

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 439

Introduced by Morfeld, 46.

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) There shall be no penalty imposed under this subsection 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 is apparent after such violation;

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

27 (iii) If the person requested emergency medical assistance for the
28 possible alcohol overdose of another person, such person:

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

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

1 (6 ~~5~~) Any person eighteen years of age or younger violating section
2 53-180.02 is guilty of a misdemeanor as provided in section 53-181 and
3 shall be punished as provided in such section.

4 (7 ~~6~~) Any person who knowingly manufactures, creates, or alters any
5 form of identification for the purpose of sale or delivery of such form
6 of identification to a person under the age of twenty-one years shall be
7 guilty of a Class I misdemeanor. For purposes of this subsection, form of
8 identification means any card, paper, or legal document that may be used
9 to establish the age of the person named thereon for the purpose of
10 purchasing alcoholic liquor.

11 (8 ~~7~~) When a minor is arrested for a violation of sections 53-180 to
12 53-180.02 or subsection (7 ~~6~~) of this section, the law enforcement agency
13 employing the arresting peace officer shall make a reasonable attempt to
14 notify such minor's parent or guardian of the arrest.

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

17 53-181 (1) Except as otherwise provided in subsection (3) of this
18 section, the ~~The~~ penalty for violation of section 53-180.02 by a person
19 eighteen years of age or younger shall be as follows:

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

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

27 (ii ~~b~~) For a second offense, such person is guilty of a Class III
28 misdemeanor and the court, as a part of the judgment of conviction or
29 adjudication, may (A ~~1~~) impound any such licenses or permits for ninety
30 days and (B ~~ii~~) require such person to complete no fewer than twenty and
31 no more than forty hours of community service and to attend an alcohol

1 education class; and

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

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

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

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

26 (iii e) For a third or subsequent offense, such person is guilty of
27 a Class III misdemeanor and the court, as part of the judgment of
28 conviction or adjudication, may (A ±) prohibit such person from obtaining
29 any permit or any license pursuant to the act for which such person would
30 otherwise be eligible until twelve months after the date of such order
31 and (B ±±) require such person to complete no fewer than sixty hours of

1 community service, to attend an alcohol education class, and to submit to
2 an alcohol assessment by a licensed alcohol and drug counselor.

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

6 (3) There shall be no penalty imposed under this section if the
7 person:

8 (a) Requested emergency medical assistance in response to the
9 possible alcohol overdose of himself or herself or another person as soon
10 as the emergency situation is apparent after such violation of section
11 53-180.02;

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

15 (c) If the person requested emergency medical assistance for the
16 possible alcohol overdose of another person, such person:

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

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

20 (4) A person shall not initiate or maintain an action against a
21 peace officer or the employing state agency or political subdivision
22 based on the officer's compliance or failure to comply with this section.

23 Sec. 3. Original section 53-181, Reissue Revised Statutes of
24 Nebraska, and section 53-180.05, Revised Statutes Cumulative Supplement,
25 2014, are repealed.