

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1412

Introduced by

Representatives Strinden, Gruchalla

Senator Holmberg

1 A BILL for an Act to create and enact a new section to chapter 19-03.1 of the North Dakota
2 Century Code, relating to immunity from criminal liability in medical emergencies involving
3 controlled substances; and to amend and reenact sections 5-01-08, 5-01-09, and 14-10-06 of
4 the North Dakota Century Code, relating to immunity from criminal liability in medical
5 emergencies involving drugs or alcohol.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

9 **5-01-08. Individuals under twenty-one years of age prohibited from using alcoholic**
10 **beverages or entering licensed premises - Penalty.**

- 11 1. Except as permitted in this section and section 5-02-06, an individual under
12 twenty-one years of age may not manufacture or attempt to manufacture, purchase or
13 attempt to purchase, consume or have recently consumed other than during a
14 religious service, be under the influence of, be in possession of, or furnish money to
15 any individual for the purchase of an alcoholic beverage.
- 16 2. An individual under twenty-one years of age may not enter any licensed premises
17 where alcoholic beverages are being sold or displayed, except:
- 18 a. A restaurant if accompanied by a parent or legal guardian;
19 b. In accordance with section 5-02-06;
20 c. If the individual is an independent contractor or the independent contractor's
21 employee engaged in contract work and is not engaged in selling, dispensing,
22 delivering, or consuming alcoholic beverages;
23 d. If the individual is a law enforcement officer or other public official who enters the
24 premises in the performance of official duty; or

- 1 e. If the individual enters the premises for training, education, or research purposes
2 under the supervision of an individual twenty-one or more years of age with prior
3 notification of the local licensing authority.
- 4 3. A violation of this section is a class B misdemeanor. For a violation of subsection 2,
5 the court also shall sentence a violator to alcohol and drug education.
- 6 4. The court, under this section, may refer the individual to an outpatient addiction facility
7 licensed by the department of human services for evaluation and appropriate
8 counseling or treatment.
- 9 5. The offense of consumption occurs in the county of consumption or the county where
10 the offender is arrested.
- 11 6. An individual under twenty-one years of age is immune from criminal prosecution
12 under this section if ~~that individual contacted law enforcement or emergency medical~~
13 ~~services~~ was contacted and reported was informed that ~~another~~ an individual under
14 ~~twenty-one years of age~~ was in need of medical assistance due to alcohol
15 consumption, ~~provided assistance to~~ and if the individual ~~in need of medical~~
16 ~~assistance until assistance arrived and~~ receiving immunity remained on the scene until
17 assistance arrived, or was the individual in need of medical assistance ~~and cooperated~~
18 ~~with medical assistance and law enforcement personnel on the scene. The maximum~~
19 ~~number of individuals that may be immune for any one occurrence is five individuals.~~

20 **SECTION 2. AMENDMENT.** Section 5-01-09 of the North Dakota Century Code is amended
21 and reenacted as follows:

22 **5-01-09. Delivery to certain persons unlawful.**

- 23 1. Any individual knowingly delivering alcoholic beverages to an individual under
24 twenty-one years of age, except as allowed under section 5-02-06, or to a habitual
25 drunkard, an incompetent, or an obviously intoxicated individual is guilty of a class A
26 misdemeanor, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2.
- 27 2. An individual ~~under twenty-one years of age~~ is immune from criminal prosecution
28 under this section if ~~that individual contacted law enforcement or emergency medical~~
29 ~~services~~ was contacted and reported was informed that ~~another~~ an individual under
30 ~~twenty-one years of age~~ was in need of medical assistance due to alcohol
31 consumption, ~~provided assistance to~~ and if the individual ~~in need of medical~~

1 ~~assistance until assistance arrived and~~receiving immunity remained on the scene until
2 assistance arrived and cooperated with medical assistance and law enforcement
3 personnel on the scene, or was the individual in need of medical assistance. The
4 maximum number of individuals that may be immune for any one occurrence is five
5 individuals.

6 3. If an individual is convicted of this section for delivering alcoholic beverages to an
7 individual under twenty-one years of age, the court shall consider the following in
8 mitigation:

9 a. After consuming the alcohol, the underage individual was in need of medical
10 assistance as a result of consuming alcohol; and

11 b. Within twelve hours after the underage individual consumed the alcohol, the
12 defendant contacted law enforcement or emergency medical personnel to report
13 that the underage individual was in need of medical assistance as a result of
14 consuming alcohol.

15 **SECTION 3. AMENDMENT.** Section 14-10-06 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **14-10-06. Unlawful to encourage or contribute to the deprivation or delinquency of**
18 **minor - Penalty.**

19 1. Any individual who by any act willfully encourages, causes, or contributes to the
20 delinquency or deprivation of any minor is guilty of a class A misdemeanor.

21 2. Any individual who by any act willfully encourages, causes, or contributes to the
22 deprivation of a child less than sixteen years of age by causing that child to engage in
23 sexual conduct as defined under section 12.1-27.2-01, in any play, motion picture,
24 photograph, dance, or other visual representation is guilty of a class C felony.

25 3. An individual is immune from criminal prosecution under subsection 1 if law
26 enforcement or emergency medical services was contacted and was informed that an
27 individual was in need of medical assistance due to alcohol or drug consumption and if
28 the individual receiving immunity remained on the scene until assistance arrived and
29 cooperated with medical assistance and law enforcement personnel on the scene as
30 to information necessary to provide medical attention, or was the individual in need of
31 medical assistance. If an individual is convicted of this section for encouraging,

1 causing, or contributing to the consumption or possession of alcoholic beverages by a
2 minor, the court shall consider the following in mitigation:

- 3 a. After consuming the alcohol, the underage individual was in need of medical
4 assistance as a result of consuming alcohol; and
5 b. Within twelve hours after the underage individual consumed the alcohol, the
6 defendant contacted law enforcement or emergency medical personnel to report
7 that the underage individual was in need of medical assistance as a result of
8 consuming alcohol.

9 **SECTION 4.** A new section to chapter 19-03.1 of the North Dakota Century Code is created
10 and enacted as follows:

11 **Controlled substance overdose - Limited immunity from prosecution.**

- 12 1. For purpose of this section, "overdose" means a controlled substance-induced
13 physiological event that results in a life-threatening emergency to the individual who
14 ingested, inhaled, injected, or otherwise bodily absorbed a controlled substance.
15 2. An individual who, in good faith, seeks or obtains emergency medical assistance for
16 someone experiencing an overdose may not be charged or prosecuted under this
17 chapter for possession of a controlled substance if evidence for the possession charge
18 was acquired as a result of the individual seeking or obtaining emergency medical
19 assistance.
20 3. An individual who is experiencing an overdose may not be charged or prosecuted for
21 possession of a controlled substance under this chapter if evidence for the possession
22 charge was acquired as a result of the individual seeking or obtaining emergency
23 medical assistance.
24 4. The limited immunity described in subsections 2 and 3 may not be extended if law
25 enforcement has reasonable suspicion or probable cause to detain, arrest, or search
26 the individual described in subsection 2 or 3 for criminal activity and the reasonable
27 suspicion or probable cause is based on information obtained before or independent
28 of the individual described in subsection 2 or 3 taking action to seek or obtain
29 emergency medical assistance and not obtained as a direct result of the action of
30 seeking or obtaining emergency medical assistance. This section is not intended to
31 interfere with or prevent the investigation, arrest, or prosecution of any individual for

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the delivery or distribution of cannabis, methamphetamine or other controlled substances, drug-induced homicide, or any other crime.