

3-8-95 judiciary

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SENATE FILE 270

BY BISIGNANO, GIANNETTO, and
LIND

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

A BILL FOR

1 An Act relating to providing an abstract of a conviction for
2 transportation of open alcoholic beverage containers to the
3 state department of transportation and excluding the offense
4 from the jurisdiction of the juvenile court.

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

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S.F. 270

1 Section 1. Section 123.28, unnumbered paragraph 2, Code
2 1995, 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, and is
26 subject to the provisions of section 321.284.

27 Sec. 2. Section 232.8, subsection 1, paragraph b, Code
28 1995, is amended to read as follows:

29 b. Violations by a child of provisions of section 123.28
30 and chapter 321, 321G, 453A, 461A, 461B, 462A, 481A, 481B,
31 483A, 484A, or 484B, which would be simple misdemeanors if
32 committed by an adult, and violations by a child of county or
33 municipal curfew or traffic ordinances, are excluded from the
34 jurisdiction of the juvenile court and shall be prosecuted as
35 simple misdemeanors as provided by law. A child convicted of

1 a violation excluded from the jurisdiction of the juvenile
2 court under this paragraph shall be sentenced pursuant to
3 section 805.8, where applicable, and pursuant to section
4 903.1, subsection 3, for all other violations.

5 Sec. 3. NEW SECTION. 321.284 ABSTRACT OF CONVICTIONS
6 PROVIDED.

7 An abstract of a conviction for a violation of section
8 123.28 shall be forwarded to the department for inclusion on
9 the person's driving record. A conviction under section
10 123.28 shall be counted as a moving violation against the
11 person's driving record.

12 EXPLANATION

13 This bill provides that an abstract of a person's
14 conviction for transporting an open container of an alcoholic
15 beverage in a motor vehicle shall be sent to the state
16 department of transportation for inclusion on the person's
17 driving record. The bill also removes this offense from the
18 jurisdiction of the juvenile court. The bill further provides
19 that the conviction will be counted as a moving violation on
20 the person's driving record.

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