

all offenses. When a fine or forfeiture is suspended in whole or in part, the surcharge shall be reduced in proportion to the amount suspended. This section applies only with respect to criminal actions commenced on or after July 1, 1982.

Sec. 3. Section 911.3, Code Supplement 1983, is amended to read as follows:

911.3 DISPOSITION OF SURCHARGE. When a court assesses a surcharge under section 911.2, the clerk of the district court shall transmit ninety percent of the surcharge collected to the treasurer of state by the fifteenth day of the following month. The treasurer of state shall deposit one-third of the money in the law enforcement training reimbursement fund established under section 384.15 and the remaining two-thirds of the money in the general fund of the state. The clerk of the district court shall transmit ten percent of the surcharge to the county treasurer or shall remit ten percent of the surcharge to the city that was the plaintiff in any action for deposit in the general fund of the city.

Approved May 14, 1984

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## CHAPTER 1275

### ALCOHOLIC BEVERAGES AND BEER

*H.F. 2472*

**AN ACT** relating to the transportation of open containers of alcoholic beverages and beer, the hours of sale of alcoholic beverages and beer, the notification of parents or legal guardians of a child that appears before the court for a violation of section 123.47, the motor vehicle license or nonoperator's identification card\* issued to a person under nineteen years of age, and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 123.28, Code 1983, is amended to read as follows:

123.28 TRANSPORTATION PERMITTED. It ~~shall be~~ is lawful to transport, carry, or convey alcoholic liquors from the place of purchase by the department to ~~any a~~ state warehouse, store, or depot established by the department or from one such place to another and, when so permitted by this chapter, it ~~shall be~~ is lawful for ~~any a~~ common carrier or other person to transport, carry, or convey alcoholic liquor sold by a vendor from a state warehouse, store, depot or point of purchase by the state to any place to which ~~such the~~ liquor may be lawfully delivered under this chapter. Notwithstanding section 321.230, sections 321.225 and 321.226 do not apply to department employees in the regular course of their employment. A common carrier or other person shall not break or open or allow to be broken or opened ~~any a~~ container or package containing alcoholic liquor or use or drink or allow to be used or drunk any alcoholic liquor while it is being transported or conveyed, but this section ~~shall does~~ not prohibit a private person from transporting individual bottles or containers of alcoholic liquor exempted pursuant to section 123.22 and individual bottles or containers bearing the identifying mark prescribed in section 123.26 which have been opened previous to the commencement of ~~such the~~ transportation. This section ~~shall does~~ not affect the right of ~~any a~~ special permit or liquor control license holder to purchase, possess, or transport alcoholic liquors subject to the provisions of this chapter.

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\*According to enrolled Act

A person driving a motor vehicle shall not knowingly possess in a motor vehicle upon a public street or highway any open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage or beer with the intent to consume the alcoholic beverage or beer while the motor vehicle is upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an open or unsealed receptacle containing an alcoholic beverage or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion.

Sec. 2. Section 123.36, subsection 6, Code Supplement 1983, is amended to read as follows:

6. Any club, hotel, motel, or commercial establishment holding a liquor control license for whom the sale of goods and services other than alcoholic liquor or beer constitutes fifty percent or more of the gross receipts from the licensed premises, subject to the provisions of section 123.49, subsection 2, paragraph "b", may sell and dispense alcoholic liquor to patrons on Sunday for consumption on the premises only, and beer for consumption on or off the premises between the hours of ~~noon~~ ten a.m. and ten p.m. twelve midnight on Sunday. For the privilege of selling beer and alcoholic liquor on the premises on Sunday the liquor control license fee of the applicant shall be increased by twenty percent of the regular fee prescribed for the license pursuant to this section, and the privilege shall be noted on the liquor control license. The department shall prescribe the nature and the character of the evidence which shall be required of the applicant under this subsection.

Sec. 3. Section 123.49, subsection 2, paragraph b, Code 1983, is amended to read as follows:

b. Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit the its consumption thereon between the hours of two a.m. and six a.m. on ~~any~~ a weekday, and between the hours of two a.m. on Sunday and six a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense ~~such~~ alcoholic liquor or beer between the hours of ~~noon~~ ten a.m. and ten p.m. twelve midnight on Sunday.

Sec. 4. Section 123.50, Code 1983, is amended by adding the following new subsection:

**NEW SUBSECTION. 4.** A person, other than a licensee or permittee or a minor, who violates section 123.47 is guilty of a serious misdemeanor punishable by a minimum fine of one hundred dollars for a first offense, two hundred and fifty dollars for a second offense, and five hundred dollars for a third and subsequent offense, and a maximum fine for any offense of not more than one thousand dollars.

Sec. 5. Section 123.134, subsection 5, Code 1983, is amended to read as follows:

5. Any club, hotel, motel, or commercial establishment holding a class "B" beer permit for whom the sale of goods and services other than beer constitutes fifty percent or more of the gross receipts from the licensed premises, subject to the provisions of section 123.49, subsection 2, paragraph "b", may sell and dispense beer to patrons on Sunday for consumption on the premises and for consumption of beer off the premises between the hours of ~~noon~~ 10 a.m. and ten p.m. twelve midnight on Sunday. Any class "C" beer permittee may sell beer for consumption off the premises between the hours of ~~noon~~ ten a.m. and ten p.m. twelve midnight on

**Sunday.** For the privilege of selling beer on Sunday the beer permit fees of the applicant shall be increased by twenty percent of the regular fees prescribed for the permit pursuant to this section and the privilege shall be noted on the beer permit. The department shall prescribe the nature and character of the evidence which shall be required of the applicant under this subsection.

Sec. 6. Section 232.8, subsection 1, unnumbered paragraph 2, Code 1983, is amended to read as follows:

Violations by a child of provisions of chapters 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, violations of county or municipal curfew or traffic ordinances, and violations by a child of the provisions of section 123.47, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. The court may advise appropriate juvenile authorities and may refer violations of section 123.47 to the juvenile court when there is reason to believe that the child regularly abuses alcohol and may be in need of treatment. The court shall notify the parents or legal guardians of a child that appears before it for a violation of section 123.47.

Sec. 7. Section 602.6405, subsection 1, Code Supplement 1983, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, and small claims. They also have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. ~~They also have jurisdiction of first offense violations of section 321.281 but only to the extent that they may approve trial informations, conduct arraignments, accept guilty pleas if the defendant is represented by legal counsel, sentence those pleading guilty and make appropriate orders authorized by section 321.283.~~ They also have jurisdiction over violations of section 123.47 and section 123.49, subsection 2, paragraph "h".

Approved May 14, 1984