

2011 SENATE JUDICIARY

SB 2145

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2145
1/17/11
Job #12968

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to alcoholic beverage license exception for nonprofit organizations.

Minutes:

There is attached testimony

Senator Nething – Chairman

Senator Olafson- Vice Chairman – opens the hearing SB2145.

Keith Lauer – Director of the Gaming Division for the Attorney General's Office
He believes the intent of this bill was because of an informal opinion from their office that if a non-profit organization was doing some type of fundraiser anything such as a silent auction, raffle or other prize contest that would be consideration being paid for alcohol and you would need the appropriate licensing under state law. What this law is doing is providing a new subsection that says; if a nonprofit organization sells alcohol as part of a fund raising activity they would be exempt from having a retail alcoholic beverage license.

Senator Lyson – Asks why they wouldn't have several raffles a month and be able to sell alcohol without a license.

Lauer – Said the gaming statute does not limit the number of raffles unless you do it under a local permit. A local permit limits the prizes to a value of \$12,000. It comes down to local control with site authorization.

Senator Lyson – Mentions liquor licenses are expensive and now in this bill we are going to allow people to sell without a license and where is the liability come from the people selling the alcohol.

Lauer – Said this is usually from silent auctions where someone has donated alcohol for a benefit and maybe distributes it in a basket or such.

Senator Lyson – Says the bill does not say that.

Senator Nelson – Mentions this deals with baskets donated for fundraisers and is not selling booze at a fundraiser. The proceeds go to good causes.

Senator Lyson – Said he agrees completely, but that is not what the bill says. He believes there needs to be an amendment.

Senator J. Lee – District 13 – Sponsor of the bill. She explains the reason for the bill. The goal is not to open this up in any kind of wild way; it is really intended just for those circumstances where the alcohol is included in some sort of gift basket. She said they are just trying to make legal what everyone is doing.

Senator Lyson – Asks Senator Lee if she would mind if they amended it to make sure it isn't something that is sold like in individual drinks.

Senator Lee – Responds no problem with that.

Opposition

Jerry Hjelmstad – North Dakota League of Cities – He said local governing boards use their licensing authority to regulate the sale of alcoholic beverages and this would diminish their ability to regulate properly.

Senator Olafson – Asks him if the bill was amended would it alleviate his concerns.

Jeff Balentine – Chief of Police for Minot Police Dept – See written testimony. Opposed to this bill in its current form. He would be in favor if this bill were amended.

The committee discusses how to amend it to say alcoholic beverages that are raffled or auctioned off cannot be opened on the premises.

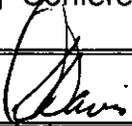
Senator Olafson closes the hearing on SB2145.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2145
1/17/11
Job #12969 – 6:24

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to alcoholic beverage license exception for nonprofit organizations

Minutes:

No attached testimony

Committee work

Committee discusses making amendments that say no open containers. They cannot sell any liquor at the event unless there is a licensed dealer. Senator Lyson will work with Senator Lee to come up with an amendment. They also agreed that the prize shouldn't be opened.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2145
1/18/11
Job #13036 – 1:10

Conference Committee

Committee Clerk Signature 

Minutes:

Committee Work

Senator Olafson opens the meeting on SB2145

Senator Lyson offers an amendment. Senator Nelson told of someone she spoke with that was the impetus for this bill. She said that at an event the license hold sell liquor. Senator Sitte said when talking with the beverage dealers they would like to see that it must be in a sealed container added to the language. Senator Olafson said it is implied that it is sealed. Senator Nething remarks that you do not want to seal the basket. Senator Lyson said no one is going to buy something that is not sealed. The committee agrees on an amendment.

Senator Lyson moves the amendment

Senator Nelson seconds

Verbal vote – all yes

Senator Lyson motions for a do pass as amended

Senator Nelson seconds

Roll call vote

6 yes – 0 no

Senator Nelson will carry

11.0381.01001
Title.02000

Adopted by the Judiciary Committee

January 19, 2011

Handwritten initials and date:
1-19-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2145

Page 1, line 15, after the underscored period insert "If the alcoholic beverage is sold as part of an event, the sale may not be for consumption at that event."

