

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 258**

Introduced by Harms, 48.

Read first time January 14, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to  
2 amend section 53-180.05, Reissue Revised Statutes of  
3 Nebraska, and section 53-101, Revised Statutes Cumulative  
4 Supplement, 2008; to change and provide penalties for  
5 minors in possession of alcoholic liquor; to harmonize  
6 provisions; and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 53-101, Revised Statutes Cumulative  
2 Supplement, 2008, is amended to read:

3           53-101 Sections 53-101 to 53-1,122 and section 3 of this  
4 act shall be known and may be cited as the Nebraska Liquor Control  
5 Act.

6           Sec. 2. Section 53-180.05, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           53-180.05 (1) Any person violating section 53-180 shall  
9 be guilty of a Class I misdemeanor. Any person violating any of the  
10 provisions of ~~sections 53-180.01 to~~ section 53-180.01 or 53-180.03  
11 shall be guilty of a Class III misdemeanor. Any person violating  
12 section 53-180.02 is guilty of a misdemeanor as provided in section  
13 3 of this act and shall be punished as provided in such section.

14           (2) Any person who knowingly manufactures, creates, or  
15 alters any form of identification for the purpose of sale or  
16 delivery of such form of identification to a person under the age  
17 of twenty-one years shall be guilty of a Class I misdemeanor. For  
18 purposes of this subsection, form of identification means any card,  
19 paper, or legal document that may be used to establish the age of  
20 the person named thereon for the purpose of purchasing alcoholic  
21 liquor.

22           (3) When a minor is arrested for a violation of sections  
23 53-180 to 53-180.02 or subsection (2) of this section, the law  
24 enforcement agency employing the arresting peace officer shall make  
25 a reasonable attempt to notify such minor's parent or guardian of

1 the arrest.

2           Sec. 3. The penalty for violation of section 53-180.02  
3 shall be as follows:

4           (1) If the person convicted of violating such section is  
5 sixteen years of age or older and younger than twenty-one years of  
6 age and he or she has one or more licenses or permits issued under  
7 the Motor Vehicle Operator's License Act:

8           (a) For the first offense, such person is guilty of  
9 a Class III misdemeanor and the court shall, as a part of the  
10 judgment of conviction, impound any such licenses or permits for  
11 not less than sixty days and not more than ninety days and require  
12 such person to attend an alcohol education class, an Alcoholics  
13 Anonymous meeting, or a victim impact panel conducted by Mothers  
14 Against Drunk Driving or a successor or similar organization;

15           (b) For a second offense, such person is guilty of a  
16 Class III misdemeanor and the court shall, as a part of the  
17 judgment of conviction, impound any such licenses or permits for  
18 not less than six months and require such person to complete no  
19 fewer than twenty and no more than forty hours of community service  
20 and to attend an alcohol education class, an Alcoholics Anonymous  
21 meeting, or a victim impact panel conducted by Mothers Against  
22 Drunk Driving or a successor or similar organization;

23           (c) For a third offense, such person is guilty of a Class  
24 II misdemeanor and the court shall, as a part of the judgment of  
25 conviction, impound any such licenses or permits for not less than

1 one year and require such person to complete no fewer than sixty  
2 hours of community service and to submit to an alcohol assessment  
3 by a licensed alcohol and drug counselor; and

4 (d) For the fourth or subsequent offense or more, such  
5 person is guilty of a Class I misdemeanor and the court, as a part  
6 of the judgement of conviction, shall impound any such licenses or  
7 permits for not less than two years, sentence such person to no  
8 fewer than five and no more than fifteen days in jail, and require  
9 such person to submit to an alcohol assessment by a licensed  
10 alcohol and drug counselor.

11 (2) If the person convicted of violating such section is  
12 younger than sixteen years of age and has any permit issued under  
13 the Motor Vehicle Operator's License Act:

14 (a) For the first offense, such person is guilty of a  
15 Class III misdemeanor and the court, as part of the judgment of  
16 conviction, shall (i) impound any such permit for six months from  
17 the date of such order, (ii) prohibit such person from obtaining  
18 any other permit or any license pursuant to the act for which  
19 such person would otherwise be eligible until six months after  
20 the date of such order, and (iii) require such person to attend  
21 an alcohol education class, an Alcoholics Anonymous meeting, or a  
22 victim impact panel conducted by Mothers Against Drunk Driving or a  
23 successor or similar organization;

24 (b) For a second offense, such person is guilty of a  
25 Class III misdemeanor and the court, as part of the judgment of

1 conviction, shall (i) impound any such permit for twelve months  
2 from the date of such order, (ii) prohibit such person from  
3 obtaining any other permit or any license pursuant to the act for  
4 which such person would otherwise be eligible until twelve months  
5 after the date of such order, and (iii) require such person to  
6 attend an alcohol education class, an Alcoholics Anonymous meeting,  
7 or a victim impact panel conducted by Mothers Against Drunk Driving  
8 or a successor or similar organization; and

9 (c) For a third or subsequent offense, such person is  
10 guilty of a Class II misdemeanor and the court, as part of the  
11 judgment of conviction, shall (i) impound any such permit for  
12 twenty-four months from the date of such order, (ii) prohibit such  
13 person from obtaining any other permit or any license pursuant to  
14 the act for which such person would otherwise be eligible until  
15 twenty-four months after the date of such order, and (iii) require  
16 such person to submit to an alcohol assessment by a licensed  
17 alcohol and drug counselor.

18 (3) If the person convicted of violating such section is  
19 younger than twenty-one years of age and does not have a permit or  
20 license issued under the Motor Vehicle Operator's License Act:

21 (a) For the first offense, such person is guilty of  
22 a Class III misdemeanor and the court, as part of the judgment  
23 of conviction, shall (i) prohibit such person from obtaining any  
24 permit or any license pursuant to the act for which such person  
25 would otherwise be eligible until six months after the date of such

1 order and (ii) require such person to attend an alcohol education  
2 class, an Alcoholics Anonymous meeting, or a victim impact panel  
3 conducted by Mothers Against Drunk Driving or a successor or  
4 similar organization;

5 (b) For a second offense, such person is guilty of a  
6 Class III misdemeanor and the court, as part of the judgment  
7 of conviction, shall (i) prohibit such person from obtaining any  
8 permit or any license pursuant to the act for which such person  
9 would otherwise be eligible until twelve months after the date  
10 of such order and (ii) require such person to attend an alcohol  
11 education class, an Alcoholics Anonymous meeting, or a victim  
12 impact panel conducted by Mothers Against Drunk Driving or a  
13 successor or similar organization; and

14 (c) For a third or subsequent offense, such person is  
15 guilty of a Class II misdemeanor and the court, as part of  
16 the judgment of conviction, shall (i) prohibit such person from  
17 obtaining any permit or any license pursuant to the act for which  
18 such person would otherwise be eligible until twenty-four months  
19 after the date of such order and (ii) require such person to submit  
20 to an alcohol assessment by a licensed alcohol and drug counselor.

21 Sec. 4. Original section 53-180.05, Reissue Revised  
22 Statutes of Nebraska, and section 53-101, Revised Statutes  
23 Cumulative Supplement, 2008, are repealed.