

Do Pass 2/17/86 (p. 362)
JAN 16 1986

Place On Calendar

HOUSE FILE 2069
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(Formerly House Study Bill 503)

Passed House, Date 1-23-86 (p. 139) Passed Senate, Date 3-4-86 (p. 527)

Vote: Ayes 94 Nays 1 Vote: Ayes 48 Nays 0

Approved March 18, 1986 (p. 885)

A BILL FOR

50201 An Act prohibiting the transportation of an open container of

2 wine in a motor vehicle and incorporating a penalty.

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

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

HF 2069

50257

1 Section 1. Section 123.28, unnumbered paragraph 2, Code
2 Supplement 1985, is amended to read as follows:
3 A person driving a motor vehicle shall not knowingly
4 possess in a motor vehicle upon a public street or highway an
5 open or unsealed bottle, can, jar, or other receptacle
6 containing an alcoholic beverage, wine, or beer with the
7 intent to consume the alcoholic beverage, wine, or beer while
8 the motor vehicle is upon a public street or highway.
9 Evidence that an open or unsealed receptacle containing an
10 alcoholic beverage, wine, or beer was found during an
11 authorized search in the glove compartment, utility
12 compartment, console, front passenger seat, or any unlocked
13 portable device and within the immediate reach of the driver
14 while the motor vehicle is upon a public street or highway is
15 evidence from which the court or jury may infer that the
16 driver intended to consume the alcoholic beverage, wine, or
17 beer while upon the public street or highway if the inference
18 is supported by corroborative evidence. However, an open or
19 unsealed receptacle containing an alcoholic beverage, wine, or
20 beer may be transported at any time in the trunk of the motor
21 vehicle or in some other area of the interior of the motor
22 vehicle not designed or intended to be occupied by the driver
23 and not readily accessible to the driver while the motor
24 vehicle is in motion. A person convicted of a violation of
25 this paragraph is guilty of a simple misdemeanor.

50257

26 EXPLANATION

27 This bill corrects an omission in Senate File 395 passed in
28 1985. Wine is now included in the prohibition on
29 transportation of open containers in a motor vehicle.

30
31
32
33
34
35

H-5020

1 Amend House File 2069 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 123.3, subsection 9, Code
5 Supplement 1985, is amended to read as follows:

6 9. "Beer" means any liquid capable of being used
7 for beverage purposes made by the fermentation of an
8 infusion in potable water of barley, malt and hops,
9 with or without unmalted grains or decorticated and
10 degerminated grains or made by the fermentation of or
11 by distillation of the fermented products of fruit,
12 fruit extracts or other agricultural products,
13 containing more than one-half of one percent of
14 alcohol by volume but not more than five percent of
15 alcohol by weight."

16 2. Page 1, by inserting after line 25 the
17 following:

18 "Sec. 3. Section 123.46, Code Supplement 1985, is
19 amended to read as follows:

20 123.46 CONSUMPTION IN PUBLIC PLACES --
21 INTOXICATION.

22 ~~It is unlawful for any~~ A person to use or shall not
23 consume alcoholic liquors, wine, or beer upon the
24 public streets or highways, or alcoholic liquors in
25 any public place, except premises covered by a liquor
26 control license, or to. A person shall not possess or
27 consume alcoholic liquors, wine, or beer on any
28 public school property or while attending any a public
29 or private school-related-functions, and a school-
30 related function. A person shall not be intoxicated
31 nor or simulate intoxication in a public place. As
32 used in this section, "school" means a public or
33 private school or that portion of a public or private
34 school, which provides teaching for any grade from
35 kindergarten through grade twelve. Any A person
36 violating any-provision-of this section is guilty of a
37 simple misdemeanor.

38 Sec. 4. Section 123.150, Code Supplement 1985, is
39 amended to read as follows:

40 123.150 SUNDAY SALES BEFORE NEW YEARS DAY.

41 Notwithstanding section 123.36, subsection 6,
42 section 123.49, subsection 2, paragraph "b", and
43 section 123.134, subsection 5, a holder of any class
44 of liquor control license or the holder of a class "B"
45 beer permit may sell or dispense such alcoholic
46 liquor, wine, or beer to patrons for consumption on
47 the premises between the hours of ten a.m. on Sunday
48 and two a.m. on Monday when that Monday is New Years
49 Day and beer for consumption off the premises between
50 the hours of ten a.m. Sunday and midnight Sunday when

H-5020

Page Two

1 that Sunday is the day before New Years Day. The
2 liquor control license fee or beer permit fee of
3 licensees and permittees permitted to sell or dispense
4 such liquor or beer on a Sunday when that Sunday is
5 the day before New Years Day shall not be increased
6 because of this privilege.

7 It is the intent of this section that the special
8 privileges granted shall be in force only during the
9 specified times provided in this section."

10 3. Title page, by striking lines 1 and 2 and
11 inserting the following: "An Act making corrections
12 to code sections dealing with alcoholic liquor, wine,
13 and beer by amending the definition of beer to reflect
14 current commercial practices, by including a reference
15 to wine in the prohibition on open containers of
16 alcoholic beverages or beer in moving vehicles, by
17 including a reference to wine in permission to sell
18 alcoholic beverages and beer for consumption on the
19 premises on the Sunday before New Years Day, and
20 incorporating a penalty."

21 4. By renumbering section according to this
22 amendment.

H-5020 FILED JANUARY 20, 1986 BY JAY of Appanoose

Bill not germane as amended 1/23 (p. 139)

HOUSE FILE 2069

H-5036

1 Amend House amendment H-5020 to House File 2069 as
2 follows:

3 1. Page 1, by striking lines 18 through 38 and
4 inserting the following:

5 ""Sec. 3. Section 123.150, Code Supplement 1985,
6 is".

H-5036 FILED JANUARY 23, 1986 BY JAY of Appanoose

Adopted 1-23-86 (p. 139)

MWB
HF 2069

~~House~~
SENATE/HOUSE FILE 503

BY (PROPOSED STATE OWI LAWS
STUDY COMMITTEE BILL)

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

A BILL FOR

1 An Act prohibiting the transportation of an open container
2 of wine in a motor vehicle and incorporating a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

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

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

26 EXPLANATION

27 This bill corrects an omission in Senate File 395 passed in
28 1985. Wine is now included in the prohibition on
29 transportation of open containers in a motor vehicle.

30

31

32

33

34

35

vehicle is in motion. A person convicted of a violation of this paragraph is guilty of a simple misdemeanor.

HOUSE FILE 2069

AN ACT

PROHIBITING THE TRANSPORTATION OF AN OPEN CONTAINER OF WINE IN A MOTOR VEHICLE AND INCORPORATING A PENALTY.

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

Section 1. Section 123.28, unnumbered paragraph 2, Code Supplement 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 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 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

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2069, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House
Approved March 18, 1986

TERRY E. BRANSTAD
Governor