

House File 788 - Enrolled

House File 788

AN ACT

CONCERNING ALCOHOL BEVERAGE CONTROL, RELATING TO
MINORS AND PUBLIC INTOXICATION OR POSSESSION OF ALCOHOL AND
PROHIBITING CERTAIN LIQUOR CONTROL, WINE, OR BEER LICENSEES
OR PERMITTEES FROM KNOWINGLY PERMITTING OR ENGAGING IN
CRIMINAL ACTIVITY IN AREAS ADJACENT TO THE LICENSED PREMISES
AND MAKING PENALTIES APPLICABLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 123.46, subsection 4, Code 2009, is amended to read as follows:

4. a. A peace officer shall make a reasonable effort to identify a person under the age of eighteen who violates this section and, ~~if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of the violation, whether or not the person is taken into custody, unless the officer has reasonable grounds to believe that notification is not in the best interests of the person or will endanger that person refer the person to juvenile court.~~

b. ~~The peace officer shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent's designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the violation. If the person is taken into custody, the peace officer shall notify a juvenile court officer who A juvenile court officer shall notify the person's custodial parent, legal guardian, or custodian of the violation. In~~

~~addition, the juvenile court officer shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school, of the violation. A reasonable attempt to notify the person includes, but is not limited to, a telephone call or notice by first-class mail.~~

Sec. 2. Section 123.47, Code 2009, is amended to read as follows:

~~123.47 Persons under legal age == penalty eighteen years of age, persons eighteen, nineteen, or twenty years of age, and persons twenty-one years of age and older.~~

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under legal age.

2. A person or persons under legal age shall not purchase or attempt to purchase, or individually or jointly have alcoholic

liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence, and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter.

3. a. A person who is ~~under legal age~~ eighteen, nineteen, or twenty years of age, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits the following:

(1) A simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 7.

(2) A second offense shall be a simple misdemeanor punishable by a fine of five hundred dollars. In addition to any other applicable penalty, the person in violation of this section shall choose between either completing a substance abuse evaluation or the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

(3) A third or subsequent offense shall be a simple misdemeanor punishable by a fine of five hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

b. The court may, in its discretion, order the person who is under legal age to perform community service work under section 909.3A, of an equivalent value to the fine imposed under this section.

c. If the person who commits a violation of this section is under the age of eighteen, the matter shall be disposed of in the manner provided in chapter 232.

4. Except as otherwise provided in subsections 5 and 6, a person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section commits a serious misdemeanor punishable by a minimum fine of five hundred dollars.

5. A person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section which results in serious injury to any person commits an aggravated misdemeanor.

6. A person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section which results in the death of any person commits a class "D" felony.

Sec. 3. Section 123.47B, Code 2009, is amended to read as follows:

123.47B Parental and school notification == persons under eighteen years of age.

1. A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in

possession of alcoholic liquor, wine, or beer in violation of section 123.47 and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of such possession, whether or not the person is arrested or a citation is issued pursuant to section 805.16, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person refer the person to juvenile court.

2. The peace officer juvenile court officer shall notify the person's custodial parent, legal guardian, or custodian of the violation. In addition, the juvenile court shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent's designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the possession. If the person is taken into custody, the peace officer shall notify a juvenile court officer who shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school, of the taking into custody. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first-class mail.

Sec. 4. Section 123.49, subsection 2, paragraph j, Code 2009, is amended to read as follows:

j. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit. However, the absence of security personnel on the licensed premises is insufficient, without additional evidence, to prove that criminal activity occurring on the licensed premises was knowingly permitted in violation of this paragraph "j". For purposes of this paragraph "j", "premises" includes parking lots and areas adjacent to the premises of a liquor licensee or permittee authorized to sell alcoholic beverages for consumption on the licensed premises and used by patrons of the liquor licensee or permittee.

Sec. 5. Section 321.284, Code 2009, is amended to read as follows:

321.284 Open containers in motor vehicles == drivers.

1. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage. "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8A,

subsection 14, paragraph "e".

2. A person under the age of twenty=one who violates this section is guilty of a violation of section 123.47.

Sec. 6. Section 321.284A, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A person under the age of twenty=one years who violates this section is guilty of a violation of section 123.47.

Sec. 7. Section 805.8C, subsection 7, Code Supplement 2009, is amended to read as follows:

7. Alcoholic beverage violations by persons under legal eighteen, nineteen, or twenty years of age. For first offense violations of section 123.47, subsection 3, the scheduled fine is two hundred dollars.

PATRICK J. MURPHY
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 788, Eighty=third General Assembly.

MARK BRANDSGARD
Chief Clerk of the House

Approved _____, 2010

CHESTER J. CULVER
Governor