

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 126

Introduced by Schellpeper, 18; Bromm, 23; Brown, 6; Cudaback, 36;
Jones, 43; Landis, 46; Dw. Pedersen, 39; Schimek, 27;
Suttle, 10; Vrtiska, 1; Wehrbein, 2

Read first time January 7, 1999

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 sections 53-180.02, 53-180.04, 53-180.05, and 53-1,104,
3 Reissue Revised Statutes of Nebraska; to change
4 provisions relating to minors' violations; to change
5 provisions relating to license suspension for illegal
6 sales; to harmonize provisions; and to repeal the
7 original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-180.02, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 53-180.02. Except as provided in section 53-168.06, no
4 minor may sell, consume, or dispense or have in his or her
5 possession or physical control any alcoholic liquor in any tavern
6 or in any other place, including public streets, alleys, roads,
7 highways, upon property owned by the State of Nebraska or any
8 subdivision thereof, or inside any vehicle while in or on any other
9 place, including, but not limited to, the public streets, alleys,
10 roads, highways, or upon property owned by the State of Nebraska or
11 any subdivision thereof, except that a minor may possess or have
12 physical control of alcoholic liquor in his or her permanent place
13 of residence.

14 The governing bodies of counties, cities, and villages
15 shall have the power to, and may by applicable resolution or
16 ordinance, regulate, suppress, and control the transporting,
17 knowingly possessing, or having under his or her control, beer or
18 other alcoholic liquor in or transported by any motor vehicle, by
19 persons under twenty-one years of age, and may provide penalties
20 for violations of such resolution or ordinance.

21 Sec. 2. Section 53-180.04, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 53-180.04. Every licensee of a place where alcoholic
24 liquor is sold at retail shall display at all times in a prominent
25 place a printed card with a minimum height of twenty inches and a
26 width of fourteen inches, with each letter to be a minimum of
27 one-fourth inch in height, which shall read as follows:

28 WARNING TO PERSONS UNDER 21

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YOU ARE SUBJECT TO A PENALTY OF
\$250 FINE
OPERATOR'S LICENSE SUSPENSION
AND
NOTIFICATION OF PARENTS OR GUARDIAN
FOR A FIRST OFFENSE
AND
YOU ARE SUBJECT TO A PENALTY UP TO
~~\$500 FINE~~
\$750 FINE
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MONTHS IN JAIL
OR BOTH
OPERATOR'S LICENSE SUSPENSION
AND
NOTIFICATION OF PARENTS OR GUARDIAN
FOR SUBSEQUENT OFFENSES
IF YOU ARE UNDER 21 AND YOU PURCHASE
OR ATTEMPT TO PURCHASE
OR HAVE IN YOUR POSSESSION
ALCOHOLIC LIQUOR IN THIS ESTABLISHMENT
AND
WARNING TO ADULTS
YOU ARE SUBJECT TO A PENALTY UP TO
\$1000 FINE
1 YEAR IN JAIL
OR BOTH

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IF YOU ARE 21 OR OVER AND YOU PURCHASE
ALCOHOLIC LIQUOR
FOR A PERSON UNDER 21
AND

WARNING TO PURCHASERS OF BEER KEGS
PROPER IDENTIFICATION AND PURCHASER'S SIGNATURE
ARE REQUIRED

LAWS OF THE STATE OF NEBRASKA

Sec. 3. Section 53-180.05, Reissue Revised Statutes of
Nebraska, is amended to read:

