

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

2269

2007 SENATE POLITICAL SUBDIVISIONS

SB 2269

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2269**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **February 1, 2007**

Recorder Job Number: **2546 (Hearing) and 2651 (Action)**

Committee Clerk Signature



Minutes:

Chairman Cook called the Senate Political Subdivisions Committee to order. All members (5) present.

Chairman Cook opened the hearing on SB 2269 relating to drink discounting.

Senator Grindberg, District 41, Fargo, ND introduced SB 2269. The intention in the bill speaks for itself, it would restrict any free drink give a ways and functions after eleven o'clock at night. If ND passes such a law we would be at a disadvantage with Minnesota and offer that if you move this forward make it contingent with Minnesota law passage.

Representative Gruchalla, District 45, North Fargo, ND testified in support of SB 2546. He wanted to sign on to this bill because in his time in law enforcement he arrested over 1000 drunk drivers. Many of them were arrested after the bars were closed and many of these were college kids. This bill addresses not trying to encourage people during the last hour to drink in excess.

Senator Flakoll, District 44, Fargo, ND testified in support of SB 2269. (See Attachment #1)

Laura Oster, Director of Orientation and Student Success at NDSU and member of the ND Higher Education Consortium for Substance Abuse Prevention. (See attachment # 2)

Opposition to SB 2269

Representative Thoreson, District 44, Fargo, ND testified in opposition to SB 2269. Talked about two things we did in the previous legislative assembly in 2005. One was giving establishments the opportunity to stay open one hour later. Along with that extra hour came a lot more responsibility by the establishment owners. They realized that they were going to be under the microscope because a lot of people were expecting trouble and problems by giving that extra hour of time. As far as he has been able to determine by talking to law enforcement and the establishments we have not really seen that. There are problems with alcohol, but I do not think we have as big of problem in the industry as this bill addresses. The second thing is it was indicated that is kind of the way we dealt with methamphetamine. He was the prime sponsor on HB 1396 and that bill was designed to deal with bad actors who were criminals who were out there taking lives. He does not see this bill anything like that bill, these are law abiding people who own small businesses in our community and I think they are doing a good job policing themselves. I find it interesting that some one can't serve someone two glasses of wine but can sell them a whole bottle of wine. I don't think we can solve our problem with forty nine new lines in the century code.

Ron Iverson, private citizen, owner of Dempsey Public House, Fargo, ND. We are responsible bar owners. College age kids eighteen, nineteen, and twenty years old can not come into my establishment because it is against the law. The fact of the matter is when someone comes into his establishment, I in no way want to over serve them or harm that person. All our staff is mandated to go through a server training course which is mandated by law and if they do not, they are not allowed to work in my bar. We do market drink specials like any business markets their product. I think this bill is a solution in search of a problem.

Robert Harms, lobbyist for the ND Hospitality Association, testified in opposition of SB 2269.
(See attachment #3)

Connie Hofland, ND Wholesale Liquor Dealers, testified on behalf of Rob Hansen in opposition of SB 2269. (See attachment # 4)

Lisa Hixson, Manager of City Sports Bar, Bismarck ND testified in opposition of SB 2269. Her bar also mandates that all her employees are trained before serving a drink. There is a lot more responsibility being taken by people that are drinking then is being given credit for.

No Further Testimony.

Chairman Cook closed the hearing on SB 2269.

Chairman Cook said that if SB 2269 were passed, they would have to do some drastic work to it.

Senator Warner moved a Do Not Pass

Senator Olafson seconded the motion.

Discussion

Senator Anderson said this is a law that is to easy to get around.

Senator Warner said that this is an issue that would better be served by local ordinance.

Roll call: Yes 5 No 0 Absent 0

Carrier: **Senator Warner**

Date: 2-1-07
 Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2269

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Senator Warner Seconded By Senator Olafson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X		Senator Arden C. Anderson	X	
Senator Curtis Olafson, ViceChair	X		Senator John M. Warner	X	
Senator Nicholas P. Hacker	X				

Total Yes 5 No 0

Absent 0

Floor Assignment Senator Warner

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2269: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO NOT PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2269 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

SB 2269

SB 2269 Senator Tim Flakoll

Good morning Chairman Cook and committee members.

