

N.D.A.G. Letter to Wilhelm (Aug. 11, 1986)

August 11, 1986

Mr. Timothy C. Wilhelm
Assistant State's Attorney
Ward County Courthouse
Minot, ND 58701

Dear Mr. Wilhelm:

Thank you for your letter of May 30, 1986, concerning special permits for the sale of alcoholic beverages. In your letter you asked two different questions.

Your first question states:

1. May a local governing body (the Ward County Commissioners) issue, pursuant to N.D.C.C. §5-02-01.1, three consecutive special permits to a licensee, each authorizing three consecutive days of alcoholic beverage sale at the same special event?

In 1977, the North Dakota Legislature first considered the enactment of what is now N.D.C.C. §5-02-01.1. When that statute was first introduced, it stated that a special permit would be for one day only and that separate permits were necessary for each day of the event.

Testimony was given that many special events last three days and that this would require three separate permits. The legislative committee then amended the bill to reflect the change to three-day permits. The only discussion on the number of permits that could be obtained by a licensee was that they would be restricted to a specific function or event. However, the record is mute as to whether multiple permits could be issued at one time or whether they would have to be issued one at a time.

Since it appears that it was the intent of the Legislature to allow for special permits to be issued for specific events, and with no statutory language to the contrary, I believe it appropriate for a local licensing authority to grant, at one time, the number of special permits necessary to authorize the sale of alcohol at a specific event or function. Therefore, I would answer your first question in the affirmative.

Your second question states:

2. Is the phrase "three consecutive days" as stated in N.D.C.C. § 5-02-01.1 to be given its literal meaning or should it be interpreted to mean three consecutive days on which the sale of alcohol is legal, i.e., Friday, Saturday, and Monday?

The language in the appropriate legislative history indicates that a special permit could not extend the hours of sale or otherwise change the liquor laws (see attached comments, HB 1350, 45th Assembly (1977), House Political Subdivision Committee, Jan. 28, 1977 and Senate Political Subcommittee, Feb. 25, 1977). Therefore, the three consecutive days in that section would refer to three consecutive days "in which it is otherwise legal to sell alcoholic beverages."

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

Sincerely,

Nicholas J. Spaeth

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Enclosure

cc: LaVerne Reinbold