53-180.05. (1) Any person violating section 53-180 shall
be guilty of a Class I misdemeanor. Any person violating ~~any of~~
~~the provisions of sections section~~ 53-180.01 ~~to 53-180.03 or~~
53-180.02 shall be guilty of a Class III misdemeanor. ~~Any person~~
~~violating section 53-180.02, in lieu of the other penalties set out~~
~~in this subsection, may be sentenced to work on public streets, in~~
~~parks, or on other public property for a period not exceeding ten~~
~~working days and shall be fined two hundred fifty dollars for the~~
~~first such offense. For a second violation such person shall be~~
~~fin~~ed five hundred dollars. For a third and any subsequent
violation such person shall be guilty of a Class II misdemeanor and
shall be fined seven hundred fifty dollars. If the court places
such person on probation or suspends the sentence for any reason,
the court shall, as one of the conditions of probation or sentence
suspension, order such person not to drive any motor vehicle for
any purpose for a period of (a) ninety days for a first violation
of section 53-180.01 or 53-180.02 or (b) six months for a second or
subsequent violation of such sections, from the date of the order.

1 ~~Such work shall be under the supervision of the county sheriff.~~
2 ~~Upon the written certification by the county sheriff of the~~
3 ~~performance of such work, the sentence shall be satisfied.~~

4 (2) Any person violating section 53-180.03 shall be
5 guilty of a Class III misdemeanor.

6 ~~(2)~~ (3) Any person who knowingly manufactures, creates,
7 or alters any form of identification for the purpose of sale or
8 delivery of such form of identification to a person under the age
9 of twenty-one years shall be guilty of a Class I misdemeanor. For
10 purposes of this subsection, form of identification shall mean
11 means any card, paper, or legal document that may be used to
12 establish the age of the person named thereon for the purpose of
13 purchasing alcoholic liquor.

14 (4) Any person who violates section 53-180.01 or
15 53-180.02, in addition to the penalties described in subsection (1)
16 of this section, shall be subject to the suspension of his or her
17 motor vehicle operator's license for the following time periods:

18 (a) For the first violation, suspension for a period of
19 six months;

20 (b) For a second violation, suspension for a period of
21 twelve months; and

22 (c) For a third and any subsequent violation, suspension
23 for a period of two years or until the violator reaches twenty-one
24 years of age, whichever occurs last. If the person does not have
25 an operator's license when convicted or adjudicated as a juvenile,
26 he or she shall be ineligible to apply for an operator's license
27 for the time periods specified in this subsection. If the person
28 is under sixteen years of age when convicted or adjudicated as a

1 juvenile, the person shall have his or her operator's license
2 suspended on the first day of issuance for the time periods
3 specified in this subsection. An abstract of the court record of
4 every person convicted of violating section 53-180.02 and whose
5 license has been suspended pursuant to this subsection shall be
6 transmitted to the Department of Motor Vehicles. The violation
7 shall become part of the person's permanent record maintained by
8 the department. The violation shall not be expunged from the
9 person's record.

10 (5) Any minor arrested for a violation of sections 53-180
11 to 53-180.02 or subsection (3) of this section shall have his or
12 her parents or guardian notified of the arrest by the law
13 enforcement agency of the arresting peace officer.

14 Sec. 4. Section 53-1,104, Reissue Revised Statutes of
15 Nebraska, is amended to read:

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

21 (2) When ~~any~~ an order suspending a retail license to sell
22 alcoholic liquor becomes final, the licensee may elect to pay a
23 cash penalty to the commission in lieu of suspending sales of
24 alcoholic liquor for the designated period if such election is not
25 prohibited by order of the commission. For the first such
26 suspension for any licensee, the penalty shall be fifty dollars per
27 day. For a second or any subsequent suspension, the penalty shall
28 be one hundred dollars per day, except that for a second or

1 subsequent suspension for the same type of violation occurring
2 within four years after the date of the first suspension, the
3 commission, in its discretion, may order that the licensee be
4 required to suspend sales of alcoholic liquor for the designated
5 period of time and that the licensee may not elect to pay a cash
6 penalty. For 7 ~~except that for~~ any licensee which has no violation
7 for a period of four years consecutively, the second or subsequent
8 suspension shall be treated as a first suspension.

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

22 Sec. 5. Original sections 53-180.02, 53-180.04,
23 53-180.05, and 53-1,104, Reissue Revised Statutes of Nebraska, are
24 repealed.