

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 439

FINAL READING
(SECOND)

Introduced by Morfeld, 46; Davis, 43.

Read first time January 20, 2015

Committee: General Affairs

1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 section 53-181, Reissue Revised Statutes of Nebraska, and section
3 53-180.05, Revised Statutes Cumulative Supplement, 2014; to change
4 penalty provisions for certain violations relating to or committed
5 by minors or persons who are mentally incompetent; and to repeal the
6 original sections.

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

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

3 53-180.05 (1) Except as provided in subsection (2) of this section,
4 any person who violates section 53-180 shall be guilty of a Class I
5 misdemeanor.

6 (2) Any person who knowingly and intentionally violates section
7 53-180 shall be guilty of a Class IIIA felony and serve a mandatory
8 minimum of at least thirty days' imprisonment as part of any sentence he
9 or she receives if serious bodily injury or death to any person resulted
10 and was proximately caused by a minor's (a) consumption of the alcoholic
11 liquor provided or (b) impaired condition which, in whole or in part, can
12 be attributed to the alcoholic liquor provided.

13 (3) Any person who violates any of the provisions of section
14 53-180.01 or 53-180.03 shall be guilty of a Class III misdemeanor.

15 (4)(a) Except as otherwise provided in subdivision (b) of this
16 subsection, any Any person older than eighteen years of age and under the
17 age of twenty-one years violating section 53-180.02 is guilty of a Class
18 III misdemeanor.

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

21 (i) Requested emergency medical assistance in response to the
22 possible alcohol overdose of himself or herself or another person as soon
23 as the emergency situation is apparent after such violation of section
24 53-180.02;

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

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

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

31 (B) Cooperated with medical assistance and law enforcement

1 personnel.

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

6 (5) Any person eighteen years of age or younger violating section
7 53-180.02 is guilty of a misdemeanor as provided in section 53-181 and
8 shall be punished as provided in such section.

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

16 (7) When a minor is arrested for a violation of sections 53-180 to
17 53-180.02 or subsection (6) of this section, the law enforcement agency
18 employing the arresting peace officer shall make a reasonable attempt to
19 notify such minor's parent or guardian of the arrest.

20 Sec. 2. Section 53-181, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 53-181 (1) Except as otherwise provided in subsection (3) of this
23 section, the ~~The~~ penalty for violation of section 53-180.02 by a person
24 eighteen years of age or younger shall be as follows:

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

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

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

7 (iii ~~e~~) For a third or subsequent offense, such person is guilty of
8 a Class III misdemeanor and the court, as a part of the judgment of
9 conviction or adjudication, may (A ~~±~~) impound any such licenses or
10 permits for twelve months and (B ~~±±~~) require such person to complete no
11 fewer than sixty hours of community service, to attend an alcohol
12 education class, and to submit to an alcohol assessment by a licensed
13 alcohol and drug counselor; and

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

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

23 (ii ~~b~~) For a second offense, such person is guilty of a Class III
24 misdemeanor and the court, as part of the judgment of conviction or
25 adjudication, may (A ~~±~~) prohibit such person from obtaining any permit or
26 any license pursuant to the act for which such person would otherwise be
27 eligible until ninety days after the date of such order and (B ~~±±~~)
28 require such person to complete no fewer than twenty hours and no more
29 than forty hours of community service and to attend an alcohol education
30 class; and

31 (iii ~~e~~) For a third or subsequent offense, such person is guilty of

1 a Class III misdemeanor and the court, as part of the judgment of
2 conviction or adjudication, may (A ±) prohibit such person from obtaining
3 any permit or any license pursuant to the act for which such person would
4 otherwise be eligible until twelve months after the date of such order
5 and (B ±) require such person to complete no fewer than sixty hours of
6 community service, to attend an alcohol education class, and to submit to
7 an alcohol assessment by a licensed alcohol and drug counselor.

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

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

12 (a) Requested emergency medical assistance in response to the
13 possible alcohol overdose of himself or herself or another person as soon
14 as the emergency situation is apparent after such violation of section
15 53-180.02;

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

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

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

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

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

27 Sec. 3. Original section 53-181, Reissue Revised Statutes of
28 Nebraska, and section 53-180.05, Revised Statutes Cumulative Supplement,
29 2014, are repealed.