

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1034

Introduced by Robak, 22

Read first time January 6, 2000

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 sections 53-180.07 and 53-1,104, Reissue Revised Statutes
3 of Nebraska; to change provisions relating to
4 prosecutions for sale of liquor to a minor and to retail
5 license suspension; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-180.07, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 53-180.07. (1) In any prosecution of or any proceeding
4 against any licensee or any employee of a licensee charged with
5 having made a sale of alcoholic liquor to a minor, proof of the
6 following shall be an absolute defense to the charge:

7 ~~(1)(a)~~ (a)(i) The purchaser falsely represented in
8 writing and supported with other documentary proof that he or she
9 was of legal age to purchase alcoholic liquor;

10 ~~(b)~~ (ii) The appearance of such purchaser was such that
11 an ordinary and prudent person would believe that such appearance
12 conformed to any documentary description of appearance presented by
13 the purchaser; and

14 ~~(c)~~ (iii) The seller was acting in good faith, in
15 reliance upon the written representation, other documentary
16 evidence, and the appearance of the purchaser, and in the belief
17 the purchaser was of legal age to make such purchase; or

18 ~~(2)~~ (b) The seller was acting with the knowledge of and
19 in cooperation with a duly authorized law enforcement officer.

20 (2) If a licensee or employee of a licensee is charged
21 with having made a sale of alcoholic liquor to a minor, the minor
22 involved in the purchase or attempted purchase shall be (a) charged
23 for such violation of the Nebraska Liquor Control Act as is
24 appropriate or (b) referred to the juvenile court or the county
25 court sitting as a juvenile court for appropriate proceedings under
26 the Nebraska Juvenile Code. If such minor is not charged or
27 referred, if such minor is charged or referred and acquitted, or if
28 such charge is dismissed, all charges and proceedings against the

1 licensee or employee charged with having made such sale shall be
2 dismissed with prejudice.

3 (3) Subsection (2) of this section shall not apply to (a)
4 any sale made with the knowledge of and in cooperation with a duly
5 authorized law enforcement officer or (b) any action in which the
6 minor is released to a pretrial diversion program for treatment or
7 education under the direction of any law enforcement agency, the
8 juvenile court, or the county court sitting as a juvenile court
9 when the action results in charges not being filed or charges being
10 dismissed upon completion of the program.

11 Sec. 2. Section 53-1,104, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 53-1,104. (1) Any licensee which sells or permits the
14 sale of any alcoholic liquor not authorized under the terms of such
15 license on the licensed premises or in connection with such
16 licensee's business or otherwise shall be subject to suspension,
17 cancellation, or revocation of such license by the commission.

18 (2) When any order suspending a retail license to sell
19 alcoholic liquor becomes final, the licensee may elect to pay a
20 cash penalty to the commission in lieu of suspending sales of
21 alcoholic liquor for the designated period. For the first such
22 suspension for any licensee, the penalty shall be fifty dollars per
23 day. For a second or any subsequent suspension, the penalty shall
24 be one hundred dollars per day, except that for any licensee which
25 has no violation for a period of four years consecutively, the
26 suspension shall be treated as a first suspension. No suspension
27 under this section shall be for a period exceeding five days for
28 any violation involving the joint efforts of law enforcement, other

1 governmental or private agencies or entities, and other persons, by
2 which efforts the licensee is induced to commit the violation on
3 which the order of suspension is based.

4 ~~Such~~ The election shall be filed with the commission in
5 writing one week before ~~such~~ the suspension is ordered to commence
6 and shall be accompanied by payment in full of the sum required by
7 this section. If such election has not been received by the
8 commission by the close of business one week before the day such
9 suspension is ordered to commence, it shall be conclusively
10 presumed that the licensee has elected to close for the period of
11 the suspension and any election received later shall be absolutely
12 void and the payment made shall be returned to the licensee. The
13 election shall be made on a form prescribed by the commission. All
14 funds received under this section shall be remitted to the State
15 Treasurer for credit to the temporary school fund as defined in
16 section 79-101.

17 Sec. 3. Original sections 53-180.07 and 53-1,104,
18 Reissue Revised Statutes of Nebraska, are repealed.