

2011 SENATE JUDICIARY

SB 2257

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2257
1/24/11
Job#13276

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to providing a location for underage drinking of alcoholic beverages.

Minutes:

There is attached written testimony

Senator Nething – Chairman

Senator Olafson – Vice Chairman opens the hearing

Senator Dotzenrod – District 26 – Introduces the bill and describes how it came to be. This was as a result of meetings held during the summer. This group was trying to find some solutions to the problems of underage drinking. They looked at laws around us that have to do with social host. This bill was modeled after an ordinance in Great Falls Montana.

It was an attempt to fix the responsibility for underage drinking for people hosting events. It is an attempt to impose on the social host some responsibility in the statute. He said the key words in this bill are knowledge and knowing. If someone is not aware they are not responsible.

Senator Nelson – Asks if this bill will make it the responsibility of the apartment house owner.

Senator Dotzenrod – Replies it doesn't add any responsibility for them to monitor any more but it does say that if they become aware or knowledgeable then there is a responsibility that is fixed on them.

Senator Nelson – Asks if it is worth the time and effort to get an infraction as a penalty.

Senator Dotzenrod – Replies it is a \$500 fine.

Senator Olafson – Wonders as a landowner his increased liability if this bill were to pass.

Senator Dotzenrod – States once again its knowledge and knowingly. He has heard from states around us that this bill would be a helpful tool. He says if the committee thinks this is going to become a liability exposure then they may not want to pass this.

Senator Olafson – Questions whether we need the bill because as a landowner the first thing he would think of is liability exposure and call law enforcement.

Senator Dotzenrod – Responds what he is hearing is that there are adults involved in these things.

Senator Olafson – Says we already have laws on the book to charge adults for this.

Senator Dotzenrod – Said what came out of the summer meetings was that we need a social host law.

Senator Nelson – Wonders what the definition of reasonable effort would be.

Senator Dotzenrod – Doesn't believe they do but this bill is a tool available to law enforcement.

Jane Vangsness Frisch – Director of the Higher Education Consortium for Substance Abuse Prevention – See written testimony – supports the bill with amendments

Senator Olafson – Asks her to go through the amendments.

Senator Lyson – Asks why we don't have anything in this bill for parents that don't stop their kids from drinking. Why allow aren't the students being expelled from college when caught drinking. Why aren't we putting the blame on the people that are doing it rather than something like this?

Vangsness Frisch – States, students are held accountable for their behavior and some have been expelled. This bill also goes after those that may be on a lease of a property that hosts a large gathering. She goes on to say it is not just parents they are addressing.

Senator Lyson – Says he can't vote this bill as it sits.

Senator Sorvaag – Asks why everyone but the colleges should be held accountable.

Vangsness Frisch – Said they do take steps but to support the bill it needed to be in there.

Alan Astad – ND Association of Justice – Said his association was in here two years ago and tried to impose a civil liability for someone hosting a keg party on their farm and was told that current law says you don't need to do that and nor will you be held civilly liable if that happens. He states there is no civil liability on the farmer today so it shouldn't be an issue with this bill. This bill says there is no way someone will be liable is if you knew it. Kids don't drink unless an adult has bought the booze. He doesn't think the colleges should be held unaccountable. He believes there should be a significant penalty of the adults that are buying the alcohol.

Senator Olafson – Ask why trial lawyers have an interest in the bill.

Astad – Says many of their members are criminal defense lawyers, many are prosecutors, and their concern is for families that have children injured after coming off a keg party.

Senator Nelson – Asks what the age of the RA's are in the dorms.

Vangsness Frisch – Replies there is no age requirement.

Opposition

Sandy Clark – Represents ND Farm Bureau – See written testimony

Senator Sorvaag – Asks if there are instances of retribution.

Clark – Her association has a serious concern about that.

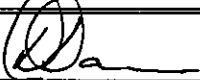
Close the hearing 2257

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2257
2/9/11
Job #14277

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to providing a location for underage drinking of alcoholic beverages.

Minutes:

Senator Nething – Chairman

Senator Olafson explains this is the bill that puts the burden on a land owner to notify law enforcement if they become aware of people under the age of 21 consuming alcoholic beverages on their property.

Senator Lyson says the farmer can also be charged if he doesn't call law enforcement. He says this bill is a punishment to everyone but the person in there illegally drinking beer.

Senator Olafson moves a do not pass
Senator Sitte seconds

Discussion

Senator Sitte mentions testimony brought up which said making a third party responsible for someone else's actions is contrary to common sense.

Roll call vote – 6 yes, 0 no
Motion carries

Senator Sitte will carry

Date: 2/9/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2257

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 S. Olafson Seconded By S. Sitte

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 0

Absent _____

Floor Assignment S. Sitte

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

REPORT OF STANDING COMMITTEE

SB 2257: Judiciary Committee (Sen. Nething, Chairman) recommends DO NOT PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2257 was placed on the
Eleventh order on the calendar.

2011 TESTIMONY

SB 2257

①

North Dakota University System

SB 2257 – Judiciary Committee

January 24, 2011

Jane Vangsness Frisch

Mr. Chairman, members of the Judiciary Committee. Good Morning. For the record, my name is Jane Vangsness Frisch, Director of the Higher Education Consortium for Substance Abuse Prevention, an initiative of the North Dakota University System (NDUS).

The Chancellor, the North Dakota University System, and the Higher Education Consortium for Substance Abuse Prevention support Senate Bill No. 2257, with amendments as introduced in the handouts given. The proposed amendments allow this bill to be supported by the NDUS.

