

McKean
McKibben
Frouse

SSB.1046

Judiciary

SUCCEEDED BY
SEVUE 192

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
TRANSPORTATION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to open containers in motor vehicles and
2 providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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200902

7/1/72

1 Section 321.284, Code 1999, is amended to read
2 as follows:

3 321.284 OPEN CONTAINERS IN MOTOR VEHICLES -- DRIVERS.

4 A person-driving-a-motor-vehicle driver of a motor vehicle
5 upon a public street or highway shall not knowingly possess in
6 a the passenger area of the motor vehicle upon-a-public-street
7 or-highway an open or unsealed bottle, can, jar, or other
8 receptacle containing an alcoholic beverage, wine, or beer
9 with-the-intent-to-consume-the-alcoholic-beverage, wine, or
10 beer-while-the-motor-vehicle-is-upon-a-public-street-or
11 highway. Evidence-that-an-open-or-unsealed-receptacle
12 containing-an-alcoholic-beverage, wine, or beer-was-found
13 during-an-authorized-search-in-the-glove-compartment, utility
14 compartment, console, front-passenger-seat, or-any-unlocked
15 portable-device-and-within-the-immediate-reach-of-the-driver
16 while-the-motor-vehicle-is-upon-a-public-street-or-highway-is
17 evidence-from-which-the-court-or-jury-may-infer-that-the
18 driver-intended-to-consume-the-alcoholic-beverage, wine, or
19 beer-while-upon-the-public-street-or-highway-if-the-inference
20 is-supported-by-corroborative-evidence.--However, an
21 "Passenger area" means the area designed to seat the driver
22 and passengers while the motor vehicle is in operation and any
23 area that is readily accessible to the driver or a passenger
24 while in their seating positions, including the glove
25 compartment. An open or unsealed receptacle containing an
26 alcoholic beverage, wine, or beer may be transported at any
27 time in the trunk of the motor vehicle or in some other area
28 of-the-interior-of-the-motor-vehicle-not-designed-or-intended
29 to-be-occupied-by-the-driver-and-not-readily-accessible-to-the
30 driver-while-the-motor-vehicle-is-in-motion. A person
31 convicted of a violation of this section is guilty of a simple
32 misdemeanor punishable as a scheduled violation under section
33 805.8, subsection 10, paragraph "b".

34 Sec. 2. NEW SECTION. 321.284A OPEN CONTAINERS IN MOTOR
35 VEHICLES -- PASSENGERS.

1 1. A passenger in a motor vehicle upon a public street or
 2 highway shall not possess in the passenger area of the motor
 3 vehicle an open or unsealed bottle, can, jar, or other
 4 receptacle containing an alcoholic beverage. "Passenger area"
 5 means the area of a motor vehicle designed to seat the driver
 6 and passengers while the motor vehicle is in operation and any
 7 area that is readily accessible to the driver or a passenger
 8 while in their seating positions, including the glove
 9 compartment. An open or unsealed receptacle containing an
 10 alcoholic beverage may be transported in the trunk of the
 11 motor vehicle.

12 2. This section does not apply to a passenger being
 13 transported in a motor vehicle designed, maintained, or used
 14 primarily for the transportation of persons for compensation,
 15 or a passenger being transported in the living quarters of a
 16 motor home, mobile home, travel trailer, or fifth-wheel travel
 17 trailer.

18 3. A person convicted of a violation of this section is
 19 guilty of a simple misdemeanor punishable as a scheduled
 20 violation under section 805.8, subsection 10, paragraph "b".

21 Sec. 3. Section 805.8, subsection 10, paragraph b, Code
 22 1999, is amended to read as follows:

23 b. For violations of section under sections 321.284 and
 24 321.284A, the scheduled fine is fifty dollars.

25 EXPLANATION

26 Current law prohibits the driver of a motor vehicle from
 27 knowingly possessing an open alcoholic beverage container
 28 within the immediate reach of the driver with the intent to
 29 consume the alcoholic beverage while the motor vehicle is upon
 30 a street or highway. This bill changes the current provision
 31 by prohibiting both the driver of and passengers in a motor
 32 vehicle, regardless of intent, from possessing an open or
 33 unsealed receptacle containing an alcoholic beverage in the
 34 passenger area of the motor vehicle. "Passenger area" is
 35 defined as the area of a motor vehicle designed to seat the

1 driver and passengers while the motor vehicle is in operation
2 and any area that is readily accessible to the driver or a
3 passenger while seated in the motor vehicle, including the
4 glove compartment. The bill excludes passengers in the
5 passenger area of a motor vehicle being operated for the
6 transportation of persons for compensation and passengers in
7 the living quarters of a motor home, mobile home, travel
8 trailer, or fifth-wheel travel trailer from the prohibition.
9 A violation of the bill is a simple misdemeanor punishable by
10 a scheduled fine of \$50.

