

AMENDMENTS TO LB230
(Amendments to AM381)

Introduced by Bosn, 25.

1 1. Strike section 16 and insert the following new sections:

2 **Sec. 16.** Section 28-416, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 28-416 (1) Except as authorized by the Uniform Controlled Substances
5 Act, it shall be unlawful for any person knowingly or intentionally: (a)
6 To manufacture, distribute, deliver, dispense, or possess with intent to
7 manufacture, distribute, deliver, or dispense a controlled substance; or
8 (b) to create, distribute, or possess with intent to distribute a
9 counterfeit controlled substance.

10 (2) Except as provided in subsections (4), (5), (7), (8), (9), and
11 (10) of this section, any person who violates subsection (1) of this
12 section with respect to: (a) A controlled substance classified in
13 Schedule I, II, or III of section 28-405 which is an exceptionally
14 hazardous drug shall be guilty of a Class II felony; (b) any other
15 controlled substance classified in Schedule I, II, or III of section
16 28-405 shall be guilty of a Class IIA felony; or (c) a controlled
17 substance classified in Schedule IV or V of section 28-405 shall be
18 guilty of a Class IIIA felony.

19 (3) A person knowingly or intentionally possessing a controlled
20 substance, except marijuana or any substance containing a quantifiable
21 amount of the substances, chemicals, or compounds described, defined, or
22 delineated in subdivision (c)(27) of Schedule I of section 28-405, unless
23 such substance was obtained directly or pursuant to a medical order
24 issued by a practitioner authorized to prescribe while acting in the
25 course of his or her professional practice, or except as otherwise
26 authorized by the act, shall be guilty of a Class IV felony. A person

1 shall not be in violation of this subsection if section 28-472 or 28-1701
2 applies.

3 (4)(a) Except as authorized by the Uniform Controlled Substances
4 Act, any person eighteen years of age or older who knowingly or
5 intentionally manufactures, distributes, delivers, dispenses, or
6 possesses with intent to manufacture, distribute, deliver, or dispense a
7 controlled substance or a counterfeit controlled substance (i) to a
8 person under the age of eighteen years, (ii) in, on, or within one
9 thousand feet of the real property comprising a public or private
10 elementary, vocational, or secondary school, a community college, a
11 public or private college, junior college, or university, or a
12 playground, or (iii) within one hundred feet of a public or private youth
13 center, public swimming pool, or video arcade facility shall be punished
14 by the next higher penalty classification than the penalty prescribed in
15 subsection (2), (7), (8), (9), or (10) of this section, depending upon
16 the controlled substance involved, for the first violation and for a
17 second or subsequent violation shall be punished by the next higher
18 penalty classification than that prescribed for a first violation of this
19 subsection, but in no event shall such person be punished by a penalty
20 greater than a Class IB felony.

21 (b) For purposes of this subsection:

22 (i) Playground means any outdoor facility, including any parking lot
23 appurtenant to the facility, intended for recreation, open to the public,
24 and with any portion containing three or more apparatus intended for the
25 recreation of children, including sliding boards, swingsets, and
26 teeterboards;

27 (ii) Video arcade facility means any facility legally accessible to
28 persons under eighteen years of age, intended primarily for the use of
29 pinball and video machines for amusement, and containing a minimum of ten
30 pinball or video machines; and

31 (iii) Youth center means any recreational facility or gymnasium,

1 including any parking lot appurtenant to the facility or gymnasium,
2 intended primarily for use by persons under eighteen years of age which
3 regularly provides athletic, civic, or cultural activities.

4 (5)(a) Except as authorized by the Uniform Controlled Substances
5 Act, it shall be unlawful for any person eighteen years of age or older
6 to knowingly and intentionally employ, hire, use, cause, persuade, coax,
7 induce, entice, seduce, or coerce any person under the age of eighteen
8 years to manufacture, transport, distribute, carry, deliver, dispense,
9 prepare for delivery, offer for delivery, or possess with intent to do
10 the same a controlled substance or a counterfeit controlled substance.

11 (b) Except as authorized by the Uniform Controlled Substances Act,
12 it shall be unlawful for any person eighteen years of age or older to
13 knowingly and intentionally employ, hire, use, cause, persuade, coax,
14 induce, entice, seduce, or coerce any person under the age of eighteen
15 years to aid and abet any person in the manufacture, transportation,
16 distribution, carrying, delivery, dispensing, preparation for delivery,
17 offering for delivery, or possession with intent to do the same of a
18 controlled substance or a counterfeit controlled substance.

