

N.D.A.G. Letter to Kelsch (Sep. 20, 1991)

September 20, 1991

Honorable RaeAnn Kelsch
State Representative
515 Marilyn Drive
Mandan, ND 58554

Dear Representative Kelsch:

Thank you for your September 12, 1991, letter in which you have presented questions pertaining to the 1991 amendments to N.D.C.C. § 5-02-05.1, the special Sunday alcoholic beverage permit law.

You first ask whether N.D.C.C. § 5-02-05.1 grants a governing body the authority to issue a single Sunday permit for an entire calendar or license year to a restaurant or other establishment qualifying for the permit under that section.

Prior to the 1991 amendments, the special Sunday alcoholic beverage permit authorized by N.D.C.C. § 5-02-05.1 was limited in time to only one Sunday. If a qualifying establishment desired to be open for three Sundays, that establishment would have had to receive three separate permits from the governing body.

However, amendments to N.D.C.C. § 5-02-05.1 deleted the one Sunday time limitation. N.D.C.C. § 5-02-05.1(2) now provides, in Part:

A special permit granted by the city or county may be effective for more than one Sunday.

This provision now authorizes the governing body to issue a single special permit for one or more Sundays. N.D.C.C. § 5-02-05.1 no longer contains any limitation as to the number of Sundays which may be included within the special permit authorized by the governing body.

You have also inquired as to whether N.D.C.C. § 5-02-05.1 actually grants the governing body a local option to allow qualifying establishments to be open every Sunday.

Prior to its 1991 amendments, N.D.C.C. § 5-02-05.1 limited the authority of a governing body to issue a special Sunday alcoholic beverage permit. N.D.C.C. § 5-02-05.1(4), as it existed prior to the 1991 amendments, prohibited the issuance of a permit allowing the distribution of alcoholic beverages at gatherings or meetings which, in the opinion of the governing body, were primarily local in nature. The 1991 amendments to N.D.C.C. § 5-02-05.1 removed this limitation upon the authority of the governing body to grant a special permit. A governing body now has the authority to issue a special alcoholic

beverage permit to a qualifying alcoholic beverage licensee or publicly owned or operated facility for any Sunday regardless of the existence of an event. N.D.C.C. § 5-02-05.1 no longer requires an event, whether local or not, as a condition precedent for the issuance of the special Sunday alcoholic beverage permit.

I trust that I have adequately responded to your inquiries.

Sincerely,

Nicholas J. Spaeth

jfl

cc: Representative Bob Martinson