

Amend (3358) to S. File 3-14-85 (p. 781)
Haw. Judicial Council - June 3-28-85

295

SENATE FILE

BY MILLER of Des Moines,
READINGER, WELLS, TIEDEN
and CARR

FILED FEB 19 1985

Passed Senate, Date 3-26-85 (p. 1041) Passed House, Date 4-17-85 (p. 1648)
Vote: Ayes 46 Nays 0 Vote: Ayes 96 Nays 0
Approved May 24, 1985

A BILL FOR

1 An Act relating to the duty of a liquor control licensee
2 to break empty liquor bottles.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S-3308

SENATE FILE 295

1 Amend Senate File 295 as follows:
2 1. Page 1, by striking lines 5 through 9 and
3 inserting the following: "record of the gross
4 receipts of the holder's business. Each bottle
5 emptied, except beer bottles, shall be broken
6 immediately by the licensee or the licensee's agent
7 into a container provided for that purpose. The
8 records".

S-3308 Filed
March 14, 1985
Adopted 3/26 (p. 1041)

By COMMITTEE ON STATE GOVERNMENT

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1 Section 1. Section 123.33, Code 1985, is amended to read
2 as follows:

3 123.33 RECORDS.

4 Every holder of a liquor control license shall keep a daily
5 record of the gross receipts of the holder's business. Each
6 bottle emptied, except beer bottles, shall be broken
7 immediately no later than six a.m. following the time the
8 bottle was emptied by the licensee or the licensee's agent
9 into a container provided for that purpose. The records
10 herein required and the premises of the licensee shall be open
11 to agents of the division of beer and liquor law enforcement
12 of the department of public safety during normal business
13 hours of the licensee.

14 EXPLANATION

15 Presently the Code requires a licensee to break an empty
16 liquor bottle immediately after it is emptied. This bill
17 would allow a licensee to break the bottle no later than six
18 a.m. following the time the bottle was emptied.

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2 as follows:

3 123.33 RECORDS.

4 Every holder of a liquor control license shall keep a daily
5 record of the gross receipts of the holder's business. Each
6 bottle-emptied, except beer bottles, shall be broken
7 immediately by the licensee or the licensee's agent into a
8 container provided for that purpose. The records herein
9 required and the premises of the licensee shall be open to
10 agents of the division of beer and liquor law enforcement of
11 the department of public safety during normal business hours
12 of the licensee.

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SENATE FILE 295

H-3728

1 Amend Senate File 295 as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 1, by striking line 1, and inserting the
4 following:

5 "Section 1. Section 123.28, unnumbered paragraph
6 2, Code 1985, is amended to read as follows:

7 A person driving a motor vehicle shall not
8 knowingly possess in a motor vehicle upon a public
9 street or highway any an open or unsealed bottle, can,
10 jar, or other receptacle containing an alcoholic
11 beverage or beer with the intent to consume the
12 alcoholic beverage or beer while the motor vehicle is
13 upon a public street or highway. Evidence that an
14 open or unsealed receptacle containing an alcoholic
15 beverage or beer was found during an authorized search
16 in the glove compartment, utility compartment,
17 console, front passenger seat, or any unlocked
18 portable device and within the immediate reach of the
19 driver while the motor vehicle is upon a public street
20 or highway is evidence from which the court or jury
21 may infer that the driver intended to consume the
22 alcoholic beverage or beer while upon the public
23 street or highway if the inference is supported by
24 corroborative evidence. However, an open or unsealed
25 receptacle containing an alcoholic beverage or beer
26 may be transported at any time in the trunk of the
27 motor vehicle or in some other area of the interior of
28 the motor vehicle not designed or intended to be
29 occupied by the driver and not readily accessible to
30 the driver while the motor vehicle is in motion. A
31 person convicted of a violation of this paragraph is
32 guilty of a simple misdemeanor.