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REPRINTED

FILED FEB 22 1999

SENATE FILE 192
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1046)

Passed Senate, ^(P. 863) Date 3/30/99 Passed House, Date 4/15/99
Vote: Ayes 37 Nays 13 Vote: Ayes 82 Nays 12
Approved 4-28-99

A BILL FOR

1 An Act relating to open containers in motor vehicles and
2 providing a penalty.

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

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SF 192

SENATE FILE 192

S-3188

1 Amend Senate File 192 as follows:
2 1. Page 2, by inserting after line 25 the
3 following:
4 "4. The department shall not include a conviction
5 for a violation of this section on the individual
6 driving record of the person committing the violation
7 and the conviction shall not be considered by the
8 department in any proceeding for suspension,
9 revocation, barring, or denying of the person's
10 driver's license or upon any application for renewal
11 of driving privileges."
12 2. By renumbering as necessary.

By ANDY McKEAN

S-3188 FILED MARCH 30, 1999
ADOPTED (P. 863)

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REPRINTED

1 Section 1. Section 321.284, Code 1999, is amended to read
2 as follows:

3 321.284 OPEN CONTAINERS IN MOTOR VEHICLES -- DRIVERS.

4 A ~~person-driving-a-motor-vehicle~~ driver of a motor vehicle
5 upon a public street or highway shall not knowingly possess in
6 a the passenger area of the motor vehicle upon-a-public-street
7 or-highway an open or unsealed bottle, can, jar, or other
8 receptacle containing an alcoholic beverage~~7-wine7-or-beer~~
9 ~~with-the-intent-to-consume-the-alcoholic-beverage7-wine7-or~~
10 ~~beer-while-the-motor-vehicle-is-upon-a-public-street-or~~
11 ~~highway. Evidence-that-an-open-or-unsealed-receptacle~~
12 ~~containing-an-alcoholic-beverage7-wine7-or-beer-was-found~~
13 ~~during-an-authorized-search-in-the-glove-compartment7-utility~~
14 ~~compartment7-console7-front-passenger-seat7-or-any-unlocked~~
15 ~~portable-device-and-within-the-immediate-reach-of-the-driver~~
16 ~~while-the-motor-vehicle-is-upon-a-public-street-or-highway-is~~
17 ~~evidence-from-which-the-court-or-jury-may-infer-that-the~~
18 ~~driver-intended-to-consume-the-alcoholic-beverage7-wine7-or~~
19 ~~beer-while-upon-the-public-street-or-highway-if-the-inference~~
20 ~~is-supported-by-corroborative-evidence.--However7-an~~
21 "Passenger area" means the area designed to seat the driver
22 and passengers while the motor vehicle is in operation and any
23 area that is readily accessible to the driver or a passenger
24 while in their seating positions, including the glove
25 compartment. An open or unsealed receptacle containing an
26 alcoholic beverage7-wine7-or-beer may be transported at-any
27 time in the trunk of the motor vehicle or-in-some-other-area
28 of-the-interior-of-the-motor-vehicle-not-designed-or-intended
29 to-be-occupied-by-the-driver-and-not-readily-accessible-to-the
30 driver-while-the-motor-vehicle-is-in-motion. An unsealed
31 receptacle containing an alcoholic beverage may be transported
32 behind the last upright seat of the motor vehicle if the motor
33 vehicle does not have a trunk. A person convicted of a
34 violation of this section is guilty of a simple misdemeanor
35 punishable as a scheduled violation under section 805.8,

1 subsection 10, paragraph "b".

2 Sec. 2. NEW SECTION. 321.284A OPEN CONTAINERS IN MOTOR
3 VEHICLES -- PASSENGERS.

4 1. A passenger in a motor vehicle upon a public street or
5 highway shall not possess in the passenger area of the motor
6 vehicle an open or unsealed bottle, can, jar, or other
7 receptacle containing an alcoholic beverage. "Passenger area"
8 means the area of a motor vehicle designed to seat the driver
9 and passengers while the motor vehicle is in operation and any
10 area that is readily accessible to the driver or a passenger
11 while in their seating positions, including the glove
12 compartment. An open or unsealed receptacle containing an
13 alcoholic beverage may be transported in the trunk of the
14 motor vehicle. An unsealed receptacle containing an alcoholic
15 beverage may be transported behind the last upright seat of
16 the motor vehicle if the motor vehicle does not have a trunk.

17 2. This section does not apply to a passenger being
18 transported in a motor vehicle designed, maintained, or used
19 primarily for the transportation of persons for compensation,
20 or a passenger being transported in the living quarters of a
21 motor home, mobile home, travel trailer, or fifth-wheel travel
22 trailer.

