

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 281

Introduced by Karpisek, 32.

Read first time January 11, 2011

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Rules of the Road; to amend
2 sections 53-186, 53-186.01, and 60-6,211.08, Reissue
3 Revised Statutes of Nebraska; to change provisions
4 relating to consumption of alcoholic beverages and open
5 containers as prescribed; to define a term; to harmonize
6 provisions; and to repeal the original sections.

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

1 Section 1. Section 53-186, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 53-186 (1) Except as provided in subsection (2) of this
4 section or section 60-6,211.08, it shall be unlawful for any person
5 to consume alcoholic liquor upon property owned or controlled by the
6 state or any governmental subdivision thereof unless authorized by
7 the governing bodies having jurisdiction over such property.

8 (2) The commission may issue licenses for the sale of
9 alcoholic liquor at retail (a) on lands owned by public power
10 districts, public power and irrigation districts, the Bureau of
11 Reclamation, or the Corps of Army Engineers or (b) for locations
12 within or on structures on land owned by the state, cities, or
13 villages or on lands controlled by airport authorities. The issuance
14 of a license under this subsection shall be subject to the consent of
15 the local governing body having jurisdiction over the site for which
16 the license is requested as provided in the Nebraska Liquor Control
17 Act.

18 Sec. 2. Section 53-186.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 53-186.01 (1) It shall be unlawful for any person owning,
21 operating, managing, or conducting any dance hall, restaurant, cafe,
22 or club or any place open to the general public to permit or allow
23 any person to consume alcoholic liquor upon the premises except as
24 permitted by a license issued for such premises pursuant to the
25 Nebraska Liquor Control Act.

1 (2) It shall be unlawful for any person to consume
2 alcoholic liquor in any dance hall, restaurant, cafe, or club or any
3 place open to the general public except as permitted by a license
4 issued for such premises pursuant to the act.

5 (3) This section shall not apply to a retail licensee
6 while lawfully engaged in the catering of alcoholic beverages or to
7 limousines or buses operated under section 60-6,211.08.

8 (4) Any person violating subsection (1) of this section
9 shall, upon conviction thereof, be subject to the penalties contained
10 in section 53-1,100.

11 (5) Any person violating subsection (2) of this section
12 shall be guilty of a Class III misdemeanor.

13 Sec. 3. Section 60-6,211.08, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 60-6,211.08 (1) For purposes of this section:

16 (a) Alcoholic beverage means (i) beer, ale porter, stout,
17 and other similar fermented beverages, including sake or similar
18 products, of any name or description containing one-half of one
19 percent or more of alcohol by volume, brewed or produced from malt,
20 wholly or in part, or from any substitute therefor, (ii) wine of not
21 less than one-half of one percent of alcohol by volume, or (iii)
22 distilled spirits which is that substance known as ethyl alcohol,
23 ethanol, or spirits of wine in any form, including all dilutions and
24 mixtures thereof from whatever source or by whatever process
25 produced. Alcoholic beverage does not include trace amounts not

1 readily consumable as a beverage;

2 (b) Highway means a road or street including the entire
3 area within the right-of-way;

4 (c) Limousine means a luxury vehicle used to provide
5 prearranged passenger transportation on a dedicated basis at a
6 premium fare that has a seating capacity of at least five and no more
7 than fourteen persons behind the driver with a physical partition
8 separating the driver seat from the passenger compartment. Limousine
9 does not include taxicabs, hotel or airport buses or shuttles, or
10 buses;

11 ~~(e)~~ (d) Open alcoholic beverage container, except as
12 provided in subsection (3) of section 53-123.04 and subdivision (1)
13 (c) of section 53-123.11, means any bottle, can, or other receptacle:

14 (i) That contains any amount of alcoholic beverage; and

15 (ii)(A) That is open or has a broken seal or (B) the
16 contents of which are partially removed; and

17 ~~(d)~~ (e) Passenger area means the area designed to seat
18 the driver and passengers while the motor vehicle is in operation and
19 any area that is readily accessible to the driver or a passenger
20 while in their seating positions, including any compartments in such
21 area. Passenger area does not include the area behind the last
22 upright seat of such motor vehicle if the area is not normally
23 occupied by the driver or a passenger and the motor vehicle is not
24 equipped with a trunk.

25 (2) ~~It~~ Except as otherwise provided in this section, it

1 is unlawful for any person in the passenger area of a motor vehicle
2 to possess an open alcoholic beverage container while the motor
3 vehicle is located in a public parking area or on any highway in this
4 state.

5 (3) Except as provided in section 53-186 or subsection
6 (4) of this section, it is unlawful for any person to consume an
7 alcoholic beverage (a) in a public parking area or on any highway in
8 this state or (b) inside a motor vehicle while in a public parking
9 area or on any highway in this state.

10 (4) This section does not apply to persons who are
11 passengers of, but not drivers of, a limousine or bus being used in a
12 charter or special party service as defined by rules and regulations
13 adopted and promulgated by the Public Service Commission and subject
14 to Chapter 75, article 3. Such passengers may possess open alcoholic
15 beverage containers and may consume alcoholic beverages while such
16 limousine or bus is in a public parking area or on any highway in
17 this state if (a) the driver of the limousine or bus is prohibited
18 from consuming alcoholic liquor and (b) alcoholic liquor is not
19 present in any area that is readily accessible to the driver while in
20 the driver's seat, including any compartments in such area.

21 Sec. 4. Original sections 53-186, 53-186.01, and
22 60-6,211.08, Reissue Revised Statutes of Nebraska, are repealed.