

Senate Study Bill 1107 - Introduced

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

A BILL FOR

1 An Act providing limited immunity from certain criminal
2 offenses and prohibiting certain disciplinary sanctions for
3 persons under twenty-one years of age who report, seek,
4 or require emergency assistance for alcohol overdoses or
5 protection from certain crimes, and modifying penalties.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.46, Code 2019, is amended by adding
2 the following new subsection:

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 2019, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 5A. 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 2019, 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 2019, 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 2019, 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 2019, 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 2019, 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 under the age of**
22 **twenty-one seeking emergency assistance for overdose or crime**
23 **victims — immunity.**

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

- 31 a. Section 123.46.
- 32 b. Section 123.47, subsection 3 or 4.
- 33 c. Section 321.216B.
- 34 d. Section 321.284.
- 35 e. Section 321.284A.

1 2. To be eligible for immunity under this section, the
2 reporting person, or persons acting in concert, must do all of
3 the following:

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

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

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

9 d. Cooperate with medical and law enforcement personnel.

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

13 EXPLANATION

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

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

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

1 personnel. The bill also provides immunity to the person for
2 whom emergency assistance was sought.

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

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

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

28 The bill makes conforming Code changes.