

ALCOHOLIC BEVERAGES

CHAPTER 74

SENATE BILL NO. 2324

(Senators J. Lee, Murphy, Poolman)
(Representatives Keiser, Schreiber Beck)

AN ACT to amend and reenact subsections 3 and 6 of section 5-01-16 of the North Dakota Century Code, relating to out-of-state shipments of alcohol to customers in this state; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 3 and 6 of section 5-01-16 of the North Dakota Century Code are amended and reenacted as follows:

3. For a first violation of subsection 1 or 2, the tax commissioner shall notify, by certified mail, the person and order that person to cease and desist any shipment of alcoholic beverages in violation of subsection 1 or 2 and shall assess a civil penalty of one hundred dollars for each illegal shipment. TheFor a second violation of subsection 1 or 2 is a class A misdemeanor, the tax commissioner shall assess a civil penalty of two hundred dollars for each illegal shipment. AnyFor any subsequent violation of subsection 1 or 2 is a class C felony and, the tax commissioner shall assess a civil penalty of five hundred dollars for each illegal shipment.
6. A licensed alcohol carrier may ship alcoholic beverages into, out of, or within this state. A licensed alcohol carrier shall pay an annual fee of one hundred dollars and obtain a license on an application form provided by the tax commissioner and subject to any requirements determined by the tax commissioner.
 - a. A licensed alcohol carrier shall ensure all containers of alcoholic beverages shipped directly to an individual in this state are labeled with conspicuous words "SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY". A licensed alcohol carrier may not deliver alcoholic beverages to a person under twenty-one years of age, or to a person who is or appears to be in an intoxicated state or condition. A licensed alcohol carrier shall obtain valid proof of identity and age before delivery and shall obtain the signature of an adult as a condition of delivery.
 - b. A licensed alcohol carrier shall maintain records of alcoholic beverages shipped into, out of, or within this state which include the ~~license number~~ and name of the licensed direct shipper, the ~~license number~~ and name of any licensed logistics shipper, the date of each shipment, the recipient's name and address, and an electronic or paper form of signature from the recipient of the alcoholic beverages. A licensed alcohol carrier shall submit

a report to the tax commissioner on a monthly basis in the form and format prescribed by the tax commissioner. The report is due on the last day of the month following the month of shipment. If the due date falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the due date. The tax commissioner may require that the report be submitted in an electronic format approved by the tax commissioner.

- c. ~~A licensed alcohol carrier may not ship alcoholic beverages received from an unlicensed direct shipper. For a violation, the licensed alcohol carrier is subject to the penalties in subsection 3f the tax commissioner has provided notice to a licensed alcohol carrier that a direct shipper is not licensed, the licensed alcohol carrier must notify the direct shipper that the direct shipper must obtain a direct shipper permit before tendering packages to the licensed alcohol carrier for delivery. Any assessed penalty may be waived by the tax commissioner for good cause upon request by the licensed alcohol carrier.~~

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 75

SENATE BILL NO. 2325

(Senators Murphy, Hogue, J. Lee)
(Representatives Rick C. Becker, Hanson, Louser)

AN ACT to amend and reenact subsections 1 and 6 of section 5-01-21 of the North Dakota Century Code, relating to multiple brewer taproom licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 6 of section 5-01-21 of the North Dakota Century Code are amended and reenacted as follows:

1. The tax commissioner may issue ~~multiple~~ brewer taproom ~~license~~ 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.
6. A brewer may have ~~only one multiple taproom license and 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.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 76

HOUSE BILL NO. 1464

(Representative Mitskog)
(Senator Casper)

AN ACT to create and enact section 5-01-22 of the North Dakota Century Code, relating to the prohibition of powdered alcohol products.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 5-01-22 of the North Dakota Century Code is created and enacted as follows:

5-01-22. Powdered alcohol products prohibited - Penalty - Exceptions.

1. As used in this section, "powdered alcohol product" means any alcohol prepared or sold in a powder form for either direct use or reconstitution in a liquid beverage or food.
2. A person may not sell, offer to sell, purchase, offer to purchase, possess, or consume a powdered alcohol product.
3. A violation of this section is a class B misdemeanor.
4. This section does not apply to the use of powdered alcohol products for research by a:
 - a. Health care provider that operates primarily for the purpose of conducting scientific research;
 - b. State institution;
 - c. Private college or university; or
 - d. Pharmaceutical or biotechnology company.

Approved April 24, 2015
Filed April 24, 2015

CHAPTER 77

HOUSE BILL NO. 1416

(Representatives K. Koppelman, Delmore, Kiefert, Klemin, Ruby)
(Senators Dotzenrod, Hogue, Luick, O'Connell)

AN ACT to create and enact a new section to chapter 5-02 of the North Dakota Century Code, relating to violations of alcohol retail licenses; to amend and reenact section 5-01-06.1 of the North Dakota Century Code, relating to liability for injuries related to intoxication; and to provide for a report to legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-06.1 of the North Dakota Century Code is amended and reenacted as follows:

5-01-06.1. Claim for relief for fault resulting from intoxication.

