

DRUGS AND THE LAW

Some straight talk for teenagers and their parents about how Nebraska laws concerning alcohol and other drugs can affect you.

QUESTIONS ASKED BY TEENAGERS...

Will a minor convicted of selling or distributing drugs get off easily because he is not an adult?

Not necessarily - Nebraska law says that any juvenile involved in a felony offense may be arrested and punished as an adult.

Is it possible for a person under 18 to go to prison for injuring someone else while driving under the influence of alcohol?

Yes, if it is determined by the adult court that he/she should be treated as an adult for motor vehicle offenses if it is a felony.

Is drinking alcohol in a public place, regardless of who purchased it, against the law?

Yes, consumption is the offense, not how possession was obtained or the manner it was acquired.

Is it legal for minors to buy alcohol if they have their parent's permission?

No, it is never legal for a minor to buy any alcoholic beverage.

What is the penalty for possessing marijuana? Is the penalty greater for a second or subsequent offense?

For possessing less than one ounce of marijuana, a person could be fined \$100. Upon the second offense, a person could be fined \$200 and sentenced to a maximum of five days in jail, and the third time \$300 and up to seven days in jail. For possessing a larger amount, the penalty would be greater.

Is it legal to purchase or possess drug paraphernalia?

No, possession of drug paraphernalia is a crime, and the manufacture or delivery of drug paraphernalia is a more serious crime.

If I am stopped for a traffic violation, can the car and its occupants be searched? Will I be responsible if someone in my car has marijuana in his possession?

Yes, if the law enforcement officer has reasonable grounds to search the car, or intends to impound it, the entire car, including the trunk, may be searched. You may be responsible if someone in the car has illegal drugs and you know it.

If there were traces of marijuana found in my possession, could I be convicted of possession of a controlled substance?

If there is enough of the substance to test to determine what it is, there is enough to convict you, even if it is all consumed in the test. The same is true if you are holding even a few marijuana seeds.

QUESTIONS ASKED BY PARENTS...

If my child injures someone while driving under the influence of alcohol or other drugs, can I be held liable?

Yes, the head of the household is personally liable to an injured person when a minor child is involved in an accident with the family car. Nebraska also has a social host liability law.

Am I responsible for minors using alcohol in my home?

Yes, you may be brought to court on criminal charges and for monetary damages in case of a civil suit when alcohol or other drugs are used by minors on your own private property.

In addition, in Omaha, anyone sponsoring a gathering of five or more underage persons, where even one underage person is illegally possessing or consuming alcohol, can be fined up to \$500.

Can the court system help me if I cannot control my child who is using drugs?

Yes, a minor beyond the control of his/her parents may be declared a status offender and placed under the supervision of the Juvenile Court.

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JURISDICTION OF COURTS

Any juvenile, regardless of age, involved in a felony offense may be arrested as an adult.

Any juvenile, 16 to 18 years of age, involved in a misdemeanor offense may be tried as an adult.

Any juvenile under the age of 16 involved in a misdemeanor offense will be tried by the juvenile court.

Any person under 18 years of age is considered a juvenile by the laws of the State of Nebraska.

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THREE TYPES OF OFFENSES

VIOLATIONS are offenses punishable with a fine, and are prosecuted in County Court.
Some violations include:

Possession of drug paraphernalia.

First offense possession of marijuana of one ounce or less.

MISDEMEANORS are offenses punishable with fines and/or confinement of up to one year in jail.
Misdemeanors include:

Minor in possession of alcohol - MIP (Do not need to be caught holding the alcohol to be charged or convicted.)

Driving under the influence (first offense).

Possession of marijuana weighing more than one ounce, but not more than one pound.

Second and third offense possession of marijuana.

Providing alcohol to a minor.

FELONIES are offenses punishable with confinement of more than one year in the State Prison.
The following are examples of felonies:

*Possession of any amount: Cocaine ~ Powder form, purity varies
Rock form of cocaine ~ "crack" ~ usually 100% pure
Methamphetamine ~ "meth" ~ "crank"
Mescaline ~ "mesc" ~ a hallucinogenic drug like LSD
LSD
PCP ~ Angel dust
Uppers
Downers*

Possession of more than one pound of marijuana.

Motor vehicle homicide (to cause a death of a person while a person is operating any motor vehicle while under the influence of alcohol or other drugs).

If a person commits a felony, the record will be there forever. No amount of good conduct can erase it. Rights that are enjoyed by other citizens are taken away from convicted felons. If convicted of a felony, a person:

Cannot hold any public office.