Substance abuse is a dangerous and expensive problem.

At work, alcohol and drug abuse by employees causes many expensive problems ranging from lost productivity, injuries and an increase in health insurance claims. The **loss to companies** in the United States due to alcohol and drug-related abuse by employees totals more than **\$100 Billion per year**, according to the National Clearing House for Alcohol and Drug Information.

Let me briefly share with you a few pieces of information that highlight the problem:

- 1) In many workplaces, 20-25% of accidents at work involve intoxicated people injuring themselves and innocent victims.
- 2) A hospital emergency room study showed that 35% of patients with an occupational injury were at-risk drinkers.
- 3) In another emergency room study, breathalyzer tests detected alcohol in 16% of the people who were injured at work.
- 4) Absenteeism is 2-3 times higher for drug and alcohol users than for other employees.

- 5) Employees with chemical dependency problems may make as many as **3 times** as many sickness claims and as many as **5 times** as many workers' compensation claims.
- 6) A recent survey showed that 14% of surveyed employees had to redo work within the past year because of a co-worker's drinking problem.
- 7) 1,700 college students ages 18-24 die each year from alcohol related injuries.
- 8) A national study of a one year period showed that more than 696,000 students between the ages of 18-24 were assaulted by another student who had made poor drinking choices. That is more people who were assaulted than live in the entire state of North Dakota.

We live in an age where people watch a great deal of Television from CSI to Grey's Anatomy to Cold Case. The down side to that viewer ship is that people develop a line of thinking, that problems regardless of their size can be solved in 60 minutes or less.

It simply is not that easy. Dealing with complex issues such as substance abuse takes a holistic effort on many fronts to combat the issue. The problems are a result of numerous intertwined effectors and therefore require numerous points of attack to have measured success.

SB 2269 addresses one of those points. It targets a hotspot of the problem, that being late night drinking at establishments in our state.

Please note that at one time I was the holder of a liquor license at one of the largest capacity liquor serving locations in the state of North Dakota. We did not offer three for ones or five for ones that are prohibited during select times by this bill. Nor did we provide cut rate drinks during certain times. Why not? Well there are a couple of reasons. First if you have three for ones or five for ones your cost of product increases by the obvious rate of 3-5 times. Secondly it encourages people to drink to excess. People's level of alcohol consumption is limited by three general effectors 1) capacity (there is a limit to distention), 2) how much money they have to spend and 3) sense of knowing when to say "stop, I have had enough." The bill before you increases the importance of #2 in curbing excessive drinking.

We cannot afford to stand by quietly. We must engage everyone in the solution, because you are involved whether you use or abuse substances or not.

That concludes my testimony and I would be happy to stand for any questions.

North Dakota University System

TESTIMONY TO SENATE POLITICAL SUBDIVISIONS on SB-2269

*Laura Oster-Aaland, Director Orientation and Student Success
North Dakota State University*

FEBRUARY 1, 2007

Mr. Chairman and members of the Committee,

For the record, I am Laura Oster-Aaland, Director of Orientation and Student Success at North Dakota State University and member of the North Dakota Higher Education Consortium for Substance Abuse Prevention. I am testifying in the absence of Dr. Karin Walton, Director of the North Dakota Higher Education Consortium for Substance Abuse Prevention.

The Chancellor, the North Dakota University System and the North Dakota Consortium for Substance Abuse Prevention in Higher Education are taking a position in support for Senate Bill No. 2269: Excessive Drink Discounting.

Colleges and universities are working to identify effective strategies to address college drinking in an attempt to reduce alcohol-related problems, including death among this population. A parallel search for effective strategies to reduce alcohol-related problems is occurring in communities and states throughout the nation. Individual drinking behavior is influenced by a myriad of environmental factors, such as messages in the media, community norms and attitudes, public and institutional policies and practices, and economic factors (Wagenaar and Perry, 1994). Reductions in alcohol use and related problems may be achieved by changing such environmental factors (Toomey et al., 1993).

