

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **2141**

04/07/2015 Authored by Hoppe

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to liquor; changing legal drinking age to 19; amending Minnesota
1.3 Statutes 2014, sections 340A.301, subdivision 2; 340A.34; 340A.402,
1.4 subdivision 1; 340A.410, subdivision 4b; 340A.414, subdivision 8; 340A.417;
1.5 340A.503; 340A.701, subdivision 1; 340A.703; 340A.707; 340A.801,
1.6 subdivision 6; 340A.90.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 **ARTICLE 1**

1.9 **PERSONS UNDER 19**

1.10 Section 1. Minnesota Statutes 2014, section 340A.503, is amended to read:

1.11 **340A.503 PERSONS UNDER 21 19; ILLEGAL ACTS.**

1.12 Subdivision 1. **Consumption.** (a) It is unlawful for any:

1.13 (1) retail intoxicating liquor or 3.2 percent malt liquor licensee, municipal liquor
1.14 store, or bottle club permit holder under section 340A.414, to permit any person under the
1.15 age of ~~21~~ 19 years to drink alcoholic beverages on the licensed premises or within the
1.16 municipal liquor store; or

1.17 (2) person under the age of ~~21~~ 19 years to consume any alcoholic beverages. If
1.18 proven by a preponderance of the evidence, it is an affirmative defense to a violation of
1.19 this clause that the defendant consumed the alcoholic beverage in the household of the
1.20 defendant's parent or guardian and with the consent of the parent or guardian.

1.21 (b) An offense under paragraph (a), clause (2), may be prosecuted either in the
1.22 jurisdiction where consumption occurs or the jurisdiction where evidence of consumption
1.23 is observed.

(c) As used in this subdivision, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.

Subd. 2. **Purchasing.** It is unlawful for any person:

(1) to sell, barter, furnish, or give alcoholic beverages to a person under ~~21~~ 19 years of age;

(2) under the age of ~~21~~ 19 years to purchase or attempt to purchase any alcoholic beverage unless under the supervision of a responsible person over the age of ~~21~~ 19 for training, education, or research purposes. Prior notification of the licensing authority is required unless the supervised alcohol purchase attempt is for professional research conducted by postsecondary educational institutions or state, county, or local health departments; or

(3) to induce a person under the age of ~~21~~ 19 years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a person under the age of ~~21~~ 19 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of clause (1) that the defendant is the parent or guardian of the person under ~~21~~ 19 years of age and that the defendant gave or furnished the alcoholic beverage to that person solely for consumption in the defendant's household.

Subd. 3. **Possession.** It is unlawful for a person under the age of ~~21~~ 19 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

Subd. 4. **Entering licensed premises.** (a) It is unlawful for a person under the age of ~~21~~ 19 years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage.

(b) Notwithstanding section 340A.509, no ordinance enacted by a statutory or home rule charter city may prohibit a person ~~18, 19, or 20~~ years old from entering an establishment licensed under this chapter to:

(1) perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by section 340A.412, subdivision 10;

(2) consume meals; and

(3) attend social functions that are held in a portion of the establishment where liquor is not sold.

Subd. 5. **Misrepresentation of age.** It is unlawful for a person under the age of ~~21~~ 19 years to claim to be ~~21~~ 19 years old or older for the purpose of purchasing alcoholic beverages.

Subd. 5a. **Attainment of age.** With respect to purchasing, possessing, consuming, selling, furnishing, and serving alcoholic beverages, a person is not ~~21~~ 19 years of age until 8:00 a.m. on the day of that person's ~~21st~~ 19th birthday.

Subd. 6. **Proof of age; defense; seizure of false identification.** (a) Proof of age for purchasing or consuming alcoholic beverages may be established only by one of the following:

(1) a valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) a valid military identification card issued by the United States Department of Defense;

(3) a valid passport issued by the United States; or

(4) in the case of a foreign national, by a valid passport.

