

Senate Study Bill 1046

Bill Text

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1 1 Section 1. Section [321.284](#), Code 1999, is amended to read
1 2 as follows:
1 3 321.284 OPEN CONTAINERS IN MOTOR VEHICLES DRIVERS.
1 4 A

~~person driving a motor vehicle~~
~~driver of a motor vehicle~~
1 5 upon a public street or highway shall not

~~knowingly~~
~~possess in~~
1 6

~~a~~
~~the passenger area of the~~ motor vehicle

~~upon a public street~~

1 7

~~or highway~~
~~an open or unsealed bottle, can, jar, or other~~
1 8 receptacle containing an alcoholic beverage

~~, wine, or beer~~

1 9

~~with the intent to consume the alcoholic beverage, wine, or~~

1 10

~~beer while the motor vehicle is upon a public street or~~

1 11

~~highway~~

~~Evidence that an open or unsealed receptacle~~

1 12

~~containing an alcoholic beverage, wine, or beer was found~~

1 13

~~during an authorized search in the glove compartment, utility~~

1 14

~~compartment, console, front passenger seat, or any unlocked~~

1 15

~~portable device and within the immediate reach of the driver~~

1 16

~~while the motor vehicle is upon a public street or highway is~~

1 17

~~evidence from which the court or jury may infer that the~~

1 18

~~driver intended to consume the alcoholic beverage, wine, or~~

1 19

~~beer while upon the public street or highway if the inference~~

1 20

~~is supported by corroborative evidence. However, an~~

1 21 "Passenger area" means the area designed to seat the driver
1 22 and passengers while the motor vehicle is in operation and any
1 23 area that is readily accessible to the driver or a passenger
1 24 while in their seating positions, including the glove
1 25 compartment. An open or unsealed receptacle containing an
1 26 alcoholic beverage

~~, wine, or beer~~

~~may be transported~~

~~at any~~

1 27

~~time~~

~~in the trunk of the motor vehicle~~

~~or in some other area~~

1 28

~~of the interior of the motor vehicle not designed or intended~~

1 29

~~to be occupied by the driver and not readily accessible to the~~

1 30

~~driver while the motor vehicle is in motion~~

~~A person~~

1 31 convicted of a violation of this section is guilty of a simple
1 32 misdemeanor punishable as a scheduled violation under section
1 33 805.8, subsection 10, paragraph "b".

1 34 Sec. 2. NEW SECTION. 321.284A OPEN CONTAINERS IN MOTOR
1 35 VEHICLES PASSENGERS.

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

2 11 motor vehicle.

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

2 18 3. A person convicted of a violation of this section is
2 19 guilty of a simple misdemeanor punishable as a scheduled
2 20 violation under section 805.8, subsection 10, paragraph "b".

2 21 Sec. 3. Section [805.8](#), subsection 10, paragraph b, Code
2 22 1999, is amended to read as follows:

2 23 b. For violations

~~of section~~

- ~~under sections 321.284 and~~

2 24 [321.284A](#), the scheduled fine is fifty dollars.

2 25 EXPLANATION

2 26 Current law prohibits the driver of a motor vehicle from
2 27 knowingly possessing an open alcoholic beverage container
2 28 within the immediate reach of the driver with the intent to
2 29 consume the alcoholic beverage while the motor vehicle is upon
2 30 a street or highway. This bill changes the current provision
2 31 by prohibiting both the driver of and passengers in a motor
2 32 vehicle, regardless of intent, from possessing an open or
2 33 unsealed receptacle containing an alcoholic beverage in the
2 34 passenger area of the motor vehicle. "Passenger area" is
2 35 defined as the area of a motor vehicle designed to seat the
3 1 driver and passengers while the motor vehicle is in operation
3 2 and any area that is readily accessible to the driver or a
3 3 passenger while seated in the motor vehicle, including the
3 4 glove compartment. The bill excludes passengers in the
3 5 passenger area of a motor vehicle being operated for the
3 6 transportation of persons for compensation and passengers in
3 7 the living quarters of a motor home, mobile home, travel
3 8 trailer, or fifth-wheel travel trailer from the prohibition.
3 9 A violation of the bill is a simple misdemeanor punishable by
3 10 a scheduled fine of \$50.

3 11 LSB 1242DP 78

3 12 nh/gg/8