

LEGISLATIVE BILL 439

Approved by the Governor April 07, 2015

Introduced by Morfeld, 46; Davis, 43.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend section 53-181, Reissue Revised Statutes of Nebraska, and section 53-180.05, Revised Statutes Cumulative Supplement, 2014; to change penalty provisions for certain violations relating to or committed by minors or persons who are mentally incompetent; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 53-180.05, Revised Statutes Cumulative Supplement, 2014, is amended to read:

53-180.05 (1) Except as provided in subsection (2) of this section, any person who violates section 53-180 shall be guilty of a Class I misdemeanor.

(2) Any person who knowingly and intentionally violates section 53-180 shall be guilty of a Class IIIA felony and serve a mandatory minimum of at least thirty days' imprisonment as part of any sentence he or she receives if serious bodily injury or death to any person resulted and was proximately caused by a minor's (a) consumption of the alcoholic liquor provided or (b) impaired condition which, in whole or in part, can be attributed to the alcoholic liquor provided.

(3) Any person who violates any of the provisions of section 53-180.01 or 53-180.03 shall be guilty of a Class III misdemeanor.

(4)(a) Except as otherwise provided in subdivision (b) of this subsection, any 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.

(b) Subdivision (a) of this subsection shall not apply if the person:

(i) Requested emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent after such violation of section 53-180.02;

(ii) Was the first person to make a request for medical assistance under subdivision (b)(i) of this subsection as soon as the emergency situation is apparent after such violation of section 53-180.02; and

(iii) when emergency medical assistance was requested for the possible alcohol overdose of another person:

(A) Remained on the scene until the medical assistance arrived; and

(B) Cooperated with medical assistance and law enforcement personnel.

(c) A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance with subdivision (b) of this subsection.

(5) Any person eighteen years of age or younger violating section 53-180.02 is guilty of a misdemeanor as provided in section 53-181 and shall be punished as provided in such section.

(6) 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.

(7) When a minor is arrested for a violation of sections 53-180 to 53-180.02 or subsection (6) 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. 2. Section 53-181, Reissue Revised Statutes of Nebraska, is amended to read:

53-181 (1) Except as otherwise provided in subsection (3) of this section, the The penalty for violation of section 53-180.02 by a person eighteen years of age or younger shall be as follows:

(a) 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:

(i) 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;

(ii) 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 (A 1) impound any such licenses or permits for ninety days and (B 11) 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

(iii) 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 (A 1) impound any such licenses or permits for twelve months and (B 11) 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

(b 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:

(i 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 (A 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 (B ii) require such person to attend an alcohol education class;

(ii 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 (A 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 (B 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

(iii e) 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 (A 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 (B 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.

(2) 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.

(3) Subsection (1) of this section shall not apply if the person:

(a) Requested emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent after such violation of section 53-180.02;

(b) Was the first person to make a request for medical assistance under subdivision (a) of this subsection as soon as the emergency situation is apparent after such violation of section 53-180.02; and

(c) When emergency medical assistance was requested for the possible alcohol overdose of another person:

(i) Remained on the scene until the medical assistance arrived; and

(ii) Cooperated with medical assistance and law enforcement personnel.

(4) A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance with subsection (3) of this section.

Sec. 3. Original section 53-181, Reissue Revised Statutes of Nebraska, and section 53-180.05, Revised Statutes Cumulative Supplement, 2014, are repealed.