

Senate File 415 - Introduced

SENATE FILE 415
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1088)

A BILL FOR

1 An Act providing immunity from certain criminal offenses and
2 prohibiting certain disciplinary sanctions for persons who
3 report, seek, or require emergency assistance for alcohol
4 overdoses or protection from certain crimes, and modifying
5 penalties.

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

1 Section 1. Section 123.46, Code 2017, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 7. A person shall not be charged or
4 prosecuted for a violation of this section if the person is
5 immune from charge or prosecution pursuant to section 701.12.

6 Sec. 2. Section 123.47, Code 2017, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 9. A person shall not be charged or
9 prosecuted for a violation of subsection 3 or 4 if the person
10 is immune from charge or prosecution pursuant to section
11 701.12.

12 Sec. 3. Section 123.47B, Code 2017, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 1A. If a person under the age of
15 eighteen is discovered consuming or to be in possession of
16 alcoholic liquor, wine, or beer, but the person is immune from
17 prosecution under section 701.12, a peace officer shall make a
18 reasonable effort to identify the person and notify a juvenile
19 court officer of such person's consumption or possession.

20 Sec. 4. Section 262.9, Code 2017, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 39. Prohibit an institution of higher
23 education under its control from imposing any of the following
24 disciplinary sanctions against a student for possession or
25 consumption of alcohol if the student is immune from charge or
26 prosecution pursuant to section 701.12:

- 27 a. Removal from a course.
- 28 b. Enrollment restrictions in a course or program.
- 29 c. Suspension or expulsion from the university.
- 30 d. Eviction or exclusion from student housing.

31 Sec. 5. Section 321.216B, Code 2017, is amended to read as
32 follows:

33 **321.216B Use of driver's license or nonoperator's**
34 **identification card by underage person to obtain alcohol.**

35 1. A person who is under the age of twenty-one, who alters

1 or displays or has in the person's possession a fictitious
2 or fraudulently altered driver's license or nonoperator's
3 identification card and who uses the license to violate or
4 attempt to violate [section 123.47](#), commits a simple misdemeanor
5 punishable as a scheduled violation under section 805.8A,
6 subsection 4. The court shall forward a copy of the conviction
7 to the department.

8 2. A person shall not be charged or prosecuted for a
9 violation of this section if the person is immune from charge
10 or prosecution pursuant to section 701.12.

11 Sec. 6. Section 321.284, Code 2017, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 3. A person shall not be charged or
14 prosecuted for a violation of this section if the person is
15 immune from charge or prosecution pursuant to section 701.12.

16 Sec. 7. Section 321.284A, Code 2017, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 6. A person shall not be charged or
19 prosecuted for a violation of this section if the person is
20 immune from charge or prosecution pursuant to section 701.12.

21 Sec. 8. NEW SECTION. **701.12 Persons seeking emergency**
22 **assistance for overdose or crime victims — immunity.**

23 1. A person shall not be charged or prosecuted for the
24 violation of any of the following offenses if the evidence
25 for the charge was obtained as a result of the person in good
26 faith seeking emergency assistance for the person or another
27 person due to an alcohol overdose or because the person or
28 other person is a victim of a crime prohibited by chapter 708,
29 709, or 710A:

30 a. Section 123.46.

31 b. Section 123.47, subsection 3 or 4.

32 c. Section 321.216B.

33 d. Section 321.284.

34 e. Section 321.284A.

35 2. To be eligible for immunity under this section, the

1 reporting person, or persons acting in concert, must do all of
2 the following:

3 a. Be the first person to seek emergency assistance.

4 b. Provide the reporting person's name and contact
5 information to medical or law enforcement personnel.

6 c. Remain on the scene until assistance arrives or is
7 provided.

8 d. Cooperate with medical and law enforcement personnel.

9 3. The person for whom emergency assistance was sought as
10 described in subsection 1 shall not be charged or prosecuted
11 for an offense listed in subsection 1.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill provides immunity from certain alcohol-related
16 criminal offenses and prohibits certain disciplinary sanctions
17 for certain persons who seek or require emergency assistance
18 for alcohol overdoses or protection from certain crimes.

19 The bill creates new Code section 701.12, which provides
20 that a person shall not be charged or prosecuted for public
21 intoxication, possession of alcohol under the legal age, use
22 of a driver's license by an underage person to obtain alcohol,
23 or possession of an open container in a motor vehicle, if
24 the person in good faith sought emergency assistance for the
25 person or another person due to an alcohol overdose or because
26 the person or other person is a victim of a crime prohibited
27 by Code chapter 708 (assault), 709 (sexual abuse), or 710A
28 (human trafficking). A person seeking emergency assistance is
29 only eligible for immunity if the person, or persons acting
30 in concert, is the first person to seek emergency assistance,
31 provides the reporting person's name and contact information
32 to medical or law enforcement personnel, remains on the scene
33 until assistance arrives or is provided, and cooperates with
34 medical and law enforcement personnel. The bill also provides
35 immunity to the person for whom emergency assistance was

1 sought.

2 Under Code section 232.52, a juvenile court may suspend
3 or revoke the driver's license or operating privilege of a
4 person under the age of 18, for a period of one year, who
5 has violated Code section 123.46 or 123.47 or Code chapter
6 124. Because the bill provides immunity to persons from those
7 provisions, a person under the age of 18 who receives immunity
8 from prosecution under the bill will not face the loss of such
9 person's driver's license for one year.

10 The bill provides that if a person under the age of 18 is
11 discovered consuming or to be in possession of alcohol but
12 receives immunity from prosecution under Code section 701.12,
13 a peace officer shall notify a juvenile court officer of
14 such person's consumption or possession. Under Code section
15 123.47B(2), the juvenile court officer is required to notify
16 the person's custodial parent, legal guardian, or custodian and
17 the superintendent of authority in charge of the school the
18 person attends of the consumption or possession.

19 The bill directs the board of regents to prohibit the regents
20 universities from imposing certain disciplinary sanctions
21 against a student for the possession or consumption of alcohol
22 if the student is immune from prosecution pursuant to new Code
23 section 701.12. The prohibited disciplinary sanctions are the
24 removal from a course, enrollment restrictions in a course
25 or program, suspension or expulsion from the university, or
26 eviction or exclusion from student housing.

27 The bill makes conforming changes.