

LEGISLATIVE BILL 593

Approved by the Governor April 20, 1978

Introduced by Nichol, 48

AN ACT relating to alcoholism; to decriminalize certain offenses; to amend section 39-684, Reissue Revised Statutes of Nebraska, 1943; to provide provisions relating to law enforcement officers; to provide an operative date; and to repeal the original section, and also section 53-196, Revised Statutes Supplement, 1977.

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

Section 1. That section 39-684, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-684. City police, county sheriffs, officers of the Nebraska State Patrol, and any other such law enforcement officer with power to arrest for traffic violations may remove a dead body, or an injured person, or a person who is intoxicated or otherwise incapacitated from any roadway to the nearest available position off the roadway as may be necessary to keep the roadway open or safe for public travel, or to any hospital, clinic, alcoholism center, or medical doctor as may be necessary to preserve life or to prevent injury.

Sec. 2. (1) No county, municipality, or other political subdivision may adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) No county, municipality, or other political subdivision may interpret or apply any law of general application to circumvent subsection (1) of this section.

Sec. 3. (1) Nothing in this act shall affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

(2) The fact that a person is intoxicated or incapacitated by alcohol shall not prevent such person from being arrested or prosecuted for the commission of any criminal act or conduct not enumerated in subsection (1) of this section.

(3) No provision of this act shall prevent such person from being taken into custody under the provisions of the Nebraska Mental Health Commitment Act as an alcoholic person who presents the risks enumerated in section 83-1009.

(4) Nothing in this act shall be construed as a limitation upon the right of a police officer to make an otherwise legal arrest, even though the arrested person may be intoxicated or incapacitated by alcohol.

Sec. 4. This act shall become operative on January 1, 1979.

Sec. 5. That original section 39-684, Reissue Revised Statutes of Nebraska, 1943, and also section 53-196, Revised Statutes Supplement, 1977, are repealed.