

3-20-95 Do Pass
4/10/95 Referred to Judiciary
1-11-96 Do Pass
3-25-96 Referred to Judiciary

FEB 16 1995
JUDICIARY

HOUSE FILE 176
BY DISNEY

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

A BILL FOR

1 An Act relating to open alcoholic beverage container violations
2 and driving records and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 176

1 Section 1. Section 123.28, unnumbered paragraph 2, Code
2 1995, is amended by striking the unnumbered paragraph.

3 Sec. 2. NEW SECTION. 321.281 OPEN CONTAINER OR
4 RECEPTACLE IN MOTOR VEHICLE -- ALCOHOLIC BEVERAGE.

5 A person driving a motor vehicle shall not knowingly
6 possess in a motor vehicle upon a public street or highway an
7 open or unsealed bottle, can, jar, or other receptacle
8 containing an alcoholic beverage with the intent to consume
9 the alcoholic beverage while the motor vehicle is upon a
10 public street or highway. Evidence that an open or unsealed
11 receptacle containing an alcoholic beverage was found during
12 an authorized search in the glove compartment, utility
13 compartment, console, front passenger seat, or any unlocked
14 portable device and within the immediate reach of the driver
15 while the motor vehicle is upon a public street or highway is
16 evidence from which the court or jury may infer that the
17 driver intended to consume the alcoholic beverage while upon
18 the public street or highway if the inference is supported by
19 corroborative evidence. However, an open or unsealed
20 receptacle containing an alcoholic beverage may be transported
21 at any time in the trunk of the motor vehicle or in some other
22 area of the interior of the motor vehicle not designed or
23 intended to be occupied by the driver and not readily
24 accessible to the driver while the motor vehicle is in motion.
25 A person convicted of a violation of this paragraph is guilty
26 of a misdemeanor and subject only to the imposition of a
27 scheduled fine under section 805.8, subsection 2, paragraph
28 "z". An abstract of the conviction shall be forwarded to the
29 department for inclusion on the person's driving record. A
30 conviction under this section shall be counted as a moving
31 violation on the person's driving record.

32 Sec. 3. Section 805.8, subsection 2, Code 1995, is amended
33 by adding the following new paragraph:

34 NEW PARAGRAPH. z. For violation of open container
35 provisions under section 321.281, the scheduled fine is twenty

1 dollars.

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EXPLANATION

3 This bill moves that portion of current section 123.28
4 which prohibits a person driving a motor vehicle from having
5 within the person's reach an open container containing an
6 alcoholic beverage to chapter 321, which governs motor
7 vehicles and laws of the road. Section 321.1 defines
8 "alcoholic beverage" to include alcohol, wine, spirits, beer,
9 or any other beverage which contains ethyl alcohol and is fit
10 for human consumption. The bill requires that an abstract of
11 the conviction be sent to the state department of
12 transportation for inclusion on the person's driving record
13 and that the conviction be counted as a moving violation. The
14 bill makes an open container violation under section 321.281 a
15 scheduled violation with a scheduled fine of \$20.

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