

LEGISLATIVE BILL 923

Approved by the Governor April 17, 2018

Introduced by Morfeld, 46.

A BILL FOR AN ACT relating to immunity; to amend sections 53-180.05 and 53-181, Revised Statutes Cumulative Supplement, 2016, and section 28-470, Revised Statutes Supplement, 2017; to provide immunity for certain law enforcement employees administering naloxone as prescribed; to define a term; to change penalty provisions for certain violations regarding alcoholic liquor relating to or committed by minors; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-470, Revised Statutes Supplement, 2017, is amended to read:

28-470 (1) A health professional who is authorized to prescribe or dispense naloxone, if acting with reasonable care, may prescribe, administer, or dispense naloxone to any of the following persons without being subject to administrative action or criminal prosecution:

(a) A person who is apparently experiencing or who is likely to experience an opioid-related overdose; or

(b) A family member, friend, or other person in a position to assist a person who is apparently experiencing or who is likely to experience an opioid-related overdose.

(2) A family member, friend, or other person who is in a position to assist a person who is apparently experiencing or who is likely to experience an opioid-related overdose, other than an emergency responder or peace officer, is not subject to actions under the Uniform Credentialing Act, administrative action, or criminal prosecution if the person, acting in good faith, obtains naloxone from a health professional or a prescription for naloxone from a health professional and administers the naloxone obtained from the health professional or acquired pursuant to the prescription to a person who is apparently experiencing an opioid-related overdose.

(3) An emergency responder who, acting in good faith, obtains naloxone from the emergency responder's emergency medical service organization and administers the naloxone to a person who is apparently experiencing an opioid-related overdose shall not be:

(a) Subject to administrative action or criminal prosecution; or

(b) Personally liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of his or her rendering such care or services or arising out of his or her failure to act to provide or arrange for further medical treatment or care for the person who is apparently experiencing an opioid-related overdose, unless the emergency responder caused damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission. This subdivision shall not affect the liability of such emergency medical service organization for the emergency responder's acts of commission or omission.

(4) A peace officer or law enforcement employee who, acting in good faith, obtains naloxone from the peace officer's or employee's law enforcement agency and administers the naloxone to a person who is apparently experiencing an opioid-related overdose shall not be:

(a) Subject to administrative action or criminal prosecution; or

(b) Personally liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of his or her rendering such care or services or arising out of his or her failure to act to provide or arrange for further medical treatment or care for the person who is apparently experiencing an opioid-related overdose, unless the peace officer or employee caused damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission. This subdivision shall not affect the liability of such law enforcement agency for the peace officer's or employee's acts of commission or omission.

(5) For purposes of this section:

(a) Administer has the same meaning as in section 38-2806;

(b) Dispense has the same meaning as in section 38-2817;

(c) Emergency responder means an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic licensed under the Emergency Medical Services Practice Act;

(d) Health professional means a physician, physician assistant, nurse practitioner, or pharmacist licensed under the Uniform Credentialing Act;

(e) Law enforcement agency means a police department, a town marshal, the office of sheriff, or the Nebraska State Patrol;

(f) Law enforcement employee means an employee of a law enforcement agency, a contractor of a law enforcement agency, or an employee of such contractor who regularly, as part of his or her duties, handles, processes, or is likely to come into contact with any evidence or property which may include or contain opioids;

(g) ~~(f)~~ Naloxone means naloxone hydrochloride; and

(h) ~~(g)~~ Peace officer has the same meaning as in section 49-801.

Sec. 2. Section 53-180.05, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-180.05 (1) Except as provided in subsection (2) of this section, any person who violates section 53-180 shall be guilty of a Class I misdemeanor.

(2) Any person who knowingly and intentionally violates section 53-180 shall be guilty of a Class IIIA felony and serve a mandatory minimum of at least thirty days' imprisonment as part of any sentence he or she receives if serious bodily injury or death to any person resulted and was proximately caused by a minor's (a) consumption of the alcoholic liquor provided or (b) impaired condition which, in whole or in part, can be attributed to the alcoholic liquor provided.

(3) Any person who violates any of the provisions of section 53-180.01 or 53-180.03 shall be guilty of a Class III misdemeanor.

(4)(a) Except as otherwise provided in ~~subdivisions~~ subdivision (b), (c), and (d) of this subsection, any person older than eighteen years of age and under the age of twenty-one years violating section 53-180.02 is guilty of a Class III misdemeanor.

