholic beverages but may not authorize the consumption or possession of an alcoholic beverage by an individual under twenty-one years of age.~~

³³ **SECTION 2. AMENDMENT.** Subsection 5 of section 5-02-06 of the North Dakota Century Code is amended and reenacted as follows:

5. An individual under twenty-one years of age may ~~remain in an area of a site where beer, wine, or sparkling wine is sold~~attend an event where alcoholic beverages are sold in accordance with the conditions of an event permit issued pursuant to section 5-02-01.1.

Approved April 19, 2021

Filed April 20, 2021

³³ Section 5-02-06 was also amended by section 1 of House Bill No. 1184, chapter 75.

CHAPTER 75

HOUSE BILL NO. 1184

(Representatives Louser, Becker, Lefor, Richter, Schatz)
(Senators Meyer, Vedaa)

AN ACT to amend and reenact subsection 3 of section 5-02-06 of the North Dakota Century Code, relating to prohibitions for an individual under twenty-one years of age; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁴ **SECTION 1. AMENDMENT.** Subsection 3 of section 5-02-06 of the North Dakota Century Code is amended and reenacted as follows:

3. a. At the discretion of the owner of the licensed premises, an individual under twenty-one years of age may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:
 - (1) Is accompanied by a parent or guardian;
 - (2) Is not seated at or within three feet [0.91 meters] of the bar counter;
and
 - (3) Does not enter or remain in the designated area after ten p.m.
- b. An individual under twenty-one years of age may ~~not~~be permitted to remain in a restaurant where alcoholic beverages are being sold ~~except~~ if the restaurant is separated from the ~~room~~designated area 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 or older and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.

Approved March 17, 2021

Filed March 18, 2021

³⁴ Section 5-02-06 was also amended by section 2 of House Bill No. 1284, chapter 74.