(b) In a prosecution under subdivision 2, clause (1), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in paragraph (a) in selling, bartering, furnishing, or giving the alcoholic beverage.

(c) A licensed retailer or municipal liquor store may seize a form of identification listed under paragraph (a) if the retailer or municipal liquor store has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A retailer or municipal liquor store that seizes a form of identification as authorized under this paragraph must deliver it to a law enforcement agency, within 24 hours of seizing it.

Subd. 8. **Prosecution; immunity.** (a) A person is not subject to prosecution under subdivision 1, paragraph (a), clause (2), or subdivision 3, if the person contacts a 911 operator to report that the person or another person is in need of medical assistance for an immediate health or safety concern, provided that the person who initiates contact is the first person to make such a report, provides a name and contact information, remains on the scene until assistance arrives, and cooperates with the authorities at the scene.

(b) The person who receives medical assistance shall also be immune from prosecution under paragraph (a).

(c) Paragraph (a) also applies to one or two persons acting in concert with the person initiating contact provided that all the requirements of paragraph (a) are met.

ARTICLE 2

CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2014, section 340A.301, subdivision 2, is amended to read:

Subd. 2. **Persons eligible.** (a) Licenses under this section may be issued only to a person who:

(1) is of good moral character and repute;

(2) is ~~21~~ 19 years of age or older;

(3) has not had a license issued under this chapter revoked within five years of the date of license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; and

(4) has not been convicted within five years of the date of license application of a felony, or of a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages. The Alcohol and Gambling Enforcement Division may require that fingerprints be taken and may forward the fingerprints to the Federal Bureau of Investigation for purposes of a criminal history check.

(b) In order to determine if an individual has a felony or willful violation of federal or state law governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage, the applicant for a license to manufacture or sell at wholesale must provide the commissioner with their signed, written informed consent to conduct a background check. The commissioner may query the Minnesota criminal history repository for records on the applicant. If the commissioner conducts a national criminal history record check, the commissioner must obtain fingerprints from the applicant and forward them and the required fee to the superintendent of the Bureau of Criminal Apprehension. The superintendent may exchange the fingerprints with the Federal Bureau of Investigation for purposes of obtaining the applicant's national criminal history record information. The superintendent shall return the results of the national criminal history records check to the commissioner for the purpose of determining if the applicant is qualified to receive a license.

5.1 Sec. 2. Minnesota Statutes 2014, section 340A.34, is amended to read:

5.2 **340A.34 WINEMAKING ON PREMISES STORE.**

5.3 A commercial establishment in which individuals make wine on the premises for
5.4 personal and family use only and not for resale, using ingredients or materials or both
5.5 supplied by the establishment, is not required to be licensed under this chapter if the
5.6 establishment is operated in accordance with Code of Federal Regulations, title 27, section
5.7 24.75. No person under the age of ~~21~~ 19 years may participate in the making of wine in
5.8 such an establishment. Alcoholic beverages may not be sold or otherwise provided to
5.9 customers of an establishment described in this section unless the establishment holds the
5.10 appropriate license for such sale or provision.

5.11 Sec. 3. Minnesota Statutes 2014, section 340A.402, subdivision 1, is amended to read:

5.12 Subdivision 1. **Disqualifiers.** No retail license may be issued to:

5.13 (1) a person under ~~21~~ 19 years of age;

5.14 (2) a person who has had an intoxicating liquor or 3.2 percent malt liquor license
5.15 revoked within five years of the license application, or to any person who at the time of
5.16 the violation owns any interest, whether as a holder of more than five percent of the capital
5.17 stock of a corporation licensee, as a partner or otherwise, in the premises or in the business
5.18 conducted thereon, or to a corporation, partnership, association, enterprise, business, or
5.19 firm in which any such person is in any manner interested;

5.20 (3) a person not of good moral character and repute; or

5.21 (4) a person who has a direct or indirect interest in a manufacturer, brewer, or
5.22 wholesaler.