(b) Subdivision (a) of this subsection shall not apply if the person:

(i) Made a good faith request for Requested emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent after such violation of section 53-180.02;

(ii) ~~Made the was the first person to make a request for medical assistance under subdivision (b)(i) of this subsection~~ as soon as the emergency situation is apparent after such violation of section 53-180.02; and

(iii) When emergency medical assistance was requested for the possible alcohol overdose of another person:

(A) Remained on the scene until the medical assistance arrived; and

(B) Cooperated with medical assistance and law enforcement personnel.

(c) The exception from criminal liability provided in subdivision (b) of this subsection applies to any person who makes a request for emergency medical assistance and complies with the requirements of subdivision (b) of this subsection.

(d) Subdivision (a) of this subsection shall not apply to the person experiencing a possible alcohol overdose if a request for emergency medical assistance in response to such possible alcohol overdose was made by another person in compliance with subdivision (b) of this subsection.

(e) ~~(e)~~ A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance with subdivision (b), (c), or (d) of this subsection.

(5) Any person eighteen years of age or younger violating section 53-180.02 is guilty of a misdemeanor as provided in section 53-181 and shall be punished as provided in such section.

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

(7) When a minor is arrested for a violation of sections 53-180 to 53-180.02 or subsection (6) of this section, the law enforcement agency employing the arresting peace officer shall make a reasonable attempt to notify such minor's parent or guardian of the arrest.

Sec. 3. Section 53-181, Revised Statutes Cumulative Supplement, 2016, is amended to read:

53-181 (1) Except as otherwise provided in ~~subsections~~ subsection (3), (4), and (5) of this section, the penalty for violation of section 53-180.02 by a person eighteen years of age or younger shall be as follows:

(a) If the person convicted or adjudicated of violating such section has one or more licenses or permits issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, such person is guilty of a Class III misdemeanor and the court may, as a part of the judgment of conviction or adjudication, impound any such licenses or permits for thirty days and require such person to attend an alcohol education class;

(ii) For a second offense, such person is guilty of a Class III misdemeanor and the court, as a part of the judgment of conviction or adjudication, may (A) impound any such licenses or permits for ninety days and (B) require such person to complete no fewer than twenty and no more than forty hours of community service and to attend an alcohol education class; and

(iii) For a third or subsequent offense, such person is guilty of a Class III misdemeanor and the court, as a part of the judgment of conviction or adjudication, may (A) impound any such licenses or permits for twelve months and (B) require such person to complete no fewer than sixty hours of community service, to attend an alcohol education class, and to submit to an alcohol assessment by a licensed alcohol and drug counselor; and

(b) If the person convicted or adjudicated of violating such section does not have a permit or license issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (A) prohibit such person from obtaining any permit or any

license pursuant to the act for which such person would otherwise be eligible until thirty days after the date of such order and (B) require such person to attend an alcohol education class;

(ii) For a second offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until ninety days after the date of such order and (B) require such person to complete no fewer than twenty hours and no more than forty hours of community service and to attend an alcohol education class; and

(iii) For a third or subsequent offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until twelve months after the date of such order and (B) require such person to complete no fewer than sixty hours of community service, to attend an alcohol education class, and to submit to an alcohol assessment by a licensed alcohol and drug counselor.

(2) A copy of an abstract of the court's conviction or adjudication shall be transmitted to the Director of Motor Vehicles pursuant to sections 60-497.01 to 60-497.04.

(3) Subsection (1) of this section shall not apply if the person:

(a) Made a good faith request for Requested emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent after such violation of section 53-180.02;

(b) ~~Made the~~ ~~was the first person to make a~~ request for medical assistance under subdivision (a) of this subsection as soon as the emergency situation is apparent after such violation of section 53-180.02; and

(c) When emergency medical assistance was requested for the possible alcohol overdose of another person:

(i) Remained on the scene until the medical assistance arrived; and

(ii) Cooperated with medical assistance and law enforcement personnel.

(4) The exception from criminal liability provided in subsection (3) of this section applies to any person who makes a request for emergency medical assistance and complies with the requirements of subsection (3) of this section.

(5) Subsection (1) of this section shall not apply to the person experiencing a possible alcohol overdose if a request for emergency medical assistance in response to such possible alcohol overdose was made by another person in compliance with subsection (3) of this section.

~~(6) (4)~~ A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance with subsection (3), ~~(4)~~, or ~~(5)~~ of this section.

Sec. 4. Original sections 53-180.05 and 53-181, Revised Statutes Cumulative Supplement, 2016, and section 28-470, Revised Statutes Supplement, 2017, are repealed.