19 (c) Any person who violates subdivision (a) or (b) of this
20 subsection shall be punished by the next higher penalty classification
21 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
22 this section, depending upon the controlled substance involved, for the
23 first violation and for a second or subsequent violation shall be
24 punished by the next higher penalty classification than that prescribed
25 for a first violation of this subsection, but in no event shall such
26 person be punished by a penalty greater than a Class IB felony.

27 (6) It shall not be a defense to prosecution for violation of
28 subsection (4) or (5) of this section that the defendant did not know the
29 age of the person through whom the defendant violated such subsection.

30 (7) Any person who violates subsection (1) of this section with
31 respect to cocaine or any mixture or substance containing a detectable

1 amount of cocaine in a quantity of:

2 (a) One hundred forty grams or more shall be guilty of a Class IB
3 felony;

4 (b) At least twenty-eight grams but less than one hundred forty
5 grams shall be guilty of a Class IC felony; or

6 (c) At least ten grams but less than twenty-eight grams shall be
7 guilty of a Class ID felony.

8 (8) Any person who violates subsection (1) of this section with
9 respect to base cocaine (crack) or any mixture or substance containing a
10 detectable amount of base cocaine in a quantity of:

11 (a) One hundred forty grams or more shall be guilty of a Class IB
12 felony;

13 (b) At least twenty-eight grams but less than one hundred forty
14 grams shall be guilty of a Class IC felony; or

15 (c) At least ten grams but less than twenty-eight grams shall be
16 guilty of a Class ID felony.

17 (9) Any person who violates subsection (1) of this section with
18 respect to heroin or any mixture or substance containing a detectable
19 amount of heroin in a quantity of:

20 (a) One hundred forty grams or more shall be guilty of a Class IB
21 felony;

22 (b) At least twenty-eight grams but less than one hundred forty
23 grams shall be guilty of a Class IC felony; or

24 (c) At least ten grams but less than twenty-eight grams shall be
25 guilty of a Class ID felony.

26 (10) Any person who violates subsection (1) of this section with
27 respect to amphetamine, its salts, optical isomers, and salts of its
28 isomers, or with respect to methamphetamine, its salts, optical isomers,
29 and salts of its isomers, in a quantity of:

30 (a) One hundred forty grams or more shall be guilty of a Class IB
31 felony;

1 (b) At least twenty-eight grams but less than one hundred forty
2 grams shall be guilty of a Class IC felony; or

3 (c) At least ten grams but less than twenty-eight grams shall be
4 guilty of a Class ID felony.

5 (11) Any person knowingly or intentionally possessing marijuana
6 weighing more than one ounce but not more than one pound shall be guilty
7 of a Class III misdemeanor.

8 (12) Any person knowingly or intentionally possessing marijuana
9 weighing more than one pound shall be guilty of a Class IV felony.

10 (13) Except as provided in section 28-1701, any person knowingly or
11 intentionally possessing marijuana weighing one ounce or less or any
12 substance containing a quantifiable amount of the substances, chemicals,
13 or compounds described, defined, or delineated in subdivision (c)(27) of
14 Schedule I of section 28-405 shall:

15 (a) For the first offense, be guilty of an infraction, receive a
16 citation, be fined three hundred dollars, and be assigned to attend a
17 course as prescribed in section 29-433 if the judge determines that
18 attending such course is in the best interest of the individual
19 defendant;

20 (b) For the second offense, be guilty of a Class IV misdemeanor,
21 receive a citation, and be fined four hundred dollars and may be
22 imprisoned not to exceed five days; and

23 (c) For the third and all subsequent offenses, be guilty of a Class
24 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and
25 be imprisoned not to exceed seven days.

26 (14) Any person convicted of violating this section, if placed on
27 probation, shall, as a condition of probation, satisfactorily attend and
28 complete appropriate treatment and counseling on drug abuse provided by a
29 program authorized under the Nebraska Behavioral Health Services Act or
30 other licensed drug treatment facility.

31 (15) Any person convicted of violating this section, if sentenced to

1 the Department of Correctional Services, shall attend appropriate
2 treatment and counseling on drug abuse.