Renumber accordingly

Date: 1-18-11
Roll Call Vote # _____

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2145 - amended

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen Lyson Seconded By Sen Nelson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman			Carolyn Nelson		
Curtis Olafson - V. Chairman					
Stanley Lyson					
Margaret Sitte					
Ronald Sorvaag					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Verbal yes

Date: 1/18/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2145

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Lyson Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 6 No 6

Absent _____

Floor Assignment Senator Nelson

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

REPORT OF STANDING COMMITTEE

SB 2145: Judiciary Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2145 was placed on the Sixth order on the calendar.

Page 1, line 15, after the underscored period insert "If the alcoholic beverage is sold as part of an event, the sale may not be for consumption at that event."

Renumber accordingly

2011 HOUSE POLITICAL SUBDIVISIONS

SB 2145

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

SB 2145
March 4, 2011
Job # 14935

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to alcoholic beverage license exception for nonprofit organizations.

Minutes:

Chairman Johnson: Opened the hearing on SB 2145.

Senator Lee: It looks like we are opening up alcoholic beverage consumption in an unusual way and let me give you a minutes worth of back ground. It turns out that somebody enquired at one of the local police stations about those silent auctions that we often have where there is a basket with a bottle of wine and some crackers and cheese and summer sausage and some stuff. It turned out that according to the Attorney General's office that they are selling liquor without a license. For example the Fargo-Moorhead Symphony has an event called Wine on the Red and they have a wine tasting there and a local beverage business gets a permit for that. But the baskets that might be there that are given by anyone and they donate it and bring that home. Or you might have something at the local American Legion and gift baskets that have alcoholic beverage in and nobody's intention was to violate the law. We certainly recognize that sometimes those are pretty good fund raisers when there is a basket like that of consumables. That is the reason for this being introduced is to permit that narrow little notch of gift baskets and promotions for silent auctions etc. We tied it up some in the Senate to make sure that it says it can't be consumed on the premises and it has to be sealed. Obviously we don't want anyone under age consuming it.

Rep. Klemin: The fund raising activity versus event; are those two different things as far as this is concerned?

Senator Lee: This is the way Legislative Counsel drafted it for us so I trusted them to have covered it. It is intended to be the event referring back to the fund raising activity. If you would be more comfortable with again repeating the fund raising activity I guess we could.

Rep. Klemin: It seems like it might have been two different things. That is why I asked the question.

Senator Lee: If there is a way to make this clear that we are just talking about that event. In some cases it might be a raffle so I am not sure it is an event then?

Rep. Klemin: So the intent is if the alcoholic beverage is sold as a part of a fund raising activity it may not be for consumption at that activity?

Senator Lee: As I mentioned with this Wine on the Red and silent auction. There are certainly others that are like that too. There also have been events where there might be somebody with medical costs and the local American Legion has a feed and silent auction and there might be a basket there. Or there might be somebody who has a raffle and one of the prizes might be a basket so it isn't clear so I leave it to you to clarify it. The intent is to permit a gift item, which is being sold for a nonprofit fund raising purpose to include something that might have an adult beverage in it. I agree we need to be careful with the wording.

Opposition: None

Hearing closed.

Rep. Koppelman: I think that sentence stands on its own to modify the type of activity. All it says is if an alcoholic beverage is sold as part of an event that the sale may not be for consumption at that event. So I don't think it is saying it has to be part of the fund raising event. We could move the sentences around if it would read clearer, but I think the intent is that. I do have another question though and that is if we could run into abuse if somebody said OK I am going to do a raffle and I am going to raffle off 12 kegs of beer. If there is not limit here could that be a problem?

Chairman Johnson: If they want to raffle off 12 kegs of beer or whatever if it is for a fund raising for a nonprofit maybe they need to raffle off 30.

Rep. Klemin: The reason I thought it was two different things is because you look on line 15; the first part of that says as part of a fund raising activity. The last part of the line says as part of an event. It sort of makes it sound like they are not necessarily the same thing. Maybe the intent that it is an event that includes a fund raising activity. That is what I understood the intent there. Maybe we need to do some adjustment to that language if the alcoholic beverage is sold as a part of an event which includes a fund raising activity the sale may not be for consumption of it at that event.