23 3. A person convicted of a violation of this section is
24 guilty of a simple misdemeanor punishable as a scheduled
25 violation under section 805.8, subsection 10, paragraph "b".

26 Sec. 3. Section 805.8, subsection 10, paragraph b, Code
27 1999, is amended to read as follows:

28 b. For violations of ~~section~~ under sections 321.284 and
29 321.284A, the scheduled fine is fifty dollars.

30 EXPLANATION

31 Current law prohibits the driver of a motor vehicle from
32 knowingly possessing an open alcoholic beverage container
33 within the immediate reach of the driver with the intent to
34 consume the alcoholic beverage while the motor vehicle is upon
35 a street or highway.

1 This bill changes the current provision by prohibiting both
2 the driver of and passengers in a motor vehicle, regardless of
3 intent, from possessing an open or unsealed receptacle
4 containing an alcoholic beverage in the passenger area of the
5 motor vehicle. "Passenger area" is defined as the area of a
6 motor vehicle designed to seat the driver and passengers while
7 the motor vehicle is in operation and any area that is readily
8 accessible to the driver or a passenger while seated in the
9 motor vehicle, including the glove compartment.

10 The bill also provides that an unsealed receptacle
11 containing an alcoholic beverage may be transported behind the
12 last upright seat of a motor vehicle if the vehicle does not
13 have a trunk. The current provision allows transportation of
14 an open or unsealed receptacle in the trunk of a motor
15 vehicle.

16 The bill excludes from its provisions passengers in the
17 passenger area of a motor vehicle being operated for the
18 transportation of persons for compensation and passengers in
19 the living quarters of a motor home, mobile home, travel
20 trailer, or fifth-wheel travel trailer.

21 A violation of the bill is a simple misdemeanor punishable
22 by a scheduled fine of \$50.

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**SENATE FILE 192
FISCAL NOTE**

A fiscal note for **Senate File 192** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 192 prohibits the possession of an open or unsealed alcoholic beverage container within the passenger area of a vehicle.

BACKGROUND

The federal Transportation Equity Act for the 21st Century (TEA-21) requires each state to have in effect a law prohibiting the possession of any open alcoholic beverage container in the passenger area of any motor vehicle located on a public highway, or the right-of-way of a public highway in the state.

States that do not have such a law in place on October 1, 2000, will have 1.5% of the state's federal apportionments for National Highway System funds, Surface Transportation Program funds, and Interstate Maintenance funds transferred to highway safety programs. The amount transferred will increase to 3.0% per year beginning on October 1, 2002.

FISCAL IMPACT

Senate File 192 will allow the State to retain federal highway apportionments for the National Highway System, the Interstate Maintenance Program, and the Surface Transportation Program in the following estimated amounts:

FY 2001: \$3.3 million

FY 2002: \$3.4 million

FY 2003 and each year thereafter: \$6.9 million

SOURCE

U.S. Department of Transportation

(LSB 1242SV, DLR)

FILED MARCH 1, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 192
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1046)

(AS AMENDED AND PASSED BY THE SENATE MARCH 30, 1999)

_____ - New Language by the Senate

(P.1359)

Passed Senate, Date _____ Passed House, Date 4/15/99

Vote: Ayes _____ Nays _____ Vote: Ayes 82 Nays 12

Approved April 28, 1999

A BILL FOR

1 An Act relating to open containers in motor vehicles and
2 providing a penalty.

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

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S.F. 192

1 Section 1. Section 321.284, Code 1999, is amended to read
2 as follows:

3 321.284 OPEN CONTAINERS IN MOTOR VEHICLES -- DRIVERS.

4 A ~~person-driving-a-motor-vehicle~~ driver of a motor vehicle
5 upon a public street or highway shall not knowingly possess in
6 a the passenger area of the motor vehicle upon-a-public-street
7 or-highway an open or unsealed bottle, can, jar, or other
8 receptacle containing an alcoholic beverage~~7-wine7-or-beer~~
9 ~~with-the-intent-to-consume-the-alcoholic-beverage7-wine7-or~~
10 ~~beer-while-the-motor-vehicle-is-upon-a-public-street-or~~
11 ~~highway. Evidence-that-an-open-or-unsealed-receptacle~~
12 ~~containing-an-alcoholic-beverage7-wine7-or-beer-was-found~~
13 ~~during-an-authorized-search-in-the-glove-compartment7-utility~~
14 ~~compartment7-console7-front-passenger-seat7-or-any-unlocked~~
15 ~~portable-device-and-within-the-immediate-reach-of-the-driver~~
16 ~~while-the-motor-vehicle-is-upon-a-public-street-or-highway-is~~
17 ~~evidence-from-which-the-court-or-jury-may-infer-that-the~~
18 ~~driver-intended-to-consume-the-alcoholic-beverage7-wine7-or~~
19 ~~beer-while-upon-the-public-street-or-highway-if-the-inference~~
20 ~~is-supported-by-corroborative-evidence7-However7-an~~
21 "Passenger area" means the area designed to seat the driver
22 and passengers while the motor vehicle is in operation and any
23 area that is readily accessible to the driver or a passenger
24 while in their seating positions, including the glove
25 compartment. An open or unsealed receptacle containing an
26 alcoholic beverage7-wine7-or-beer may be transported at-any
27 time in the trunk of the motor vehicle or-in-some-other-area
28 of-the-interior-of-the-motor-vehicle-not-designed-or-intended
29 to-be-occupied-by-the-driver-and-not-readily-accessible-to-the
30 driver-while-the-motor-vehicle-is-in-motion. An unsealed
31 receptacle containing an alcoholic beverage may be transported
32 behind the last upright seat of the motor vehicle if the motor
33 vehicle does not have a trunk. A person convicted of a
34 violation of this section is guilty of a simple misdemeanor
35 punishable as a scheduled violation under section 805.8,

