

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2333

Introduced by

Senators Oban, Armstrong, Casper, Klein

Representatives Beadle, J. Nelson

1 A BILL for an Act to amend and reenact section 5-02-06 of the North Dakota Century Code,
2 relating to individuals under twenty-one years of age allowed in alcoholic beverage
3 establishments.

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

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

7 **5-02-06. Prohibitions for individuals under twenty-one years of age - Penalty -**
8 **Exceptions.**

- 9 1. Except as permitted in this section, a licensee who dispenses alcoholic beverages to
10 an individual under twenty-one years of age, or who permits an individual under
11 twenty-one years of age to remain on the licensed premises while alcoholic beverages
12 are being sold or displayed, is guilty of a class A misdemeanor, subject to sections
13 5-01-08, 5-01-08.1, and 5-01-08.2.
- 14 2. An individual under twenty-one years of age may enter and remain on a licensed
15 premises while alcohol is being sold or displayed, at the discretion of the owner of the
16 licensed premises, if:
- 17 a. The individual is accompanied by a **parent or** guardian who is twenty-one years
18 of age or older. For purposes of this section, "guardian" means an individual who
19 has **a**the legal responsibility for the health and well-being of the individual under
20 twenty-one years of age:
- 21 b. The individual is **in**on the premises to consume a meal **or in an emergency**
22 situation;
- 23 c. The premises serves at a tabletop food that is prepared in a kitchen with at least
24 an indoor grill;

- 1 d. The individual is not ~~in~~ on the licensed premises after ten p.m.; and
- 2 e. The owner of the licensed premises receives permission of the local licensing
- 3 authority for individuals to be ~~in~~ on the premises as allowed under this section and
- 4 the licensed premises is located in a city with a population of ~~five~~ one thousand
- 5 five hundred or fewer people, or the licensed premises is not located in a city.
- 6 3. An individual under twenty-one years of age may not remain in a restaurant where
- 7 alcoholic beverages are being sold except if the restaurant is separated from the room
- 8 in which alcoholic beverages are opened or mixed and gross sales of food are at least
- 9 equal to gross sales of alcoholic beverages which are consumed in the dining area, or
- 10 if the individual is employed by the restaurant as a food waiter, food waitress, busboy,
- 11 or busgirl under the direct supervision of an individual twenty-one or more years of age
- 12 and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic
- 13 beverages.
- 14 ~~3.4.~~ An individual under twenty-one years of age may enter and remain on the licensed
- 15 premises if the individual is an independent contractor or the independent contractor's
- 16 employee engaged in contract work and is not engaged in selling, dispensing,
- 17 delivering, or consuming alcoholic beverages; if the individual is a law enforcement
- 18 officer or other public official who enters the premises in the performance of official
- 19 duty; or if the individual enters the licensed premises for training, education, or
- 20 research purposes under the supervision of an individual twenty-one or more years of
- 21 age with prior notification of the local licensing authority.
- 22 ~~4.5.~~ An individual under twenty-one years of age may remain in an area of a site where
- 23 beer, wine, or sparkling wine is sold in accordance with the conditions of an event
- 24 permit issued pursuant to section 5-02-01.1.
- 25 ~~5.6.~~ An individual who is eighteen years of age or older but under twenty-one years of age
- 26 may be employed by a restaurant as provided in subsection 2 to serve and collect
- 27 money for alcoholic beverages, if the individual is under the direct supervision of an
- 28 individual twenty-one or more years of age, but may not be engaged in mixing,
- 29 dispensing, or consuming alcoholic beverages. Any establishment where alcoholic
- 30 beverages are sold may employ individuals from eighteen to twenty-one years of age

1 to work in the capacity of musicians under the direct supervision of an individual
2 twenty-one or more years of age.

3 ~~6.7.~~ For purposes of this section, an individual is not twenty-one years of age until
4 eight a.m. on that individual's twenty-first birthday.

5 ~~7.8.~~ If an individual is convicted of this section, the court shall consider the following in
6 mitigation:

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