Chairman Johnson: It could read if the alcoholic beverages is sold as part of that event or we could substitute if the alcoholic beverage is sold as part of a fund raising activity the sale may not be for consumption at that event.

Rep. Koppelman: There are separate sentences and I think what it is saying is at fund raising activities and in the last line of the bill it defines in the last line of the bill what a fund raising activity is. Then it is implying if that activity is an event like a silent auction then the alcohol can't be consumed at that event. We could say fund raising in front of the event.

Chairman Johnson: If we reverse the last two sentences maybe that would help?

Rep. Hatelstad: I think we need to establish the fact that the reason we are selling it is for the purpose of fund raising; that is the purpose of the event so I think fund raising needs to be there in front of every event.

Rep. Koppelman: I would move the we amend the bill to reverse the last two sentences in their order and also before event insert instead of the an a fund raising. So item three would read this section does not apply to a nonprofit organization that sells an alcoholic beverage as part of a fund raising activity as used in this subsection because fund raising activity includes an auction; raffle or other prize contests for which consideration is given if the alcoholic beverage is sold as part of a fund raising event the sale may not be for consumption at that event. Seconded by Rep. Klemin.

Discussion:

Rep. Devlin: I am going to resist the amendment. I think we are over fixing again. There are two or three different things that could be talked about here. I have been to conventions which are not fund raising activities where they do this type of thing that part of the thing is a fund raiser, but not the whole thing. I think we are talking about two or three different things and I really think the way it is worded here takes care of the problem that was supposed to be addressed so I am going to resist the amendment.

Rep. Kretschmar: I think the amendment does make the section a little more clearly and it would flow a little better in the reading of it. Senator Lee said this is just a fund raiser, but the creativity of man trying to sell liquor will do something that we maybe don't consider right now, but we will have to just wait and see for that.

Rep. Klemin: I think the fact we are having so much discussion about this is evidence that there is something that needs to be cleared up here. I would support the amendment but I can see Rep. Devlin point too.

Rep. Devlin: I would never disagree with my good friend Rep. Kretschmar, but the intent here is not to sell liquor. The intent here is to raise funds for a nonprofit organization and there may be a bottle of liquor in the basket along with 20 other things. We are just trying to raise some money and one of those things is a bottle of liquor and we just want those people to be able to be in compliance.

Chairman Johnson: We have the amendment before us.

Voice vote: Unsure. Roll Call Vote: 9 Yes 5 No Carried.

Do Pass As Amended Motion Made by Rep. Devlin: Seconded by Rep. Beadle

Vote: 14 Yes 0 No 0 Absent Carrier: Rep. Heilman:

March 4, 2011

YK
3/4/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2145

Page 1, line 15, remove "If the alcoholic beverage is sold as part of an event,"

Page 1, line 16, remove "the sale may not be for consumption at that event."

Page 1, line 18, after the underscored period insert "If the alcoholic beverage is sold as part of
a fundraising event, the sale may not be for consumption at that event."

Renumber accordingly

Date: 3-4-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2175

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Koppelman Seconded By Rep. Klamara

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski		✓
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer		✓
Rep. Beadle	✓		Rep. Mock		✓
Rep. Devlin		✓	Rep. Zaiser		✓
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 9 No 5

Absent 0

Floor Assignment _____

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

carried

Date: 3-4-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2145

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Devlin Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle	✓		Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser	✓	
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Heilman

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

REPORT OF STANDING COMMITTEE

SB 2145, as engrossed: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2145 was placed on the Sixth order on the calendar.

Page 1, line 15, remove "If the alcoholic beverage is sold as part of an event."

Page 1, line 16, remove "the sale may not be for consumption at that event."

Page 1, line 18, after the underscored period insert "If the alcoholic beverage is sold as part of a fundraising event, the sale may not be for consumption at that event."

