

HOUSE BILL NO. 1458

Introduced by

Representatives Damschen, Heilman, Owens, Sukut

Senator Andrist

1 A BILL for an Act to ~~create and enact a new section to chapter 12.1-31 of the North Dakota~~
2 ~~Century Code, relating the delivery of alcohol to an underage individual; to~~ amend and reenact
3 sections 5-01-08.1 and 5-01-09, 5-02-06, and 14-10-06 of the North Dakota Century Code,
4 relating to the penalty for delivery of alcohol to an underage individual; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 5-01-08.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **5-01-08.1. Misrepresentation of age - Penalty - Licensee may keep book.**

9 ~~Any person~~An individual who misrepresents or misstates that ~~person's~~individual's age or
10 the age of ~~any other person~~another individual or who misrepresents that ~~person's~~individual's
11 age through presentation of any document purporting to show that ~~person~~individual to be of
12 legal age to purchase alcoholic beverages is guilty of a class B misdemeanor for a first offense.
13 For a first offense, the court shall sentence the individual to a minimum fine of five hundred
14 dollars and forty hours community service. For a second offense, the individual is guilty of a
15 class A misdemeanor. For a second offense, the court shall sentence the individual to a
16 minimum fine of one thousand dollars and eighty hours community service. For a third offense,
17 the individual is guilty of a class C felony. Any licensee may keep a book and may require
18 anyone who has shown documentary proof of that ~~person's~~individual's age, which substantiates
19 that ~~person's~~individual's age to allow the purchase of alcoholic beverages, to sign the book if
20 the age of that ~~person~~individual is in question. The book must show the date of the purchase,
21 the identification used in making the purchase and the appropriate numbers of such
22 identification, the address of the purchaser, and the purchaser's signature.

23 **SECTION 1. AMENDMENT.** Section 5-01-09 of the North Dakota Century Code is amended
24 and reenacted as follows:

1 **5-01-09. Delivery to certain persons unlawful.**

- 2 1. Any individual who knowingly delivering~~ing~~purchases for or delivers alcoholic beverages
3 to an individual under twenty-one years of age if the violator is under twenty-one years
4 of age, except as allowed under section 5-02-06, or delivers to a habitual drunkard, an
5 incompetent, or an obviously intoxicated individual is guilty of a class A misdemeanor,
6 subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2. An individual twenty-one years
7 of age or older who knowingly purchases for or delivers alcoholic beverages to an
8 individual under twenty-one years of age is guilty of a class A misdemeanor for a first
9 offense or second offense, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2. For
10 a first offense, the court shall sentence the individual to a minimum fine of five hundred
11 dollars and forty hours community service. For a second offense, the court shall
12 sentence the individual to a minimum fine of one thousand dollars and eighty hours
13 community service. For a third offense, the individual is guilty of a class C felony,
14 subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2.
- 15 2. An individual under twenty-one years of age is immune from criminal prosecution
16 under this section if that individual contacted law enforcement or emergency medical
17 services and reported that another individual under twenty-one years of age was in
18 need of medical assistance due to alcohol consumption, provided assistance to the
19 individual in need of medical assistance until assistance arrived and remained on the
20 scene and cooperated with medical assistance and law enforcement personnel on the
21 scene, or was the individual in need of medical assistance. The maximum number of
22 individuals that may be immune for any one occurrence is five individuals.
- 23 3. If an individual is convicted of this section for delivering alcoholic beverages to an
24 individual under twenty-one years of age, the court shall consider the following in
25 mitigation:
- 26 a. After consuming the alcohol, the underage individual was in need of medical
27 assistance as a result of consuming alcohol; and
- 28 b. Within twelve hours after the underage individual consumed the alcohol, the
29 defendant contacted law enforcement or emergency medical personnel to report
30 that the underage individual was in need of medical assistance as a result of
31 consuming alcohol.

