

“Under the Trooper’s Hat”

By: Trooper Michael Hayen
North Dakota Highway Patrol

I had the opportunity to speak with Mr. Brandner’s class at Wishek High School last month regarding numerous topics, such as laws and policing. Most of the questions were centered on alcohol possession and use by juveniles. I’m addressing some of those questions in this month’s article.

What is ‘minor in possession’ or ‘minor in consumption’? What are the consequences?

According to North Dakota Century Code 5-01-08, for the purpose of alcohol consumption and/or possession, a minor is considered someone under the age of twenty-one. It is unlawful for a minor to manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed, be under the influence of, be in possession of, or furnish money to any individual for the purchase of an alcoholic beverage. The only exception to this rule is the consumption of alcohol during a religious service.

The penalty for violating the above law is a class B-misdemeanor. A class B misdemeanor carries a maximum penalty of thirty days’ imprisonment, a fine of one thousand five hundred dollars, or both. If the minor is age 18 or above, the charge is referred to the county district court. If the minor is under the age of 18, the case is referred to juvenile court. The court may impose an alcohol and drug education program, or an alcohol and drug evaluation and treatment.

In addition to criminal consequences, a student’s school may sanction the student from sports and other extracurricular activities. Law enforcement is required by law to notify the school superintendent of all drug and alcohol violations by students. If a student has a conviction of a minor in possession or consumption, it may affect eligibility for scholarships, financial assistance, admission into colleges and future employment.

Any individual knowingly delivering alcoholic beverages to an individual who is under 21 years of age is guilty of a class A-misdemeanor as per North Dakota Century Code 5-01-09. A class A-misdemeanor carries a maximum penalty of 360 days’ imprisonment, a \$3,000 fine, or both.

I always hear about reasonable suspicion and probable cause. What’s the difference?

Law enforcement officers may, with reasonable suspicion, stop a vehicle or a person for a violation of a law. Reasonable suspicion is based on specific and articulable facts in which a reasonable person would, in the same circumstances, reasonably believe that a person has been, is, or will be engaged in a violation of the law. If an officer sees a traffic violation, then the officer has reasonable suspicion to stop the vehicle.

Examples are an officer observing a person not stopping at a stop sign, failing to signal when turning or not having proper registration.

Probable cause is the standard that police officers use to make an arrest, apply for a search warrant to arrest, search for property or search for evidence of a crime. The U.S. Supreme Court has defined probable cause as "where the facts and circumstances within the officers' knowledge, and of which they have reasonably trustworthy information, are sufficient in themselves to warrant a belief by a man of reasonable caution that a crime is being committed."

Probable cause has a stronger standard of evidence than reasonable suspicion, but weaker than what is required to secure a criminal conviction.

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