Renumber accordingly

2011 SENATE JUDICIARY

CONFERENCE COMMITTEE

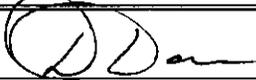
SB 2145

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2145
4/8/11
Job # 16449

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to alcoholic beverage license exception for nonprofit organizations

Minutes:

Senators:

Lyson
Sitte
Nelson

Representatives:

Devlin
Heilman
Mock

Senator Lyson asks Representative Devlin to explain the changes that were done to the bill by the House. Rep. Devlin said they moved a couple sentences around so it would read better and they clarified that it is a fund raising event that they were talking about.

Senator Nelson moves the Senate accede to House amendments

Senator Sitte seconded

Roll call vote – 6 yes, 0 no

Senator Lyson will carry

2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Judiciary

Bill/Resolution No. 2145 as (re) engrossed

Date: 4-8-11

Roll Call Vote #: 1

- Action Taken**
- SENATE accede to House amendments
 - SENATE accede to House amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) 694 -- 695

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: Nelson Seconded by: Sitte

Senators	4/8	Yes	No		Representatives	4/8	Yes	No
<u>Lyson</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<u>Devlin</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
<u>Sitte</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<u>Heilman</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
<u>Nelson</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<u>Mock</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

Vote Count: Yes 6 No 0 Absent _____

Senate Carrier Lyson House Carrier Devlin

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2145, as engrossed: Your conference committee (Sens. Lyson, Sitte, Nelson and Reps. Devlin, Heilman, Mock) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ pages 694-695 and place SB 2145 on the Seventh order.

Engrossed SB 2145 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

SB 2145

Sorvaag, Ronald G.

From: Michael D. Reitan [Michael.Reitan@westfargond.gov]
Date: Monday, January 17, 2011 8:33 AM
To: Nelson, Carolyn C.; Sorvaag, Ronald G.
Subject: SB 2145

Senators Nelson and Sorvaag

I understand this is very short notice but there has been discussion with the Chiefs on SB 2154. I have corresponded with Senator Lee and found the intent of the bill is to allow alcoholic beverages to be part of the 'prize' in a fund raising event without the non-profit having to pursue an alcohol license. As currently written the Chiefs are concerned the non-profit could set up a bar and sell alcohol. If the wording could be changed to: This section does not apply to a nonprofit organization that sells an alcoholic beverage as part of a prize or auction item during a fundraising activity. As used in this subsection, fundraising activity includes an auction, raffle, or other prize contest for which consideration is given. An alcoholic beverage sold as part of a prize or auction item during a fundraising activity shall not be consumed upon the site of the fundraising activity unless a license has been issued.

Thank you for your consideration_

Assistant Chief Mike Reitan
West Fargo Police Department
800 4th Ave E
West Fargo, 58078
701-433-5500

fax 433-5508
reitan@westfargond.gov
202

It's Not about being Right, It's about *doing* Right

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2145 (2)

**Chief of Police
Jeff Balentine
Minot Police Department**

701 857-4701

515 2nd Ave. SW Minot, ND 58701

January 15, 2011

To: Honorable Senate Judiciary Committee Members

Re: S.B. 2145 Nonprofit organizations that sells alcoholic beverages as part of fundraising Activity does not need liquor license.

Honorable Senators;

I would respectfully request you vote NO on S.B. 2145. If this bill were to past there would be no enforcement sanctions to a nonprofit organization for a alcohol violation since they have no liquor license from the State or local authority. Currently if an organization wants an alcohol license outside of the licensed premise then they would submit to the City of Minot an application to hold the event along with a drawing of the area alcohol will be dispensed in. I would look over the application and decide if officers should be assigned to the event at their cost or if security is needed based on number of anticipated persons attending. I would also want strict control of entry points and carding of persons entering the alcohol area. Also under City of Minot alcohol laws they must have a wall or fenced area of atleast 72" in height. As this law is written this would pertain to auctions, raffles, or other prize contests. There are quite a few of these events in the city and would present a difficult enforcement problem as there is no liquor license to enforce as this law does not require one.

Thank you for your consideration to vote NO on this bill.

**Chief Jeff Balentine
Minot Police**