

N.D.A.G. Letter to Slorby (July 7, 1987)

July 7, 1987

Mr. Tom P. Slorby
Ward County State's Attorney
Ward County Courthouse
Minot, ND 58701

Dear Mr. Slorby:

Thank you for your letter of May 27, 1987, requesting my opinion as to whether a licensed commercial establishment may be permitted to sell beer and wine on Sunday at the North Dakota State Fair. I concur with your opinion that Senate Bill No. 2380 provides that wine and beer may only be sold on Sundays at the licensee's regular place of business and only in that part of the business habitually used for the serving and preparing of meals.

I have attached a copy of the legislative history on Senate Bill No. 2380. At no time did the legislature contemplate that the service of wine and beer would be held in conjunction with a special permit authorized under N.D.C.C. § 5-02-01.1, or in any other location other than "that part of the eating establishment habitually used for the serving and preparing of meals."

As noted by the bill sponsor, Senator Ray Holmberg, on February 4, 1987, in his testimony before the Senate Industry, Business and Labor Committee, Senate Bill No. 2380 "would not open up the sale of beer and wine, it must be served in the area where the meal is currently being served." Hearing on S. 2380 Before the Industry, Business and Labor Committee, 50th Leg., (Feb. 4, 1987) (Statement of Sen. R. Holmberg). In none of the testimony given at that hearing or the hearing before the House State and Federal Government Committee on March 10, 1987, was there any testimony that would indicate that the legislature contemplated that sales of wine and beer would be permitted outside the normal eating area. In fact, as specifically pointed out, wine and beer could only be served in the part of the eating establishment used for serving and preparing of meals, not even in the lounge area associated with that establishment.

Thus, I can find no support to allow a eating establishment to serve wine and beer on Sunday at any other location than at its regular place of business in the area that is habitually used for the serving of prepared meals.

Sincerely,

Nicholas J. Spaeth

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Enclosure