Research has shown that youth who use alcohol before age 15 are five times more likely to become alcohol dependent than adults who begin drinking at age 21.¹ Also, cutting edge research has recently revealed that the late adolescent brain isn't completely done developing until the mid-twenties and alcohol consumption can adversely affect the brain development of these late adolescents.² This research illustrates why keeping alcohol out of the hands of those under the age of 21 is so important. Unfortunately, some individuals disregard these laws; with the mindset that they are doing these young people a favor by permitting them to 'safely' drink in their home. On the 2008 North Dakota CORE Drug and Alcohol survey, which surveyed a representative sample of students from all North Dakota University System Campuses and Jamestown College, 9.1 percent of underage students reported obtaining alcohol from their parents and 49.8 percent reported getting the alcohol from friends over the age of 21.³

As we know, law enforcement officers are typically not able to determine who provided the alcohol when they arrive to a party where underage people or students are consuming. Therefore, laws that prohibit furnishing alcohol to youth under 21 years old can be hard to enforce – especially in college party settings. If passed, the amended bill would make it illegal for anyone to knowingly allow underage drinkers to drink in their home, apartment, or property (such as a field or pasture). This bill, as amended, would also serve as a practical tool for law enforcement and communities in holding adults accountable for allowing minors to drink on their property. It would send a clear message to adults that providing a place for underage people to consume alcohol is not acceptable.

Research has shown that social host laws such as this serve as a deterrent to adults/older students that allow underage drinking to happen on their property or in their homes.⁴ Similar laws in 8 states⁵ and over 150 communities and counties have proven that social host is a successful strategy in minimizing the harm high-risk drinking has on individuals – and these laws have also shown to have a positive impact on the communities in which they are in place.⁶ These positive effects include decreased noise, lower vandalism rates, less alcohol-related ambulance transports, etc.

Although underage alcohol use will not be eliminated by passing this bill, this is an important tool to help law enforcement officers limit underage access to alcohol and hold adults who disregard the minimum legal drinking age accountable.

Thank you for your time. I would be pleased to answer any questions the committee might have.

¹ Office of Applied Studies. The NSDUH Report: *Alcohol Dependence or Abuse and Age at First Use*. Rockville, MD: Substance Abuse and Mental Health Services Administration, October 2004. Available at <http://www.oas.samhsa.gov/2k4/ageDependence/ageDependence.html>

² http://www.niaaa.nih.gov/AboutNIAAA/NIAAASponsoredPrograms/Documents/NIAAA_Brain_Fact_Sheet_508.pdf

³ 2008 North Dakota CORE Drug and Alcohol Survey Results

⁴ Saltz, R.F., Paschall, M.J., McGaffigan, R.P., & Nygaard, P.M. (2010). Alcohol Risk Management in College Settings: The safe California universities randomized trial. *American Journal of Preventive Medicine*, 39 (6), 491-499. doi:10.1016/j.amepre.2010.08.020

⁵ http://alcoholpolicy.niaaa.nih.gov/Prohibitions_Against_Hosting_Underage_Drinking_Parties.html?tab=maps

⁶ <http://www.madd.org/underage-drinking/social-host/>

PROPOSED AMENDMENTS TO SENATE BILL NO. 2257

Line 8, overstrike "dominion and"

Line 12, overstrike "dominion and"

Line 17 after "effort" insert "may" and strike the "s" from the word "includes"

After line 20, insert:

4. This section does not apply to the furnishing or giving of any alcoholic beverages by an adult to any person under the age of twenty-one years, if the recipient is the legal ward, medical patient or member of the immediate family of the adult furnishing or giving the alcoholic beverage; or to the consumption, use or possession of alcoholic beverages in connection with a religious observance.

5. Nothing in this section shall be construed to impose liability on the State Board of Higher Education and its officials, agents and employees for the conduct of persons who are occupying or present in or on dwelling units or other property owned or controlled by the board. However, the board, through its institution officials, agents and employees shall take steps reasonably necessary to prohibit and inhibit unlawful consumption and possession of alcoholic beverages by minors.



**North Dakota
Farm Bureau**

Bringing ag home

1101 1st Ave. N., Fargo, ND 58102
P.O. Box 2064, Fargo, ND 58107-2064
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

4023 State St., Bismarck, ND 58503
P.O. Box 2793, Bismarck, ND 58502-2793
Phone: 701-224-0330 • 1-800-932-8869 • Fax: 701-224-9485

**Testimony on SB 2257
Senate Judiciary Committee**

January 24, 2011

Presented by Sandy Clark, public policy director

Good morning, Mr. Chairman, and members of the committee. My name is Sandy Clark and I represent North Dakota Farm Bureau.

We stand today in opposition to SB 2257. Certainly, we don't want alcohol parties on our land. Usually, the landowner has to clean up the remains of these parties, including glass bottles, cans and other debris. There is also a chance for wildfires during these parties. So we don't want parties on our land.

However, we see several problems with this bill. First, we don't think it's the landowners' responsibility to do law enforcement's job. This bill puts the onus on the property owner. We object to being charged with an infraction if we don't call law enforcement.

Most of the time, the landowner doesn't even know that it's happening. Furthermore, we are concerned that this bill could add another level of liability to the landowner.

At the same time, unfortunately, the possibility of retribution by the partiers exists if the landowner turns them in.

Finally, we have concerns about how far this bill could go. Here's the scenario. The property owner has a wedding reception, family reunion or any other event within the confines of their own property. An underage person "sneaks" an alcoholic beverage. Are we supposed to turn in our family member or our friend's teenager?

Again farmers and ranchers do not want these parties on their land either, but we don't think this bill will stop the partying. It only puts an undue burden on the landowner.

We appreciate your consideration and urge you to give SB 2257 a "do not pass" recommendation.

Thank you and I would entertain any questions.