

FEB 18 2003
PUBLIC SAFETY

HOUSE FILE 233
BY WENDT

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

A BILL FOR

1 An Act relating to the use, consumption, or possession of a
2 controlled substance while on public streets or highways or
3 public school property, or while attending a public or private
4 school-related function.

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

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HF 233

1 Section 1. Section 123.46, subsection 1, paragraph b, Code
2 2003, is amended to read as follows:

3 b. "Chemical test" means a test of a person's blood,
4 breath, or urine to determine the percentage of alcohol
5 present, or a test of a person's blood or urine to detect the
6 presence of a controlled substance, by a qualified person
7 using devices and methods approved by the commissioner of
8 public safety.

9 Sec. 2. Section 123.46, subsection 1, Code 2003, is
10 amended by adding the following new paragraph:

11 NEW PARAGRAPH. bb. "Controlled substance" means any drug,
12 substance, or compound that is listed in section 124.204 or
13 124.206, or any metabolite or derivative of the drug,
14 substance, or compound.

15 Sec. 3. Section 123.46, subsections 2 and 3, Code 2003,
16 are amended to read as follows:

17 2. A person shall not use or consume alcoholic liquor,
18 wine, or beer, or use or consume any amount of a controlled
19 substance, upon the public streets or highways. A person
20 shall not use or consume alcoholic liquor in any public place
21 except premises covered by a liquor control license. A person
22 shall not possess or consume alcoholic liquors, wine, or beer,
23 or any controlled substance, on public school property or
24 while attending a public or private school-related function.
25 A person shall not be intoxicated or simulate intoxication in
26 a public place. A person violating this subsection is guilty
27 of a simple misdemeanor.

28 3. a. When a peace officer arrests a person on a charge
29 of public intoxication under this section, the peace officer
30 shall inform the person that the person may have a chemical
31 test administered at the person's own expense to test for
32 either the presence of an alcohol concentration established by
33 the results of an analysis of a specimen of the person's
34 blood, breath, or urine, or the presence of a controlled
35 substance established by the results of analysis of a specimen

1 of the person's blood or urine.

2 b. If a device approved by the commissioner of public
3 safety for testing a sample of a person's breath to determine
4 the person's blood alcohol concentration is available, that is
5 the only test that need be offered the person arrested due to
6 suspected blood alcohol content.

7 c. In a prosecution for public intoxication, evidence of
8 the results of a chemical test performed under this subsection
9 is admissible upon proof of a proper foundation.

10 d. The percentage of alcohol present in a person's blood,
11 breath, or urine established by the results of a chemical test
12 performed within two hours after the person's arrest on a
13 charge of public intoxication is presumed to be the percentage
14 of alcohol present at the time of arrest. The presence of a
15 controlled substance established by the results of an analysis
16 of a specimen of the person's blood or urine withdrawn within
17 two hours after the person's arrest on a charge of public
18 intoxication is presumed to show the presence of such
19 controlled substance in the person at the time of arrest.

20 EXPLANATION

21 This bill expands the scope of the crime of public
22 intoxication to include a person, including a juvenile, who
23 uses, consumes, or possesses a controlled substance on public
24 streets or highways, or who possesses or consumes a controlled
25 substance on public school property, or while attending a
26 public or private school-related function. Currently, only
27 persons who use, consume, or possess alcohol on public streets
28 or highways, or who possess or consume alcohol on public
29 school property or while attending a public or private school-
30 related function, can be found guilty of public intoxication.

31 A person who violates this bill is guilty of a simple
32 misdemeanor. A simple misdemeanor is punishable by
33 confinement for no more than 30 days or a fine of at least \$50
34 but not more than \$500 or by both. A juvenile who violates
35 this bill is guilty of a delinquent act and may be detained in

1 a facility or released to the custody of the juvenile's
2 parents, pursuant to Code section 232.22, subsection 3. The
3 juvenile shall also face suspension or revocation of the
4 juvenile's driver's license or operating privileges for a
5 period of one year.

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