Will not be allowed to vote.

Could be denied admission to professional schools such as medical, law, or dental.

Might not be able to secure a surety bond.

May not be allowed to take Civil Service examinations.

Could be excluded from military service and military academies.

May not be allowed to become a resident of any other country.

May not be issued a passport.

Could be denied a license by the state for certain professions which require state licensure.

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CITY AND STATE ORDINANCES

Alcohol, Other Drugs, and the Law

The following is a summary of the Nebraska laws pertaining to the possession and use of alcohol or other drugs by minors, and to adults responsible for the use of alcohol and other drugs by minors. For more information, please contact your attorney or local law enforcement agencies.

1. Minor in Possession of Alcohol

Any person under the age of 21 who has alcohol in his or her possession on any street or in any public place may be guilty of a Class III misdemeanor punishable by up to three months imprisonment or \$500 fine or both. Section 53-180.02 R.R.S. 1943

2. Delivery to a Minor ~ Alcohol

It is unlawful for any person to sell, give away, dispose of, exchange or deliver or permit the sale, gift, or procuring of any alcohol to or for any minor. Such offense is a Class I misdemeanor. Section 53-180 R.R.S. 1943

Effective January 1, 2008, any person providing alcohol to a minor can be sued by third parties who have sustained personal or property damage as a result of the actions of that intoxicated minor. Any person who allows a minor to consume alcohol on his/her property can likewise be sued for damages.

3. Driving Under the Influence

It is unlawful for any person to operate any motor vehicle while under the influence of alcohol or any other drug. In Nebraska, adult drivers can lose their license on the spot, can be sentenced to 7-60 days in jail, be fined \$500, and have a six-month license revocation on the first offense. Subsequent offenses provide for greater penalties.

Drivers under the age of 21 who have a Blood Alcohol Concentration of .02 can have their licenses impounded for 30 days on the first offense. A \$50 reinstatement fee will be imposed.

4. Contributing to the Delinquency of a Child

Any person who, by any act, encourages, causes, or contributes to the delinquency or need for special supervision of a child under 18 years of age, so that such child becomes, or will tend to become, a delinquent child or a child in need of special supervision, commits "contributing to the delinquency of a child." Contributing to the delinquency of a child is a Class I misdemeanor, punishable by up to a \$1,000 fine and up to a year in jail or both. Section 28-709 R.R.S.

5. Parental Responsibility for Intentional Acts of Children

Parents shall be liable for the willful and intentional infliction of personal injury to any person or destruction of real or personal property occasioned by their minor or non-emancipated children residing with them, up to the sum of \$1,000 for each occurrence. Section 43-801 R.R.S.

6. Parental Responsibility for Negligent Actions of Children While Driving an Automobile

When the head of a family purchases, owns, maintains, furnishes or provides a motor vehicle for general use, pleasure, and convenience of the family, and a family member is using the car with the expressed or implied consent or permission of the owner, negligence of the family member driver is imputed to the head of the family under the Family Purpose Doctrine. Marcus v. Everett. 195 Neb. 518 (1976)

7. Possession of Marijuana

It is unlawful for any person knowingly or intentionally to possess marijuana. Possessing marijuana weighing more than one pound is a Class IV felony with a maximum penalty of five years imprisonment or \$10,000 fine, or both. Possession of marijuana weighing more than one ounce, but less than one pound, is a Class IIIA misdemeanor, punishable by a maximum imprisonment of seven days, \$500 fine or both. First offense possession of marijuana of one ounce or less is prohibited, and that person will receive a citation, be fined \$100, and be assigned to attend a course in drug abuse. It is also unlawful for a person to knowingly or intentionally possess a controlled substance (narcotic, hallucinogenic chemical, etc.) and such possession may carry greater penalties than the possession of marijuana. Section 28-416 R.R.S.

8. Nebraska Tobacco Statutes

The use of tobacco in any form by anyone under 18 years of age constitutes a Class V misdemeanor. Anyone who furnishes tobacco or cigarette papers to anyone under 18 years of age is guilty of a Class III misdemeanor. Sections 28-1418, 1419 R.R.S. (1981)

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This information is issued to inform, not to advise. For such advice, consult an attorney. This brochure has been reviewed and interpreted by Nebraska State Senator Pete Pirsch, District 4. We gratefully acknowledge and thank Senator Pirsch for his assistance in the preparation of this handout.

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