# Sixty-fourth Legislative Assembly of North Dakota
# In Regular Session Commencing Tuesday, January 6, 2015

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.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2333.

| | | | |
|---|---|---|---|
| Senate Vote: | Yeas 46 | Nays 1 | Absent 0 |
| House Vote: | Yeas 70 | Nays 20 | Absent 4 |

Secretary of the Senate

Received by the Governor at 8:33 A.M. on April 20, 2015.

Approved at 11:20 A.M. on April 20, 2015.

Governor

Filed in this office this 20th day of April, 2015,

at 2:33 o'clock P.M.

Secretary of State