5.23 In addition, no new retail license may be issued to, and the governing body of a
5.24 municipality may refuse to renew the license of, a person who, within five years of the
5.25 license application, has been convicted of a felony or a willful violation of a federal or
5.26 state law or local ordinance governing the manufacture, sale, distribution, or possession
5.27 for sale or distribution of an alcoholic beverage. The Alcohol and Gambling Enforcement
5.28 Division or licensing authority may require that fingerprints be taken and forwarded to the
5.29 Federal Bureau of Investigation for purposes of a criminal history check.

5.30 Sec. 4. Minnesota Statutes 2014, section 340A.410, subdivision 4b, is amended to read:

5.31 Subd. 4b. **Notice posting.** (a) A premises licensed for the retail sale of alcoholic
5.32 beverages and a municipal liquor store must post and maintain in a conspicuous place
5.33 within the licensed premises clearly visible to consumers: one sign 14-1/2 inches wide

by 8 inches high as designed by the commissioners of health and public safety, which incorporates the following information:

- (1) the penalties of driving while under the influence of alcohol;
 - (2) penalties for serving alcoholic beverages to a person who is obviously intoxicated or under ~~21~~ 19 years of age; and
 - (3) a warning statement regarding drinking alcohol while pregnant.
- (b) The commissioners of health and public safety shall design a sign that complies with this subdivision and shall make the sign available for reproduction. A retail licensee or municipal liquor store may not modify the sign design but may modify the color.

Sec. 5. Minnesota Statutes 2014, section 340A.414, subdivision 8, is amended to read:

Subd. 8. **Lockers.** A club issued a permit under this section may allow members to bring and keep a personal supply of intoxicating liquor in lockers on the club's premises. All bottles kept on the premises must have attached to it a label signed by the member. No person under ~~21~~ 19 years of age may keep a supply of intoxicating liquor on club premises.

Sec. 6. Minnesota Statutes 2014, section 340A.417, is amended to read:

340A.417 SHIPMENTS INTO MINNESOTA.

(a) Notwithstanding section 297G.07, subdivision 2, or any provision of this chapter, a winery licensed in a state other than Minnesota, or a winery located in Minnesota, may ship, for personal use and not for resale, not more than two cases of wine, containing a maximum of nine liters per case, in any calendar year to any resident of Minnesota age ~~21~~ 19 or over. Delivery of a shipment under this section may not be deemed a sale in this state.

(b) The shipping container of any wine sent under this section must be clearly marked "Alcoholic Beverages: adult signature (over ~~21~~ 19 years of age) required."

(c) It is not the intent of this section to impair the distribution of wine through distributors or importing distributors, but only to permit shipments of wine for personal use.

(d) No criminal penalty may be imposed on a person for a violation of this section other than a violation described in paragraph (e) or (f). Whenever it appears to the commissioner that any person has engaged in any act or practice constituting a violation of this section, and the violation is not within two years of any previous violation of this section, the commissioner shall issue and cause to be served upon the person an order requiring the person to cease and desist from violating this section. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. Unless otherwise agreed between the parties, a hearing shall be held not later than seven days after the request for the hearing is received by the

commissioner after which and within 20 days after the receipt of the administrative law judge's report and subsequent exceptions and argument, the commissioner shall issue an order vacating the cease and desist order, modifying it, or making it permanent as the facts require. If no hearing is requested within 30 days of the service of the order, the order becomes final and remains in effect until modified or vacated by the commissioner. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(e) Any person who violates this section within two years of a violation for which a cease and desist order was issued under paragraph (d), is guilty of a misdemeanor.

(f) Any person who commits a third or subsequent violation of this section within any subsequent two-year period is guilty of a gross misdemeanor.