This bill is one such tactic that would be considered an effective environmental management strategy. The consortium operates at three levels in an attempt to change the aforementioned environmental factors: The campus level, which addresses campus issues; the community level, which addresses community issues; and the state level, which impacts public policy.

It is important to state that we are not a prohibition group. Rather, the consortium seeks campus communities where student safety and success is not jeopardized by the use of alcohol or other substances and advocates for stronger prevention policies, participates in campus-community partnerships, and the development of evidence-based prevention programs.

This includes the prevention of over-consumption of alcohol. Drink promotions, drink specials, such as happy hours, drinking contests, "all you can drink" specials, and the like, encourage over-consumption of alcohol by reducing prices – a compelling incentive to drinking large amounts of alcohol over a short period of time.

Research has documented that:

1. Alcohol consumption, intoxication and drinking/driving rates are sensitive to the price of alcoholic beverages (Chaloupka, et al., 2002).

2. Underage individuals and young adults are affected by the cost of alcohol and studies show that increasing the price of alcohol significantly reduces the number of drinks consumed by this population (Grossman, et al., 1998; Chaloupka, et al., 2002).
3. The research offers strong evidence for the negative health outcomes of happy hours and other drink specials practices, suggesting that policies restricting these practices could have a positive impact on public health.
 - a. In a happy hour research study (Babor, et al., 1978)
 - The experimental group was given a 50 percent price reduction for alcohol during a daily three-hour period in the afternoon.
 - The control group received full price drinks during the same daily three-hour period in the afternoon.
 - The results indicate that the casual and heavy drinkers in the happy hour group drank about twice as much as those in the non-happy hour group.
 - b. A College Alcohol Study by the Harvard School of Public Health studied the relationship between binge-drinking rates on college campuses and the availability of large volumes of alcohol, low sales prices, and frequent promotions and advertisements in the vicinity of campus. This included serving sizes, prices, and promotions (Kuo, et al., 2003).
 - They found that there is a significant correlation between lower drink prices and higher binge-drinking rates, which is defined as five or more drinks in a row in one sitting.
 - They also found that there was a reduction in self-reported drinking and driving rates when laws limited underage access to alcohol and high volume sales of alcohol (drink discounting) (Wechsler, et al., 2003).
 - Lastly they found that laws banning high volume sales contributed to lower rates of drinking and driving among college students, a group at risk for both binge drinking and alcohol-related traffic fatalities (Wechsler, et al., 2003; NHTSA, 2002; NHTSA, 2004).
 - c. Over half (27) of the States currently have laws that specifically prohibit happy hours, drink specials and other practices that encourage drinking to intoxication. Minnesota is working on similar legislation during the current legislative session.

Given North Dakota's national ranking for alcohol use, across all age groups, this issue reaches far beyond the college campus. The National Survey on Drug Use and Health (2004), identifies that in the past month among all persons ages 12 or older, ND had the highest rate of binge drinking, which again is drinking five or more drinks in a row in one sitting (and equivalent to the definition of heavy episodic drinking). I have included all age group comparisons in Tables 1 and 2 as supportive documentation to the prevalence of alcohol, tobacco and other drugs use in ND citizens.

There is a striking difference in the prevalence of alcohol compared to other drugs such as marijuana, methamphetamine, and all other illicit drug use combined. North Dakota citizens have a higher rate than the national rate for alcohol consumed in the past 30 days and heavy episodic drinking (5 or more in a row in a sitting) across all age groups youth, young adults, college age, and adults. Clearly, this is not merely a youth problem in our state.

