

N.D.A.G. Letter to Ficek (Aug. 4, 1987)

August 4, 1987

Mr. Vince H. Ficek
City Attorney
Ficek Law Office
41 First Avenue West
P.O. Box 866
Dickinson, ND 58601-0866

Dear Vince:

Thank you for your letter of May 13, 1987, concerning whether fraternal organizations are allowed to sell beer and wine on Sunday pursuant to N.D.C.C. § 5-02-05.2.

Since fraternal organizations were specifically included by Senate Bill 2380 the issue is whether they are included in the definition of eating establishments. The bill defines eating establishments as restaurants or licensed commercial establishments. Upon inquiry, it appears that the North Dakota State Laboratories and/or local government entities do license the majority of fraternal organizations which sell food as restaurants. Therefore, if a fraternal organization is licensed as a restaurant by a governmental entity in North Dakota and can meet the further restrictions listed in that section, (i.e., 50 percent or more from sales on food, etc.) they may be authorized to sell beer and wine on Sunday.

For those fraternal organizations which are not licensed by governmental entities as restaurants, further inquiry has determined that many taxing authorities classify fraternal organizations as commercial establishments for purposes of property tax. Therefore, if a fraternal organization is, in fact, classed by a governmental entity as a commercial establishment and can meet the other requirements of N.D.C.C. § 5-02-05.2 as mentioned above, then they may also be authorized to sell beer and wine on Sunday pursuant to this section.

If you have any further questions on this matter, do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

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