

Senate Study Bill 3151 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

A BILL FOR

1 An Act relating to the consumption of alcohol or intoxication
2 in public places and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.47, subsection 2, Code 2009, is
2 amended to read as follows:

3 2. A person or persons under legal age shall not
4 purchase, ~~or~~ attempt to purchase, consume, or individually
5 or jointly have alcoholic liquor, wine, or beer in their
6 possession or control; except in the case of liquor, wine, or
7 beer given or dispensed to a person under legal age within a
8 private home and with the knowledge, presence, and consent of
9 the parent or guardian, for beverage or medicinal purposes or
10 as administered to the person by either a physician or dentist
11 for medicinal purposes and except to the extent that a person
12 under legal age may handle alcoholic beverages, wine, and beer
13 during the regular course of the person's employment by a
14 liquor control licensee, or wine or beer permittee under this
15 chapter.

16 Sec. 2. Section 123.47, subsection 3, paragraph a,
17 unnumbered paragraph 1, Code 2009, is amended to read as
18 follows:

19 A person who is under legal age, other than a licensee or
20 permittee, who violates this section regarding the purchase
21 of, ~~or~~ attempt to purchase, or consumption of alcoholic liquor,
22 wine, or beer, or possessing or having control of alcoholic
23 liquor, wine, or beer, commits the following:

24 Sec. 3. Section 123.47B, Code 2009, is amended to read as
25 follows:

26 **123.47B Parental and school notification — persons under**
27 **eighteen years of age.**

28 1. A peace officer shall make a reasonable effort to
29 identify a person under the age of eighteen discovered
30 consuming or to be in possession of alcoholic liquor, wine,
31 or beer in violation of section 123.47 and if the person is
32 not referred to juvenile court, the law enforcement agency of
33 which the peace officer is an employee shall make a reasonable
34 attempt to notify the person's custodial parent or legal
35 guardian of such consumption or possession, whether or not the

1 person is arrested or a citation is issued pursuant to section
2 805.16, unless the officer has reasonable grounds to believe
3 that such notification is not in the best interests of the
4 person or will endanger that person.

5 2. The peace officer shall also make a reasonable effort to
6 identify the elementary or secondary school which the person
7 attends if the person is enrolled in elementary or secondary
8 school and to notify the superintendent or the superintendent's
9 designee of the school which the person attends, or the
10 authorities in charge of the nonpublic school which the person
11 attends, of the consumption or possession. If the person is
12 taken into custody, the peace officer shall notify a juvenile
13 court officer who shall make a reasonable effort to identify
14 the elementary or secondary school the person attends, if any,
15 and to notify the superintendent of the school district or the
16 superintendent's designee, or the authorities in charge of the
17 nonpublic school, of the taking into custody. A reasonable
18 attempt to notify the person includes but is not limited to a
19 telephone call or notice by first-class mail.

20 Sec. 4. NEW SECTION. 123.47C Preliminary screening test.

21 When a peace officer has reasonable grounds to believe that
22 a violation of section 123.46 or 123.47 has occurred, the peace
23 officer may request that the person provide a sample of the
24 person's breath for a preliminary screening test using a device
25 approved by the commissioner of public safety for that purpose.
26 The results of this preliminary screening test or a refusal
27 of such test may be used as evidence in a prosecution of a
28 violation of section 123.46 or 123.47.

29 Sec. 5. Section 232.52, subsection 2, paragraph a,
30 subparagraph (4), subparagraph division (a), subparagraph
31 subdivision (ii), Code Supplement 2009, is amended to read as
32 follows:

33 (ii) Section 123.47 regarding the purchase, ~~or~~ attempt to
34 purchase, or consumption of alcoholic beverages.

EXPLANATION

1

2 This bill relates to the consumption of alcohol or
3 intoxication in public places, providing a penalty, and making
4 penalties applicable.

5 The bill amends Code section 123.47 to specify that a person
6 under legal age (under 21) in Iowa is prohibited from consuming
7 alcoholic liquor, wine, or beer, subject to certain exceptions
8 (if consumed in a private home with the knowledge, presence,
9 and consent of the underage person's parent or guardian, for
10 beverage or medicinal purposes or as administered to the person
11 by either a physician or dentist for medicinal purposes, and to
12 the extent that a person under legal age may handle alcoholic
13 beverages, wine, and beer during the regular course of the
14 person's employment by a liquor control licensee, or wine or
15 beer permittee under Code chapter 123).

16 An underage person age 18 or over found to be in violation
17 of Code section 123.47 commits a simple misdemeanor and is
18 subject to a scheduled violation fine, a criminal penalty fine,
19 community service, a substance abuse evaluation, and suspension
20 of the person's motor vehicle operating privileges for up to
21 one year depending on the circumstances of the offense. A
22 person under the age of 18 is subject to the jurisdiction
23 of the juvenile court and may be subject to the suspension
24 or revocation of the person's driver's license or operating
25 privilege for one year. In addition, the bill requires a
26 peace officer to make a reasonable attempt to notify the such
27 person's custodial parent or legal guardian and, if applicable,
28 school officials, about the underage person's consumption of
29 alcoholic beverages.

30 The bill also provides that when a peace officer has
31 reasonable grounds to believe that a violation of Code section
32 123.46 (consumption of alcohol or intoxication in public) or
33 Code section 123.47 has occurred, the peace officer may request
34 that the person provide a sample of the person's breath for
35 a preliminary screening test using a device approved by the

S.F. _____

1 commissioner of public safety for that purpose. The results
2 of this preliminary screening test or a refusal of such test
3 may be used as evidence in a prosecution of a violation of Code
4 section 123.46 or 123.47.