

ALCOHOL OFFENSES

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Alcohol-Nebraska State Statues

- ▣ Nebraska Revised Statutes Chapter 53-
Nebraska Liquor Control Act
- ▣ Nebraska Revised Statutes Chapter 60
Nebraska Rules of the Road

Kegs-§ 53-167.02

Sales of kegs of beer, 5 gallons or more must have

- ▣ ID#
- ▣ Date of Sale
- ▣ Purchaser's name, address, and operator's license
- ▣ License holder must retain records for 6 months
- ▣ Make records available for inspection
- ▣ Violation a Class III misdemeanor

Kegs-§ 53-167.03

- ▣ Unlawful to tamper, alter, or remove keg I.D. tag
- ▣ Violation a Class III misdemeanor

Minors and Employment § 53-168.06

Individuals aged 16 and older may

- ▣ May handle alcohol for employment purposes
- ▣ May carry out when accompanied by an adult
- ▣ Remove and dispose of alcohol during the course of employment
- ▣ May complete transaction if not handling or serving the alcohol

Individuals aged 19 and older may serve and sell alcohol in the scope and course of employment

Powdered Alcohol-§ 53-173

Unlawful to possess powdered alcohol

- ▣ First offense, second offense-infractions (fines only)
- ▣ • Third offense Class III misdemeanor

Possession with the intent to sell powdered alcohol is unlawful

- ▣ Class I misdemeanor

Procuring Alcohol for Minors and Incompetents § 53-180

- ❑ Unlawful to sell, furnish, give away, exchange, deliver, or permit the procuring of alcohol to or for any minor or person who is mentally incompetent.
- ❑ Class I misdemeanor
- ❑ Hosting a party where minors are consuming alcohol is not evidence of procuring.
- ❑ Defense-purchaser falsely represented age, with documentary proof (false I.D.), person appeared to reasonable person to conform with documentary proof, and seller acted in good faith.
- ❑ Access to residence-attempt to get consent, may need to get search warrant.

Minor in Possession of Alcohol-§ 53-180.02

- ▣ Individuals under 21 may not sell, dispense, consume, or have in his or her possession or physical control alcohol.
- ▣ Class III misdemeanor
- ▣ Proving Age-Ask the suspect to confirm D.O.B. and document in report
- ▣ Constructive Possession-knowledge and access

Minor in Possession of Alcohol-§ 53-180.02

Exceptions

- ▣ minors may consume or possess alcohol in their own residence
- ▣ may use as part of a religious service
- ▣ §53-180.06-not guilty if the minor is reporting the possible overdose of another (must be first reporter, remain at the scene, and cooperate with law enforcement and medical personnel.

Manufacturing False Identification-§ 53-180.06

- ▣ Unlawful to manufacture false I.D. for persons under the age of 21
- ▣ Class I misdemeanor

Consumption on Public Property/Open to Public

§ 53-186

- ▣ Unlawful unless authorized by governing bodies with jurisdiction over such property
- ▣ Liquor Commission may issue license

§53-186.01

- ▣ Unlawful to consume or allow the consumption of alcohol on property open to the general public, unless license issued.
- ▣ Does not apply to licensee engaged in catering or operating limousines or busses pursuant to § 60-6,211.08

Confections/Candy Containing Alcohol § 53-194.04

- ▣ More than ½ of 1 percent requires license
- ▣ Must be labelled
- ▣ Cannot be sold to minors

Law enforcement duties-§ 53-197

- ▣ Credible information of sale of alcohol in violation of this act-law enforcement must make complaint within the jurisdiction
- ▣ Criminal violation for neglect or failure to do so (Class V misdemeanor)
- ▣ Must report to liquor commission within 30 days

Omaha City Ordinances-Alcohol

Open Container-Public Places-§ 15-14

Unlawful to possess open containers of alcohol on

- ▣ (a) Any street, roadway, highway, boulevard, alley, public or privately owned parking lot open to the public, public sidewalk, or other public way within the city;
- ▣ (b) Any grounds or property within the city owned by or under the control of a public school district; or
- ▣ (c) Any grounds or property within the city owned by or under the control of the city or other political subdivision.

Open Container-Public Places-§ 15-14

Does not apply to a person possessing open containers of alcoholic liquor inside a vehicle if the vehicle is being used for the transportation of passengers for hire, the driver and the passengers transported for hire are completely separated by a physical barrier, and the alcoholic liquor is possessed only in the area of the vehicle which is physically separated from the driver.

Consumption of liquor on public right-of-way-§ 15-3

- ▣ It shall be unlawful for any person to consume alcoholic liquor in the public streets, alleys, parking areas or other public right-of-way or upon property owned or controlled by any governmental subdivision unless authorized by the governing bodies having jurisdiction over such property or unless a license or permit for the sale of alcoholic liquor on the property has been issued.

Open containers on premises after closing-§ 15-3

It shall be unlawful for any person on any property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain on the tables, bar or any surface where such alcoholic liquor is consumed by the public or to be in the possession or control of any person therein for purposes of consumption between the hours of 15 minutes after the closing hour applicable to the licensed premises and 6:00 a.m. on any day.

Open containers in vehicles (state statute)-§ 60-6,211.08

Unlawful to possess or consume from open container of alcohol in a vehicle in a public parking area, or public street. (does not apply to limousines or party busses)

Other City Ordinances

- ▣ § 15-2, 15-3-After Hours-no sale, possession, consumption, or open containers.
- ▣ § 15-4 Sale to minor or incompetent
- ▣ § 15-5 Minor misrepresent age/identity
- ▣ § 15-6 Furnish False I.D. to minor
- ▣ § 15-7 Purchase for minor
- ▣ § 15-8 Procuring for minor
- ▣ § 15-10 Possession by minor in motor vehicle
- ▣ • § 15-16 No “walk-up” sales

Other City Ordinances

- ▣ § 15-70 Entertainment District
- ▣ § 15-66 College World Series-Special License
- ▣ § 21-14 Liquor in the Park

Driving Under the Influence of Alcohol

- ▣ § 60-6,196 (State) 36-115 (City)-.08, .15-under the Influence of alcohol
- ▣ § 60-6,197.04 Refusal of PBT
- ▣ § 60-6,197 (State) 36-116 (city) Refusal of Chemical Test
- ▣ Zero Tolerance-§ 60-6,211.01-Under 21, .02 or above (requires evidentiary test)
- ▣ Tampering with Ignition Interlock § 60-6,211.11
- ▣ Boating under the influence-§ 37-1254.01 (State) 21-48 City

Gambling

- ▣ Possession of Gambling Records (§28-1105)
 - Possess any writing or paper for booking
 - Doesn't apply to players (use Promoting)
 - Class II misdemeanor

- ▣ Possession of Gambling Devices (§28-1107)
 - Manufactures, sells, or possess any gambling device
 - Knowing it will be used for gambling
 - Doesn't apply to “free plays” on video games
 - Class II misdemeanor