

House Study Bill 37

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

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

A BILL FOR

1 An Act relating to alcoholic beverage possession or consumption
2 including underage possession or consumption and destruction
3 of operating while intoxicated records, and providing a
4 penalty.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1463HC 83
7 rh/nh/24

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1 1 Section 1. Section 123.47, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 1A. Except for the purposes described in
1 4 subsection 2, a person who is the owner or lessee of, or who
1 5 otherwise has control over, property that is not a licensed
1 6 premises, shall not permit any person, knowing or having
1 7 reasonable cause to believe the person to be under legal age,
1 8 to consume or possess on such property any alcoholic liquor,
1 9 wine, or beer.

1 10 Sec. 2. Section 123.47, subsection 3, paragraph a,
1 11 unnumbered paragraph 1, Code 2009, is amended to read as
1 12 follows:

1 13 A person who is under legal age, other than a licensee or
1 14 permittee, who violates this section regarding the purchase of
1 15 or attempt to purchase alcoholic liquor, wine, or beer, or
1 16 possessing or having control of alcoholic liquor, wine, or
1 17 beer, or permitting under legal age consumption or possession
1 18 on certain property, commits the following:

1 19 Sec. 3. Section 123.47, subsection 3, paragraph a,
1 20 subparagraph (1), Code 2009, is amended to read as follows:

1 21 (1) A simple misdemeanor punishable as a scheduled
1 22 violation under section 805.8C, subsection 7. Notwithstanding
1 23 section 903.1, the court, in lieu of ordering payment of a
1 24 scheduled fine, may suspend the fine and order the person
1 25 under legal age to receive a substance abuse evaluation by a
1 26 program licensed to provide services pursuant to section
1 27 125.13.

1 28 Sec. 4. Section 123.47, subsection 4, Code 2009, is
1 29 amended to read as follows:

1 30 4. Except as otherwise provided in subsections 5 and 6, a
1 31 person who is of legal age, other than a licensee or
1 32 permittee, who sells, gives, or otherwise supplies alcoholic
1 33 liquor, wine, or beer to a person who is under legal age in
1 34 violation of this section, or permits under legal age
1 35 consumption or possession on certain property, commits a

2 1 serious misdemeanor punishable by a minimum fine of five
2 2 hundred dollars.

2 3 Sec. 5. Section 321.12, subsection 4, Code 2009, is
2 4 amended to read as follows:

2 5 4. The director shall not destroy any operating records
2 6 pertaining to arrests or convictions for operating while
2 7 intoxicated, in violation of section 321J.2 or operating
2 8 records pertaining to revocations for violations of section
2 9 321J.2A, ~~except that a conviction or revocation under section~~
~~2 10 321J.2 or 321J.2A that is not subject to 49 C.F.R. } 383 shall~~
~~2 11 be deleted from the operating records twelve years after the~~
~~2 12 date of conviction or the effective date of revocation.~~
~~2 13 Convictions or revocations that are retained in the operating~~
~~2 14 records for more than twelve years under this subsection shall~~
~~2 15 be considered only for purposes of disqualification actions~~
~~2 16 under 49 C.F.R. } 383.~~

2 17 Sec. 6. Section 321J.2, subsection 4, paragraph a, Code
2 18 2009, is amended by striking the paragraph.

2 19 EXPLANATION

2 20 This bill relates to possession or consumption of an
2 21 alcoholic beverage by an under legal age person on certain
2 22 property and destruction of operating while intoxicated
2 23 records.

2 24 Under the bill, a person who is the owner or lessee of, or
2 25 who otherwise has control over, property that is not a
2 26 licensed premises, shall not permit an under legal age person
2 27 to consume or possess an alcoholic beverage on such property.

2 28 The bill does not affect situations involving a person
2 29 under legal age consuming or possessing an alcoholic beverage
2 30 for a permitted purpose under Code section 123.47, subsection
2 31 2.

2 32 For a first offense, a person under legal age who permits
2 33 under legal age consumption or possession in violation of the
2 34 bill commits a simple misdemeanor punishable as a scheduled
2 35 violation under Code section 805.8C, subsection 7; for a
3 1 second offense a person commits a simple misdemeanor
3 2 punishable by a fine of \$500; and for a third or subsequent
3 3 offense the person commits a simple misdemeanor punishable by
3 4 a fine of \$500 and suspension of the person's motor vehicle
3 5 operating privileges for up to one year.

3 6 The court, for a first offense by a person under legal age,
3 7 may suspend the payment of a scheduled fine and order the
3 8 person under legal age to receive a substance abuse evaluation
3 9 by a program licensed to provide services pursuant to Code
3 10 section 125.13.

3 11 A person of legal age who permits under legal age
3 12 consumption or possession in violation of the bill commits a
3 13 serious misdemeanor punishable by a minimum fine of \$500.

3 14 The bill provides that the director of the department of
3 15 transportation (DOT) shall not destroy any arrest or
3 16 conviction records for persons 21 and over or license
3 17 revocation records for persons under the age of 21, relating
3 18 to operating=while=intoxicated offenses. Current law
3 19 authorizes the DOT to destroy such records that are more than
3 20 12 years old except for certain DOT records of drivers of
3 21 commercial motor vehicles. The bill also eliminates this
3 22 twelve=year look=back provision for determining whether an
3 23 operating=while=intoxicated offense is a second or subsequent
3 24 offense for criminal sentencing or license revocation
3 25 purposes.

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