

COMMITTEE STATEMENT

LB 126

HEARING DATE: January 25, 1999

COMMITTEE ON: General Affairs

TITLE: (Schellpeper, Bromm, Brown, Cudaback, Jones, Landis, Dw. Pedersen, Schimek, Suttle, Vrtiska, Wehrbein, Jensen) Change provisions relating to minors in possession of alcohol

ROLL CALL VOTE – FINAL COMMITTEE ACTION

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7	Yes	Senators Connealy, Cudaback, Hartnett, Quandahl, Schellpeper, Schrock, Smith
0	No	
0	Present, not voting	
1	Absent	Senator Robak

PROPONENTS

Senator Stan Schellpeper
Senator Dwite Pedersen
Jack Crowley
Nancy McGinley
Lt. John Kucor
Steve Oltmans
Paula Childers
Kathleen Tinley
Joyce Durand
April Otterberg
David Corbin
Justin McMillan
Kendra Quandt
Sara Howard
Christina Chvala
Kalle Jones
Charose James
Bill Hutto
Susie Dugan

REPRESENTING

Introducer
Legislative District 39
Nebraska Liquor Control Commission
Nebraska Liquor Control Commission
Sarpy County Sheriff's Office
Omaha 2000
Mothers Against Drunk Driving
Project Extra Mile
Herself
Project Extra Mile-Youth in Action
Nebraska Public Health Association
Project Extra Mile-Youth in Action
Nebraska Network of Drug Free Youth
Project Extra Mile-Youth in Action
Project Extra Mile-Youth in Action
Project Extra Mile-Youth in Action
Nebraska Emergency Nurses Association
Project Extra Mile
PRIDE-Omaha

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OPPONENTS

Jim Moylan
Patty Ferguson
Cara Potter
Kathy Siefken
Mike Kelley

REPRESENTING

Nebraska Licensed Beverage Association
United Retailers Liquor Association of Nebraska
Nebraska Retail Federation
Nebraska Retail Grocers Association
NE Criminal Defense Attorneys Association, United
Retailers Liquor Association of Nebraska

NEUTRAL

REPRESENTING

SUMMARY OF PURPOSE AND/OR CHANGES:

LB 126 contains two major components: (1) Changes in penalties for minor in possession. (2) Changes in license suspension for repeat violations by retail licensees.

PROPOSED CHANGES IN MINOR IN POSSESSION PENALTIES

The current penalty for minor in possession or minor attempting to obtain alcohol is a Class III misdemeanor, which has a maximum of \$500 fine and up to 3 months in jail. There is no minimum penalty.

LB 126 would amend section 53-180.05 concerning penalties for minor in possession or minor attempting to buy alcohol as follows:

1st offense, mandatory \$250 fine and driver's license suspension of 6 months.

2nd offense, mandatory \$500 fine and driver's license suspension of one year.

3rd offense, mandatory \$750 fine and driver's license suspension for two years or until the age of 21, whichever is longer.

If granted probation, mandatory driver's license suspension for 90 days for first offense and six months for second or subsequent offenses.

All minor in possession violations would be reported to parents.

LB 126 would make two other changes: (1) Adding consumption to the definition of minor in possession in section 53-180.02, and (2) adding the changes in penalties to the notices required to be posted in retail establishments in section 53-180.04

PROPOSED CHANGES IN RETAIL LICENSE SUSPENSION

Currently the Liquor Control Commission may suspend a retail liquor license for a period of time for violations of the Liquor Control Act. However, retailers have the right to pay a fine in lieu of suspension of \$50 per day for the first offense or \$100 per day for second and subsequent offenses. Most retailers choose this option. LB 126 would amend section 53-1,104 to grant the Commission discretionary authority to require a retail license holder to suspend alcohol sales for a period of time without being able to pay a cash penalty in lieu of suspension for second or subsequent offenses for the same type of violation.

EXPLANATION OF AMENDMENTS, IF ANY:

1. New section 6 would establish a framework for compliance checks concerning sales to minors. Compliance checks would have to be conducted by, in conjunction with or under the direction of the Nebraska State Patrol and conducted pursuant to guidelines adopted by the Patrol with input from the commission. The guidelines would require truthful identification of the underage individual and truthful responses to inquiries and appear in a manner consistent with their age. The Patrol would be required to maintain records of compliance checks and make a report to the commission by December 1 of each year.

2. The term consume is defined as drinking or otherwise ingesting alcoholic liquor. It may be proved by visual observation of the person consuming liquor, or the physical appearance of the person including evidence of intoxication or aroma of alcohol on the breath of the person. There would be a rebuttable presumption that a person having .01 % of alcohol in their blood has consumed alcohol. A person charged with consumption would have the right to a chemical test pursuant to section 60-6,199.

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3. The term possession is defined as being in physical contact with or having physical control over alcoholic liquor. There would be a rebuttable presumption that a person having a container of alcoholic liquor within the reach of his or her arms is in possession of such liquor.

4. There would be a driver's license reinstatement fee of \$95.00, allocated as follows: \$50.00 to the General Fund and \$45.00 to the Department of Motor Vehicles.

5. Fine in lieu of suspension for retailers would be increased as follows: \$100.00 per day first offense; \$200.00 per day second offense.

6. License suspension without ability to pay fine for retailers would begin at 3rd violation for sale to minors or minors in possession on the premises only.

7. License suspension for retailers without ability to pay fine would not exceed 5 days.

Senator Stan Schellpeper, Chairperson