Table 1: National and State Use Rates in Percentage

30-day Use	Youth (12-17)		Young Adult (18-25)		College (18-22)		Adult (26 +)	
	US	ND	US	ND	US	ND	US	ND
Alcohol 30 day use	43 ^a	49 ^a	55.7 ^b	73.0 ^c	32.4 ^b	75.6 ^d	49.5 ^b	59.4 ^c
Heavy Episodic or Binge Use	25 ^a	33.8 ^a	42.0 ^b	42.0 ^b	48.8 ^d	54.8 ^d	22.0 ^b	22.0 ^b
Tobacco 30 day	23.0 ^a	22.1 ^a	39.5 ^b	41.0 ^c	30.5 ^b	38.5 ^d	24.1 ^b	30.5 ^c
Marijuana	20.0 ^a	15.5 ^a	34.2 ^b	15.2 ^c	18.8 ^d	11.4 ^d	4.1 ^b	2.9 ^c
Methamphetamines*	6.2 ^a	5.4 ^a	1.6 ^b	NA	4.1 ^b	2.5 ^d	0.4 ^b	NA
Other Illicit Drugs‡	10.6 ^b	11.6 ^c	19.4 ^b	18.0 ^c	20.2 ^b	0.4	5.5 ^b	4.2 ^c
ND Past Yr ^c								
	Youth (12-17)		Young Adult (18-25)		College (18-22)		Adult (26 +)	
Illicit Drug Dependence‡	3.2		4.4		NA		0.9	
Depend. or Abuse	5.9		7.3		NA		1.4	
Alcohol Dependence	3.3		8.4		NA		2.8	
Depend or Abuse	10.3		27.1		NA		7.5	
Need Treatment Illicit Drug	5.4		6.9		NA		1.3	
Need Treatment Alcohol	9.5		25.7		NA		6.7	

a -Youth Risk Behavior Survey, 2005; b - National Survey of Drug Use and Health, 2004; c- National Survey of Drug Use and Health, 2003; d- Core Alcohol and Drug Survey, 2005; *Lifetime Use – 30 day use not available; ‡ All illicit drugs except marijuana

Table 2: National and State Risk Factors in Percentage

Risk Factors (YRBS)	National		North Dakota	
	2003	2005	2003	2005
Riding with a driver who had been drinking	30.2	28.5	42.8	37.4
Driving after drinking alcohol	12.1	10.0	26.7	22.0
First drink before age 13 years	27.8	25.6	25.4	19.7
Smoked a whole cigarette before age 13 years	18.3	16.0	18.7	17.3
Tried marijuana before age 13 years	9.9	8.7	7.9	6.7

In an article dated November 30, 2006 in the Grand Forks Herald, North Dakota ranked 7th on the Fatal Fifteen list, an annual ranking of states in which 41% or more of all traffic fatalities are alcohol-related. We are listed at 47% and have made this list twice in a four year period. A quote from that article by Lt. Kelly Rogers of the ND Highway Patrol states “What we see on the highway with drunk drivers is they are not social drinkers...they are suffering from alcohol abuse.” Drink discounting contributes to alcohol abuse as is documented in the studies I mentioned.

Aside from the previous data outlining North Dakota’s ranking in alcohol use and abuse, I would like to demonstrate our concern in retailers promoting alcohol at a discounted price, drink specials that promote all you can drink for one price, and free drinks for a period of time. Please see Attachment A for examples of Ad that demonstrate these practices.

For the record I think we need to talk about the definition of a standard drink. A standard drink is any drink that contains about 14 grams of pure alcohol (about 0.6 fluid ounces or 1.2 tablespoons). Attachment B is a description of standard drink equivalents as well as the number of standard drinks in different container sizes for each beverage. Scientists define a standard drink as one 12 ounce beer; 8-9 ounces of malt liquor; 5 ounces of table wine; or 1.5 ounces of 80-proof hard liquor.

As you can see there are several ads for Long Island Iced Teas at a reduced price (\$1.50 - \$2.00). Just for the record, I would like everyone here to be aware that there is no tea in a Long Island Iced Tea. A Long Island Iced Tea is typically 1 shot vodka (80 proof), 1 shot tequila (80 proof), 1 shot rum (80 proof), 1 shot gin (94 proof), 1 shot triple sec (60 proof) (a strong, sweet and colorless orange flavored liqueur), 1 1/2 shots sweet and sour mix and a splash Coca-Cola. That makes the alcohol content in one Long Island Iced Tea equivalent to 5 shots of alcohol (depending the proof of each of the shots it would be the equivalent to about 5 standard drinks).