33 Sec. 2. Section 123.33, Code 1985, is amended to
34 read".

35 2. Title page, by striking lines 1 and 2, and
36 inserting the following: "An Act relating to the
37 violation of laws concerning alcoholic liquor and beer
38 by establishing the penalty for transporting an open
39 container of alcoholic liquor or beer in a motor
40 vehicle as a simple misdemeanor, and by removing the
41 duty of a liquor control licensee to break empty
42 liquor bottles."

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

H-3728 FILED APRIL 10, 1985

Adopted 4/17/85 (p. 1648)

S-3886

HOUSE AMENDMENT TO
SENATE FILE 295

1 Amend Senate File 295 as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 1, by striking line 1, and inserting the
4 following:

5 "Section 1. Section 123.28, unnumbered paragraph
6 2, Code 1985, is amended to read as follows:

7 A person driving a motor vehicle shall not
8 knowingly possess in a motor vehicle upon a public
9 street or highway any an open or unsealed bottle, can,
10 jar, or other receptacle containing an alcoholic
11 beverage or beer with the intent to consume the
12 alcoholic beverage or beer while the motor vehicle is
13 upon a public street or highway. Evidence that an
14 open or unsealed receptacle containing an alcoholic
15 beverage or beer was found during an authorized search
16 in the glove compartment, utility compartment,
17 console, front passenger seat, or any unlocked
18 portable device and within the immediate reach of the
19 driver while the motor vehicle is upon a public street
20 or highway is evidence from which the court or jury
21 may infer that the driver intended to consume the
22 alcoholic beverage or beer while upon the public
23 street or highway if the inference is supported by
24 corroborative evidence. However, an open or unsealed
25 receptacle containing an alcoholic beverage or beer
26 may be transported at any time in the trunk of the
27 motor vehicle or in some other area of the interior of
28 the motor vehicle not designed or intended to be
29 occupied by the driver and not readily accessible to
30 the driver while the motor vehicle is in motion. A
31 person convicted of a violation of this paragraph is
32 guilty of a simple misdemeanor.

33 Sec. 2. Section 123.33, Code 1985, is amended to
34 read".

35 2. Title page, by striking lines 1 and 2, and
36 inserting the following: "An Act relating to the
37 violation of laws concerning alcoholic liquor and beer
38 by establishing the penalty for transporting an open
39 container of alcoholic liquor or beer in a motor
40 vehicle as a simple misdemeanor, and by removing the
41 duty of a liquor control licensee to break empty
42 liquor bottles."

SENATE FILE 295

AN ACT

RELATING TO THE VIOLATION OF LAWS CONCERNING ALCOHOLIC LIQUOR AND BEER BY ESTABLISHING THE PENALTY FOR TRANSPORTING AN OPEN CONTAINER OF ALCOHOLIC LIQUOR OR BEER IN A MOTOR VEHICLE AS A SIMPLE MISDEMEANOR, AND BY REMOVING THE DUTY OF A LIQUOR CONTROL LICENSEE TO BREAK EMPTY LIQUOR BOTTLES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 123.28, unnumbered paragraph 2, Code 1985, is amended to read as follows:

A person driving a motor vehicle shall not knowingly possess in a motor vehicle upon a public street or highway any an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage or beer with the intent to consume the alcoholic beverage or beer while the motor vehicle is upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an open or unsealed receptacle containing an alcoholic beverage or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion. A person convicted of a violation of this paragraph is guilty of a simple misdemeanor.

Sec. 2. Section 123.33, Code 1985, is amended to read as follows:

123.33 RECORDS.

Every holder of a liquor control license shall keep a daily record of the gross receipts of the holder's business. ~~Each bottle emptied, except beer bottles, shall be broken immediately by the licensee or the licensee's agent into a container provided for that purpose.~~ The records herein required and the premises of the licensee shall be open to agents of the division of beer and liquor law enforcement of the department of public safety during normal business hours of the licensee.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 295, Seventy-first General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved _____, 1985

BERRY E. BRANSTAD
Governor