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LEGISLATURE OF THE STATE OF IDAHO  
Sixty-third Legislature First Regular Session - 2015  
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1 AN ACT  
2 RELATING TO ALCOHOL AND TOBACCO; AMENDING SECTION 18-1502, IDAHO CODE, TO  
3 PROVIDE THAT AN ALCOHOL AGE VIOLATION SHALL BE AN INFRACTION AND TO RE-  
4 VISE THE PENALTY FOR A VIOLATION; AMENDING SECTION 23-505, IDAHO CODE,  
5 TO PROVIDE THAT AN ALCOHOL OPEN CONTAINER VIOLATION SHALL BE AN INFRAC-  
6 TION AND TO PROVIDE A PENALTY; AMENDING SECTION 23-604, IDAHO CODE,  
7 TO PROVIDE THAT THE PURCHASE, POSSESSION OR CONSUMPTION OF ALCOHOL BY  
8 A PERSON UNDER THE AGE OF TWENTY-ONE SHALL BE AN INFRACTION; AMENDING  
9 SECTION 23-949, IDAHO CODE, TO PROVIDE THAT THE PURCHASE, POSSESSION,  
10 SERVING, DISPENSING OR CONSUMPTION OF ALCOHOL BY A PERSON UNDER THE AGE  
11 OF TWENTY-ONE SHALL BE AN INFRACTION; AMENDING SECTION 23-1024, IDAHO  
12 CODE, TO PROVIDE THAT FALSE REPRESENTATION AS BEING TWENTY-ONE OR MORE  
13 YEARS OF AGE TO A PERSON LICENSED TO SELL BEER SHALL BE AN INFRACTION  
14 AND TO PROVIDE A PENALTY; AND AMENDING SECTION 39-5703, IDAHO CODE, TO  
15 PROVIDE THAT POSSESSION, DISTRIBUTION OR USE OF TOBACCO BY A MINOR SHALL  
16 BE AN INFRACTION.

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Section 18-1502, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 18-1502. BEER, WINE OR OTHER ALCOHOL AGE VIOLATIONS -- FINES. (a)  
21 Whenever a person is in violation, on the basis of his age, of any federal,  
22 state, or municipal law or ordinance pertaining to the use, possession, pro-  
23 curement, or attempted procurement, or dispensing of any beer, wine or other  
24 alcoholic beverage product, the violation shall constitute an misdemeanor  
25 infraction.

26 (b) Every person convicted of an misdemeanor infraction under this sec-  
27 tion shall be punished by a fine of not more than one thousand three hun-  
28 dred dollars (\$1,0300). ~~The second conviction under this section shall be~~  
29 ~~punished by a fine of not more than two thousand dollars (\$2,000), or up to~~  
30 ~~thirty (30) days in jail or both. The third and subsequent conviction under~~  
31 ~~this section shall be punished by a fine of not more than three thousand dol-~~  
32 ~~lars (\$3,000), or up to sixty (60) days in jail or both.~~

33 (c) A conviction under this section shall not be used or considered in  
34 any manner for purposes of motor vehicle insurance.

35 (d) Whenever a person pleads guilty or is found guilty of violating any  
36 law pertaining to the possession, use, procurement, attempted procurement  
37 or dispensing of any beer, wine, or other alcoholic beverage, and such person  
38 was under twenty-one (21) years of age at the time of such violation, then in  
39 addition to the penalty provided in subsection (b) of this section:

40 (1) The court shall suspend the person's driving privileges for a pe-  
41 riod of not more than one (1) year. The person may request restricted  
42 driving privileges during the period of suspension, which the court may

1 allow, if the person shows by a preponderance of the evidence that driv-  
2 ing privileges are necessary as deemed appropriate by the court.

3 (2) If the person's driving privileges have been previously suspended  
4 under this section, the court shall suspend the person's driving priv-  
5 ileges for a period of not more than two (2) years. The person may re-  
6 quest restricted driving privileges during the period of suspension,  
7 which the court may allow, if the person shows by a preponderance of the  
8 evidence that driving privileges are necessary as deemed appropriate by  
9 the court.

10 (3) The person shall surrender his license or permit to the court.

11 (4) The court shall notify the motor vehicle division of the Idaho  
12 transportation department of all orders of suspension it issues pur-  
13 suant to this section.

14 (5) The court, in its discretion, may also order the person to undergo  
15 and complete an alcohol evaluation and to complete an alcohol treatment  
16 or education program in the same manner that persons sentenced pursuant  
17 to section 18-8005, Idaho Code, are required to undergo and complete.

18 SECTION 2. That Section 23-505, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 23-505. TRANSPORTATION OF ALCOHOLIC BEVERAGES. (1) Alcoholic liquor  
21 lawfully purchased may be transported, but no person shall break open, or al-  
22 low to be broken or opened any container of alcoholic liquor, or drink, or  
23 use, or allow to be drunk, or used any alcoholic liquor therein while the same  
24 is being transported. Provided however, that an unsealed alcoholic beverage  
25 container may be transported in an enclosed trunk compartment or behind the  
26 last upright seat of a vehicle which has no trunk compartment.

