

MAR 7 1995

TRANSPORTATION

HOUSE FILE 237
BY SUKUP

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.

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

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HF 237

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 LIQUOR, WINE, OR
5 BEER.

6 A person driving a motor vehicle shall not knowingly
7 possess in a motor vehicle upon a public street or highway an
8 open or unsealed bottle, can, jar, or other receptacle
9 containing an alcoholic beverage with the intent to consume
10 the alcoholic beverage while the motor vehicle is upon a
11 public street or highway. Evidence that an open or unsealed
12 receptacle containing an alcoholic beverage was found during
13 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 while upon
19 the public street or highway if the inference is supported by
20 corroborative evidence. However, an open or unsealed
21 receptacle containing an alcoholic beverage may be transported
22 at any time in the trunk of the motor vehicle or in some other
23 area of the interior of the motor vehicle not designed or
24 intended to be occupied by the driver and not readily
25 accessible to the driver while the motor vehicle is in motion.
26 A person convicted of a violation of this paragraph is guilty
27 of a simple misdemeanor. An abstract of the conviction shall
28 be forwarded to the department for inclusion on the person's
29 driving record. A conviction under this section shall be
30 counted as a moving violation on the person's driving record.

31 EXPLANATION

32 This bill moves that portion of current section 123.28
33 which prohibits a person driving a motor vehicle from having
34 within the person's reach an open container containing an
35 alcoholic beverage to chapter 321, which governs motor

1 vehicles and laws of the road. Section 321.1 defines
2 "alcoholic beverage" to include alcohol, wine, spirits, beer,
3 or any other beverage which contains ethyl alcohol and is fit
4 for human consumption. The bill requires that an abstract of
5 the conviction be sent to the state department of
6 transportation for inclusion on the person's driving record
7 and that the conviction be counted as a moving violation.

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