

LEGISLATIVE BILL 258

Approved by the Governor March 17, 2010

Introduced by Harms, 48; McCoy, 39; Flood, 19.

FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-180.05, Reissue Revised Statutes of Nebraska, and section 53-101, Revised Statutes Supplement, 2009; to change and provide penalties for minors in possession of alcoholic liquor; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 53-101, Revised Statutes Supplement, 2009, is amended to read:

53-101 Sections 53-101 to 53-1,122 and section 3 of this act shall be known and may be cited as the Nebraska Liquor Control Act.

Sec. 2. 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 53-180.01 to~~ section 53-180.01 or 53-180.03 shall be guilty of a Class III misdemeanor. Any person older than eighteen years of age and under the age of twenty-one years violating section 53-180.02 is guilty of a Class III misdemeanor. Any person eighteen years of age or younger violating section 53-180.02 is guilty of a misdemeanor as provided in section 3 of this act and shall be punished as provided in such section.

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

(3) When a minor is arrested for a violation of sections 53-180 to 53-180.02 or subsection (2) of this section, the law enforcement agency employing the arresting peace officer shall make a reasonable attempt to notify such minor's parent or guardian of the arrest.

Sec. 3. The penalty for violation of section 53-180.02 by a person eighteen years of age or younger shall be as follows:

(1) If the person convicted or adjudicated of violating such section has one or more licenses or permits issued under the Motor Vehicle Operator's License Act:

(a) For the first offense, such person is guilty of a Class III misdemeanor and the court may, as a part of the judgment of conviction or adjudication, impound any such licenses or permits for thirty days and require such person to attend an alcohol education class;

(b) For a second offense, such person is guilty of a Class III misdemeanor and the court, as a part of the judgment of conviction or adjudication, may (i) impound any such licenses or permits for ninety days and (ii) require such person to complete no fewer than twenty and no more than forty hours of community service and to attend an alcohol education class; and

(c) For a third or subsequent offense, such person is guilty of a Class III misdemeanor and the court, as a part of the judgment of conviction or adjudication, may (i) impound any such licenses or permits for twelve months and (ii) require such person to complete no fewer than sixty hours of community service, to attend an alcohol education class, and to submit to an alcohol assessment by a licensed alcohol and drug counselor; and

(2) If the person convicted or adjudicated of violating such section does not have a permit or license issued under the Motor Vehicle Operator's License Act:

(a) For the first offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (i) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until thirty days after the date of such order and (ii) require such person to attend an alcohol education class;

(b) For a second offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (i) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until ninety days after the date of such order and (ii) require such person to

complete no fewer than twenty hours and no more than forty hours of community service and to attend an alcohol education class; and

(c) For a third or subsequent offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (i) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until twelve months after the date of such order and (ii) require such person to complete no fewer than sixty hours of community service, to attend an alcohol education class, and to submit to an alcohol assessment by a licensed alcohol and drug counselor.

A copy of an abstract of the court's conviction or adjudication shall be transmitted to the Director of Motor Vehicles pursuant to sections 60-497.01 to 60-497.04.

Sec. 4. Original section 53-180.05, Reissue Revised Statutes of Nebraska, and section 53-101, Revised Statutes Supplement, 2009, are repealed.