1 subsection 10, paragraph "b".

2 Sec. 2. NEW SECTION. 321.284A OPEN CONTAINERS IN MOTOR
3 VEHICLES -- PASSENGERS.

4 1. A passenger in a motor vehicle upon a public street or
5 highway shall not possess in the passenger area of the motor
6 vehicle an open or unsealed bottle, can, jar, or other
7 receptacle containing an alcoholic beverage. "Passenger area"
8 means the area of a motor vehicle designed to seat the driver
9 and passengers while the motor vehicle is in operation and any
10 area that is readily accessible to the driver or a passenger
11 while in their seating positions, including the glove
12 compartment. An open or unsealed receptacle containing an
13 alcoholic beverage may be transported in the trunk of the
14 motor vehicle. An unsealed receptacle containing an alcoholic
15 beverage may be transported behind the last upright seat of
16 the motor vehicle if the motor vehicle does not have a trunk.

17 2. This section does not apply to a passenger being
18 transported in a motor vehicle designed, maintained, or used
19 primarily for the transportation of persons for compensation,
20 or a passenger being transported in the living quarters of a
21 motor home, mobile home, travel trailer, or fifth-wheel travel
22 trailer.

23 3. A person convicted of a violation of this section is
24 guilty of a simple misdemeanor punishable as a scheduled
25 violation under section 805.8, subsection 10, paragraph "b".

26 4. The department shall not include a conviction for a
27 violation of this section on the individual driving record of
28 the person committing the violation and the conviction shall
29 not be considered by the department in any proceeding for
30 suspension, revocation, barring, or denying of the person's
31 driver's license or upon any application for renewal of
32 driving privileges.

33 Sec. 3. Section 805.8, subsection 10, paragraph b, Code
34 1999, is amended to read as follows:

35 b. For violations ~~of-section~~ under sections 321.284 and

1 321.284A, the scheduled fine is fifty dollars.
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AN ACT
RELATING TO OPEN CONTAINERS IN MOTOR VEHICLES AND PROVIDING
A PENALTY.

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

Section 1. Section 321.284, Code 1999, is amended to read as follows:

321.284 OPEN CONTAINERS IN MOTOR VEHICLES -- DRIVERS.

A person driving a motor vehicle driver of a motor vehicle upon a public street or highway shall not knowingly possess in a the passenger area of the motor vehicle upon a public street or highway an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage, ~~wine, or beer with the intent to consume the alcoholic beverage, wine, or beer while the motor vehicle is upon a public street or highway.~~ Evidence that an open or unsealed receptacle containing an alcoholic beverage, ~~wine, 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, wine, or beer while upon the public street or highway if the inference is supported by corroborative evidence.~~ ~~However, an "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment.~~ An open or unsealed receptacle containing an alcoholic beverage, ~~wine, 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. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.~~ A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 10, paragraph "b".

Sec. 2. NEW SECTION. 321.284A OPEN CONTAINERS IN MOTOR VEHICLES -- PASSENGERS.

1. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage. "Passenger area" means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

2. This section does not apply to a passenger being transported in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or a passenger being transported in the living quarters of a motor home, mobile home, travel trailer, or fifth-wheel travel trailer.

3. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 10, paragraph "b".

4. The department shall not include a conviction for a violation of this section on the individual driving record of

the person committing the violation and the conviction shall not be considered by the department in any proceeding for suspension, revocation, barring, or denying of the person's driver's license or upon any application for renewal of driving privileges.

Sec. 3. Section 805.8, subsection 10, paragraph b, Code 1999, is amended to read as follows:

b. For violations ~~of-section~~ under sections 321.284 and 321.284A, the scheduled fine is fifty dollars.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 192, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved April 28, 1999

THOMAS J. VILSACK
Governor