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

3 ~~5-02-06. Prohibitions for individuals under twenty-one years of age -- Penalty --~~
4 **Exceptions.**

5 ~~1. Except as permitted in this section, a~~ licensee who dispenses alcoholic beverages to
6 an individual under twenty-one years of age, ~~or is guilty of a class C felony, subject to~~
7 ~~sections 5-01-08, 5-01-08.1, and 5-01-08.2. Except as permitted in this section, a~~
8 ~~licensee~~ who permits an individual under twenty-one years of age to remain on the
9 licensed premises while alcoholic beverages are being sold or displayed, is guilty of a
10 class A misdemeanor, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2.

11 ~~2. An individual under twenty-one years of age may not remain in a restaurant where~~
12 ~~alcoholic beverages are being sold except if the restaurant is separated from the room~~
13 ~~in which alcoholic beverages are opened or mixed and gross sales of food are at least~~
14 ~~equal to gross sales of alcoholic beverages which are consumed in the dining area, or~~
15 ~~if the individual is employed by the restaurant as a food waiter, food waitress, busboy,~~
16 ~~or busgirl under the direct supervision of an individual twenty-one or more years of age~~
17 ~~and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic~~
18 ~~beverages.~~

19 ~~3. An individual under twenty-one years of age may enter and remain on the licensed~~
20 ~~premises 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; if the individual is a law enforcement~~
23 ~~officer or other public official who enters the premises in the performance of official~~
24 ~~duty; or if the individual enters the licensed premises for training, education, or~~
25 ~~research purposes under the supervision of an individual twenty-one or more years of~~
26 ~~age with prior notification of the local licensing authority.~~

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

30 ~~5. An individual who is eighteen years of age or older but under twenty-one years of age~~
31 ~~may be employed by a restaurant as provided in subsection 2 to serve and collect~~

1 money for alcoholic beverages, if the individual is under the direct supervision of an
2 individual twenty-one or more years of age, but may not be engaged in mixing,
3 dispensing, or consuming alcoholic beverages. Any establishment where alcoholic
4 beverages are sold may employ individuals from eighteen to twenty-one years of age
5 to work in the capacity of musicians under the direct supervision of an individual
6 twenty-one or more years of age.

7 ~~6. For purposes of this section, an individual is not twenty-one years of age until~~
8 ~~eight a.m. on that individual's twenty-first birthday.~~

9 ~~7. If an individual is convicted of this section, the court shall consider the following in~~
10 ~~mitigation:~~

11 ~~a. After consuming the alcohol, the underage individual was in need of medical~~
12 ~~assistance as a result of consuming alcohol; and~~

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

17 ~~SECTION 3. A new section to chapter 12.1-31 of the North Dakota Century Code is created~~
18 ~~and enacted as follows:~~

19 ~~**Arrest for certain alcohol offenses required.**~~

20 ~~Notwithstanding any other provision of law, a law enforcement officer who has a reasonable~~
21 ~~suspicion that a specific individual has committed a felony alcohol-related violation of section~~
22 ~~5-01-09, 5-02-06, or 14-10-06, the law enforcement officer shall arrest that individual. A violation~~
23 ~~of this section is a class C felony and the appropriate state's attorney shall charge the crime if~~
24 ~~an affidavit of facts that supports the crime is provided to the state's attorney.~~

25 ~~SECTION 4. AMENDMENT. Section 14-10-06 of the North Dakota Century Code is~~
26 ~~amended and reenacted as follows:~~

27 ~~**14-10-06. Unlawful to encourage or contribute to the deprivation or delinquency of**~~
28 ~~**minor -- Penalty.**~~

29 ~~1. Any individual who by any act willfully encourages, causes, or contributes to the~~
30 ~~delinquency or deprivation of any minor is guilty of a class A misdemeanor. If the act is~~
31 ~~done by an individual twenty-one years of age or older and the act includes the~~

1 ~~delivery of alcoholic beverages to an individual under twenty-one years of age, the~~
2 ~~individual is guilty of a class C felony.~~

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

7 ~~3. If an individual is convicted of this section for encouraging, causing, or contributing to~~
8 ~~the consumption or possession of alcoholic beverages by a minor, the court shall~~
9 ~~consider the following in mitigation:~~

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

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