3 (16)(a) Any person convicted of a violation of subsection (1) of
4 this section shall be punished by the next higher penalty classification
5 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
6 this section if:

7 (i) The ~~(16)~~ Any person knowingly or intentionally possessed
8 possessing a firearm while in violation of subsection (1) of this
9 section; or

10 (ii) Such violation resulted in the use of the controlled substance
11 and directly and proximately caused the death of, or serious bodily
12 injury to, another person. shall be punished by the next higher penalty
13 classification than the penalty prescribed in subsection (2), (7), (8),
14 (9), or (10) of this section, but in no event shall such person be
15 punished by

16 (b) A penalty enhanced under this subsection shall in no event
17 result in a penalty greater than a Class IB felony.

18 (17) A person knowingly or intentionally in possession of money used
19 or intended to be used to facilitate a violation of subsection (1) of
20 this section shall be guilty of a Class IV felony.

21 (18) In addition to the existing penalties available for a violation
22 of subsection (1) of this section, including any criminal attempt or
23 conspiracy to violate subsection (1) of this section, a sentencing court
24 may order that any money, securities, negotiable instruments, firearms,
25 conveyances, or electronic communication devices as defined in section
26 28-833 or any equipment, components, peripherals, software, hardware, or
27 accessories related to electronic communication devices be forfeited as a
28 part of the sentence imposed if it finds by clear and convincing evidence
29 adduced at a separate hearing in the same prosecution, following
30 conviction for a violation of subsection (1) of this section, and
31 conducted pursuant to section 28-1601, that any or all such property was

1 derived from, used, or intended to be used to facilitate a violation of
2 subsection (1) of this section.

3 (19) In addition to the penalties provided in this section:

4 (a) If the person convicted or adjudicated of violating this section
5 is eighteen years of age or younger and has one or more licenses or
6 permits issued under the Motor Vehicle Operator's License Act:

7 (i) For the first offense, the court may, as a part of the judgment
8 of conviction or adjudication, (A) impound any such licenses or permits
9 for thirty days and (B) require such person to attend a drug education
10 class;

11 (ii) For a second offense, the court may, as a part of the judgment
12 of conviction or adjudication, (A) impound any such licenses or permits
13 for ninety days and (B) require such person to complete no fewer than
14 twenty and no more than forty hours of community service and to attend a
15 drug education class; and

16 (iii) For a third or subsequent offense, the court may, as a part of
17 the judgment of conviction or adjudication, (A) impound any such licenses
18 or permits for twelve months and (B) require such person to complete no
19 fewer than sixty hours of community service, to attend a drug education
20 class, and to submit to a drug assessment by a licensed alcohol and drug
21 counselor; and

22 (b) If the person convicted or adjudicated of violating this section
23 is eighteen years of age or younger and does not have a permit or license
24 issued under the Motor Vehicle Operator's License Act:

25 (i) For the first offense, the court may, as part of the judgment of
26 conviction or adjudication, (A) prohibit such person from obtaining any
27 permit or any license pursuant to the act for which such person would
28 otherwise be eligible until thirty days after the date of such order and
29 (B) require such person to attend a drug education class;

30 (ii) For a second offense, the court may, as part of the judgment of
31 conviction or adjudication, (A) prohibit such person from obtaining any

1 permit or any license pursuant to the act for which such person would
2 otherwise be eligible until ninety days after the date of such order and
3 (B) require such person to complete no fewer than twenty hours and no
4 more than forty hours of community service and to attend a drug education
5 class; and

6 (iii) For a third or subsequent offense, the court may, as part of
7 the judgment of conviction or adjudication, (A) prohibit such person from
8 obtaining any permit or any license pursuant to the act for which such
9 person would otherwise be eligible until twelve months after the date of
10 such order and (B) require such person to complete no fewer than sixty
11 hours of community service, to attend a drug education class, and to
12 submit to a drug assessment by a licensed alcohol and drug counselor.

13 A copy of an abstract of the court's conviction or adjudication
14 shall be transmitted to the Director of Motor Vehicles pursuant to
15 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
16 juvenile is prohibited from obtaining a license or permit under this
17 subsection.

18 **Sec. 17.** Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,
19 17, and 19 of this act become operative on July 1, 2025. The other
20 sections of this act become operative three calendar months after the
21 adjournment of this legislative session.

22 **Sec. 18.** Original section 28-416, Revised Statutes Cumulative
23 Supplement, 2024, is repealed.

24 2. Renumber the remaining section.