Sec. 7. Minnesota Statutes 2014, section 340A.701, subdivision 1, is amended to read:

Subdivision 1. **Unlawful acts.** It is a felony:

(1) to manufacture alcoholic beverages in violation of this chapter;

(2) to transport or import alcoholic beverages into the state in violation of this chapter for purposes of resale; or

(3) to sell or give away for beverage purposes poisonous alcohol, methyl alcohol, denatured alcohol, denaturing material, or any other alcoholic substance capable of causing serious physical or mental injuries to a person consuming it; or

(4) for a person other than a licensed retailer of alcoholic beverages, a bottle club permit holder, a municipal liquor store, or an employee or agent of any of these who is acting within the scope of employment, to violate the provisions of section 340A.503, subdivision 2, clause (1), by selling, bartering, furnishing, or giving alcoholic beverages to a person under ~~21~~ 19 years of age if that person becomes intoxicated and causes or suffers death or great bodily harm as a result of the intoxication.

Sec. 8. Minnesota Statutes 2014, section 340A.703, is amended to read:

340A.703 MISDEMEANORS.

Where no other penalty is specified a violation of any provision of this chapter is a misdemeanor. A minimum fine of \$100 must be assessed against a person under the age of ~~21~~ 19 years who violates section 340A.503.

Sec. 9. Minnesota Statutes 2014, section 340A.707, is amended to read:

340A.707 AUCTION OR RAFFLE FOR CHARITABLE PURPOSES.

Notwithstanding sections 340A.401, 340A.414, and 340A.505, a nonprofit organization conducting a silent auction, raffle, or other fund-raising event may conduct live, on premises auctions or raffles of wine, beer, or intoxicating liquors, provided that funds from the auction or raffle are dedicated to the charitable purposes of the nonprofit organization, such auctions or raffles are limited to not more than six occasions per year, and the alcohol may only be auctioned or raffled to persons who demonstrate that they are ~~21~~ 19 years of age or older and do not show signs of obvious intoxication. Nothing in this section authorizes on-premises consumption of alcohol.

Sec. 10. Minnesota Statutes 2014, section 340A.801, subdivision 6, is amended to read:

Subd. 6. **Common law claims.** Nothing in this chapter precludes common law tort claims against any person ~~21~~ 19 years old or older who knowingly provides or furnishes alcoholic beverages to a person under the age of ~~21~~ 19 years.

Sec. 11. Minnesota Statutes 2014, section 340A.90, is amended to read:

340A.90 CIVIL ACTION; INTOXICATION OF PERSON UNDER AGE ~~21~~ 19.

Subdivision 1. **Right of action.** (a) A spouse, child, parent, guardian, employer, or other person injured in person, property, or means of support, or who incurs other pecuniary loss, by an intoxicated person under ~~21~~ 19 years of age or by the intoxication of another person under ~~21~~ 19 years of age, has for all damages sustained a right of action in the person's own name against a person who is ~~21~~ 19 years or older who:

(1) had control over the premises and, being in a reasonable position to prevent the consumption of alcoholic beverages by that person, knowingly or recklessly permitted that consumption and the consumption caused the intoxication of that person; or

(2) sold, bartered, furnished or gave to, or purchased for a person under the age of ~~21~~ 19 years alcoholic beverages that caused the intoxication of that person.

This paragraph does not apply to sales licensed under this chapter.

(b) All damages recovered by a minor under this section must be paid either to the minor or to the minor's parent, guardian, or next friend as the court directs.

(c) An intoxicated person under the age of ~~21~~ 19 years who caused the injury has no right of action under this section.

Subd. 2. **Subrogation claims denied.** There shall be no recovery by any insurance company for any subrogation claim pursuant to any subrogation clause of the uninsured, underinsured, collision, or other first-party coverages of a motor vehicle insurance policy

- 9.1 as a result of payments made by the company to persons who have claims that arise in
- 9.2 whole or in part under this section.

APPENDIX
Article locations in 15-3410

ARTICLE 1 PERSONS UNDER 19 Page.Ln 1.8
ARTICLE 2 CONFORMING AMENDMENTS Page.Ln 4.3