A common phrase typically heard is, "I'm just gonna stop off and have a couple of drinks on my way home." Assuming that a "couple" is two – these two Long Island Iced Teas would contain 10 shots of alcohol, which is 10 standard drinks, which is not equal to 2 drinks rather equivalent to over a 1/2 pint of alcohol, all for the low price of \$3.00 to \$4.00, equal or less than the cost of a pack of cigarettes. Other ads demonstrate establishments that begin their discounting from 9:00 pm to close. And yet another ad references a dice game in which the winner gets a free drink. Based on the research, these practices have the potential to increase drinking quantity, and thus endanger individuals and the public.

The average 150 pound male can metabolize one standard drink per hour without becoming impaired. So serving two or more drinks at one time, or serving a high volume of drinks for a low price is speeding up the rate of impairment, risking individual and public safety.

The alcohol industry, specifically Anheuser Busch has a campaign titled "*Responsibility Matters.*" In attachment C you will see two letters from the Vice President of Consumer Affairs at Anheuser Busch; one dated January 2005 and addressed to President Charles Kupchella at the University of North Dakota and one dated May 2006 and addressed to Dr. Robert Potts, former Chancellor of the North Dakota University System. I would like to draw your attention to the 4th paragraph "Our company's position on college drinking is clear: if students are 21 and older and choose to drink, we want them to do so responsibly; if they are under 21, we want them to respect the law and not drink."

I also have a copy of a pamphlet from Anheuser Busch, Inc. titled "*Our Commitment: Community Programs to Promote Alcohol Awareness*". In attachment D, I would like to draw your attention to the underlined portion of this brochure. "Today, our national campaign – Responsibility Matters – provides a clear, concise reminder that one of the best solutions to addressing alcohol abuse is to emphasize personal responsibility. That means implementing effective education and awareness programs that promote responsibility and responsible behaviors – parents talking with their children about underage drinking, adults being designated drivers, retailers checking I.D.s to prevent sales to minors, and more."

We believe that "and more" includes responsibility by the retailers. Quite frankly, we really would rather not be here today. We would really prefer the alcohol industry police themselves -- however that is not the case as evidenced by the advertisements for drink specials you have just witnessed.

Responsibility does matter and this should be a joint effort between the consumer and the promoter. It creates an incredible contradiction of "*use our products in moderation*" or "*drink responsibly.*" It also creates a mixed message to our youth, who coming of age believe this is the manner in which you consume alcohol -- drink a large amount of alcohol, over a short period of time, at a reduced price. How do we expect our youth to say no when the environment around them says yes?

With all due respect, the alcohol industry is not our enemy it's our competition and the prevention field does not have the resources to compete with the revenue they generate. We simply want to be on an even playing field. Limiting excessive drink discounting by retailers is one step in which to even the playing field, not only between the industry and prevention, but also between retailers. Some retailers tell us that they would rather sell their drinks at full price, however, when their competitor down the street is discounting drinks or providing a discount to college students, and advertising those specials, retailers are pressured to use the same tactics.

I like to consider this bill similar to the legislation that was passed last session which placed a ban on the amount of pseudoephedrine that could be purchased at one time. Pseudoephedrine is the product in cold medicine that is used in the manufacturing of methamphetamine. This has been a successful environmental management tactic that has contributed to the reduction of Meth labs in North Dakota. Though we are not a prohibition group, and alcohol is legal, we must keep in mind that alcohol is also a drug. A drug that can be lethal when consumed rapidly, in large quantities.

The passing of this bill could also be a successful environmental management tactic that would contribute to decreasing heavy episodic drinking, drinking and driving fatalities, and the mixed messages in the community. It would also challenge the retailers to adhere to the statements of expected responsibility by the alcohol industry. Restricting these practices could have a positive impact on public health, because as we all know high risk drinking can be a life or death matter.

That completes my testimony. Thank you for your time. I would be pleased to attempt to answer any questions the committee might have.

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