1. Every spouse, child, parent, guardian, employer, or other ~~person~~individual who is injured by any obviously intoxicated ~~person~~individual has a claim for relief for fault under section 32-03.2-02 against any person who knowingly disposes, sells, barter, or gives away alcoholic beverages to a ~~person~~an individual under twenty-one years of age; ~~or to~~ an incompetent; or an obviously intoxicated ~~person~~individual, and if death ensues, the survivors of the decedent are entitled to damages defined in section 32-21-02. ~~Not if a retail licensee is found liable under this section and exemplary damages are sought, the finder of fact may consider as a mitigating factor that the licensee provided to an employee alcohol server training that addressed intoxication, drunk driving, and underage drinking.~~
2. If a retail licensee provided to an employee alcohol server training that addresses intoxication, drunk driving, and underage drinking, a person with a claim for relief under this section may not use the fact that the retail licensee provided this training to prove culpability.
3. A claim for relief pursuant to~~under~~ this section may not be had on behalf of the intoxicated ~~person~~individual nor on behalf of the intoxicated ~~person's~~individual's estate or personal representatives, nor may a claim for relief be had on behalf of an adult passenger in an automobile driven by an intoxicated ~~person~~individual or on behalf of the passenger's estate or personal representatives.

SECTION 2. A new section to chapter 5-02 of the North Dakota Century Code is created and enacted as follows:

Violations - Alcohol server training.

For a first violation taken against the retail licensee by a licensing authority for serving alcoholic beverages, the licensing authority shall accept as a mitigating factor the retail licensee provided to the licensee's employees alcohol server training that addressed intoxication, drunk driving, and underage drinking, as approved by the

licensing authority. Under this section, a mitigating factor must result in a lesser punishment than the retail licensee would have received if not for the mitigating factor.

SECTION 3. WORKFORCE SAFETY AND INSURANCE - SAFETY PROGRAMS - REPORT. During the 2015-16 interim, workforce safety and insurance shall investigate whether there is an industry interest in using safety programs under section 65-03-04 to provide grants to an industry association to provide alcohol server training to employees of bars and restaurants that serve alcohol in order to address workplace safety and public safety. Before August 1, 2016, workforce safety and insurance shall report to the legislative management on the outcome of the organization's efforts under this section.

Approved March 18, 2015

Filed March 18, 2015

CHAPTER 78

HOUSE BILL NO. 1434

(Representatives Strinden, Boehning, Hanson, Maragos)

AN ACT to amend and reenact section 5-02-05 of the North Dakota Century Code, relating to sales of alcohol on Sunday.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 ~~twelve noon~~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 noon on Sundays. A person that violates this section is guilty of a class A misdemeanor.

Approved April 9, 2015

Filed April 9, 2015

CHAPTER 79

SENATE BILL NO. 2333

(Senators Oban, Armstrong, Casper, Klein)
(Representatives Beadle, J. Nelson)

AN ACT to amend and reenact section 5-02-06 of the North Dakota Century Code, relating to individuals under twenty-one years of age allowed in alcoholic beverage establishments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. Except as permitted in this section, a licensee who dispenses alcoholic beverages to an individual under twenty-one years of age, or who permits an individual 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. An individual under twenty-one years of age may enter and remain on a licensed premises while alcohol is being sold or displayed, at the discretion of the owner of the licensed premises, if:
 - a. The individual is accompanied by a parent or guardian who is twenty-one years of age or older. For purposes of this section, "guardian" means an individual who has the legal responsibility for the health and well-being of the individual under twenty-one years of age;
 - b. The individual is on the premises to consume a meal or in an emergency situation;
 - c. The premises serves at a tabletop, food that is prepared in a kitchen with at least an indoor grill;
 - d. The individual is not on the licensed premises after ten p.m.; and
 - e. The owner of the licensed premises receives permission of the local licensing authority for individuals to be on the premises as allowed under this section and the licensed premises is located in a city with a population of one thousand five hundred or fewer people, or the licensed premises is not located in a city.
3. An individual 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 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 and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.

- ~~3-4.~~ An individual under twenty-one years of age may enter and remain on the licensed premises 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; if the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or if the individual enters the licensed 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.
- ~~4-5.~~ An individual under twenty-one years of age may remain in an area of a site where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to section 5-02-01.1.
- ~~5-6.~~ An individual who is eighteen years of age or older but under twenty-one years of age may be employed by a restaurant as provided in subsection 2 to serve and collect money for alcoholic beverages, if the individual is under the direct supervision of an individual 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 individuals from eighteen to twenty-one years of age to work in the capacity of musicians under the direct supervision of an individual twenty-one or more years of age.
- ~~6-7.~~ For purposes of this section, an individual is not twenty-one years of age until eight a.m. on that individual's twenty-first birthday.
- ~~7-8.~~ If an individual is convicted of this section, the court shall consider the following in mitigation:
- a. After consuming the alcohol, the underage individual was in need of medical assistance as a result of consuming alcohol; and
 - b. Within twelve hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that the underage individual was in need of medical assistance as a result of consuming alcohol.