

N.D.A.G. Letter to Herr (Aug. 7, 1986)

August 7, 1986

Mr. Richard E. Herr
City Attorney
P.O. Box 67
Wishek, ND 58495

Dear Mr. Herr:

Thank you for your letter dated July 9, 1986, in which you requested information concerning private wedding receptions where alcoholic beverages would be served and minors would be present.

In your letter you state, "A tavern licensed by the city of Wishek has two large rooms. It has inquired of the city-council of the city of Wishek whether it may rent one room out for wedding receptions to private parties. The only persons permitted in the one room would be the guests of the wedding. The tavern would sell alcoholic beverages to the guests. As often is the case, there would be minors present but no alcoholic beverages would be sold to them."

If such a party is being held on licensed liquor premises where alcoholic beverages are being sold or displayed, allowing minors on such premises would be in violation of N.D.C.C. §5-02-06.

Title 5 of the N.D.C.C. contains no statutory definition of the term "licensed premises." This office has avoided formulating an inflexible administrative definition. This has been done because local governments have the ability to more precisely define that term to fit their local situation.

The question of what constitutes "licensed premises" must be determined on a case-by-case basis. Letters and memoranda that have been compiled in this office concerning the definition of the term "license premises" do offer some guidance.

A licensed premise is a fixed location; it is an area that must be adequately physically separated from that area not a part of the licensed premise. Licensed premises do not include lots and do not necessarily include the entire building housing a business where alcoholic beverages are sold. In the case of off-sale, a licensed premise is always that enclosed area where alcoholic beverages are sold. In the case of an on-sale establishment, a licensed premise is always that area where alcoholic beverages are regularly sold and displayed. A guideline in determining the location of licensed premises of a particular establishment is the licensee's application. An examination of the application should determine the area that was designated by the licensee as that which was intended as being part of the licensed premises.

If it is determined the room where the reception is being held is not part of the "licensed premise," unless the city has a local ordinance prohibiting it, alcoholic beverages could be consumed by persons 21 years of age and over, but not sold in this room.

Sincerely,

Nicholas J. Spaeth

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