27 (2) No person in a motor vehicle, while the vehicle is on a public high-  
28 way or the right-of-way of a public highway may drink or possess any open bev-  
29 erage containing alcoholic liquor, as defined in section 23-105, Idaho Code,  
30 beer as defined in section 23-1001, Idaho Code, or wine as defined in section  
31 23-1303, Idaho Code, unless such person is a passenger in the passenger area  
32 of a motor vehicle designed, maintained, or used primarily for the trans-  
33 portation of persons for compensation, or in the living quarters of a recre-  
34 ational vehicle as that term is defined in section 49-119, Idaho Code. Vio-  
35 lation of this section is an misdemeanor infraction punishable by a fine of  
36 not more than three hundred dollars (\$300) for the individual in actual phys-  
37 ical control of the vehicle, as defined in section 18-8004, Idaho Code, and  
38 ~~an infraction~~ for other individuals violating this section.

39 SECTION 3. That Section 23-604, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 23-604. MINORS -- PURCHASE, CONSUMPTION OR POSSESSION PROHIBITED. Any  
42 person under twenty-one (21) years of age who shall purchase, attempt to  
43 purchase, or otherwise consume or possess any alcohol beverage, includ-  
44 ing any distilled spirits, beer or wine, shall be guilty of an misdemeanor  
45 infraction and shall be punished according to the schedule set out in section  
46 18-1502, Idaho Code.

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1 SECTION 4. That Section 23-949, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 23-949. PERSONS NOT ALLOWED TO PURCHASE, POSSESS, SERVE, DISPENSE, OR  
4 CONSUME BEER, WINE OR OTHER ALCOHOLIC LIQUOR. It is unlawful for any person  
5 under the age of twenty-one (21) years to purchase, attempt to purchase, pos-  
6 sess, serve, dispense, or consume beer, wine or other alcoholic liquor; pro-  
7 vided, however, that any person who is nineteen (19) years of age or older may  
8 sell, serve, possess and dispense liquor, beer or wine in the course of his  
9 employment in any place as defined in section 23-942, Idaho Code, or other  
10 place where liquor, beer or wine are lawfully present so long as such place is  
11 the place of employment for such person under twenty-one (21) years of age.

12 For purposes of this section, a person shall also be deemed to "possess"  
13 alcohol that has been consumed by the person, without regard to the place of  
14 consumption.

15 Any person violating the provisions of this section shall be guilty of  
16 an misdemeanor infraction punishable in accordance with the schedule set  
17 forth in section 18-1502, Idaho Code.

18 SECTION 5. That Section 23-1024, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 23-1024. FALSE REPRESENTATION AS BEING TWENTY-ONE OR MORE YEARS OF AGE  
21 AN MISDEMEANOR INFRACTION. (1) Any person under the age of twenty-one (21)  
22 years who shall by any means represent to any person licensed to sell beer at  
23 retail or wholesale, or to any agent or employee of such retail or wholesale  
24 licensee, that he or she is twenty-one (21) or more years of age for the pur-  
25 pose of entering licensed premises or inducing such retail or wholesale li-  
26 censee, his agent or employee, to sell, serve or dispense beer to him or her  
27 shall be guilty of an misdemeanor infraction punishable by a fine of not more  
28 than three hundred dollars (\$300).

29 (2) Any person who shall by any means represent to any such retail  
30 or wholesale licensee, his agent or employee, that any other person is  
31 twenty-one (21) or more years of age, when in fact such other person is un-  
32 der the age of twenty-one (21) years, for the purpose of entering licensed  
33 premises or inducing such retail or wholesale licensee, his agent or em-  
34 ployee, to sell, serve or dispense beer to such other person, shall be guilty  
35 of an misdemeanor infraction punishable by a fine of not more than three  
36 hundred dollars (\$300).

37 SECTION 6. That Section 39-5703, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 39-5703. POSSESSION, DISTRIBUTION OR USE BY A MINOR. (1) It shall be  
40 unlawful for a minor to possess, receive, purchase, sell, distribute, use or  
41 consume tobacco products or electronic cigarettes or to attempt any of the  
42 foregoing.

43 (2) It shall be unlawful for a minor to provide false identification, or  
44 make any false statement regarding their age in an attempt to obtain tobacco  
45 products or electronic cigarettes.

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1 (3) A minor who is assisting with a random unannounced inspection in ac-  
2 cordance with this chapter shall not be in violation of this chapter.

3 (4) A minor may possess but not sell or distribute tobacco products or  
4 electronic cigarettes in the course of employment, for duties such as stock-  
5 ing shelves or carrying purchases to customers' vehicles.

6 (5) Penalties for violations by a minor. A violation of this chapter by  
7 a minor shall constitute an misdemeanor infraction and shall be punishable  
8 by ~~imprisonment in an appropriate facility not exceeding six (6) months, a~~  
9 ~~fine not exceeding three hundred dollars (\$300), or both such fine and im-~~  
10 ~~prisonment~~. The court may, in addition to the penalties provided herein, re-  
11 quire the minor and the minor's parents or legal guardian to attend tobacco  
12 awareness programs or to perform community service in programs related to  
13 tobacco awareness.