

9.28 - Offenses by or Against Minors

Chapter 9.28 - OFFENSES BY OR AGAINST MINORS

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9.28.010 Curfew hours for minors Exceptions. It is unlawful for any minor under the age of 18 years to be or remain upon any streets or alleys or other public places within the city, or to remain in any establishment open to the public generally within the city, between the hours of eleven p.m. and five a.m., except:

A. When accompanied by a parent, guardian, or other person having legal care or custody of such minor;

B. For lawful employment;

C. When such minor is in the custody of and accompanied by a person who has reached his eighteenth birthday and who has in his possession the written consent of such parent, guardian or other person having legal care or custody of such minor. (Ord. 519-11: 347 77)

9.28.020 Responsibility of parents and guardians. It is unlawful for any parent, guardian, or other person having legal care or custody of any minor falling under the terms of this chapter to allow or permit such minor to violate any of the terms or provisions of Section 9.28.010. (Ord. 347 77)

9.28.030 Harboring of minors unlawful.

A. It is unlawful for any person to knowingly harbor a runaway child.

1. A runaway child is an unemancipated person under the age of eighteen years of age who is away from home without the consent of the custodial parents, legal guardian, or other person having custody of such child.

2. "Harbor" means to provide shelter for, encourage, counsel or assist a runaway child in evading lawful custody.

B. It is unlawful for any person to harbor an unemancipated child under eighteen years of age when such person knows the child to be a parole violator or a fugitive from legal process.

C. The ordinance codified in this section shall not apply to peace officers working in their official capacities or other persons working in their official capacities as employees or members of the staffs of agencies authorized by the state to harbor minors. (Ord. 679 87: 657 86)

9.28.040. Possession and consumption of alcohol by persons under age twenty-one (21).

A. As used in this section, unless the context otherwise requires:

1. "Ethyl alcohol" means any substance which is or contains ethyl alcohol (C₂H₅OH).

2. "Possession of ethyl alcohol" means that a person has or holds any amount of ethyl alcohol anywhere on his person, or that a person owns or has custody of ethyl alcohol, or has ethyl alcohol within his immediate presence and control.

B. Any person under age twenty-one (21) years, who possesses or consumes ethyl alcohol anywhere in the City of Evans commits the crime of illegal possession or consumption of ethyl alcohol by an underage person. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

1. Illegal possession or consumption of ethyl alcohol by an underage person shall be punished by a fine of not more than One Thousand (\$1,000) dollars, or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

C. It shall be an affirmative defense to a violation of this section when the existence of ethyl alcohol in a person's body was due solely to the ingestion of a confectionery which contained ethyl alcohol within the limits prescribed by section 25-5-410(1)(I)(II), C.R.S., or the ingestion of any substance which was manufactured, designed, or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed, or intended solely for medicinal or hygienic purposes, or solely from the ingestion of a beverage which contained less than one-half of one percent of ethyl alcohol by weight.

D. During any trial for a violation of this section, any bottle, can, or any other container with labeling indicating the contents of such bottle, can, or container shall be admissible into evidence, and the information contained on any

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label on such bottle, can, or other container shall be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can, or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can, or other container as "beer", "ale", "malt beverage", "fermented malt beverage", "malt liquor", "wine", "champagne", "whiskey" or "whiskey gin", "vodka", "tequila", "schnapps", "brandy", "cognac", "liqueur", "cordial", "alcohol", "liquor" or any other product generally recognized as being an alcoholic beverage shall constitute prima facie evidence that the contents of the bottle, can, or other container was composed in whole or in part of ethyl alcohol.

E. Nothing in this section shall be construed to limit or preclude prosecution for any offense pursuant to article 46, 47, or 48 of title 12, C.R.S., except as provided in such articles.

F. The qualitative result of an alcohol test or tests shall be admissible at the trial of any person charged with a violation of this section upon a showing that the device or devices used to conduct such test or tests have been approved as accurate in detecting alcohol by the executive director of the Colorado Department of Health.

G. Official records of the Colorado Department of Health relating to the certification of breath test instruments, certification of operators and operator instructors of breath test instruments, certification of standard solutions, and certification of laboratories shall be official records of the state. Copies of such records, attested by the executive director of the Department of Health or his deputy and accompanied by a certificate bearing the official seal of said department, which state that the executive director of the department has custody of such records, shall be admissible in the Evans Municipal Court and shall constitute prima facie evidence of the information contained in such records. The official seal of the Department described in this sub-section may consist of a rubber stamp producing a facsimile of their seal stamped upon the document.

H. In any proceeding in the Evans Municipal Court concerning a charge under this section, the court shall take judicial notice of methods of testing a person's blood, breath, saliva, or urine for the presence of alcohol and of the design and operation of devices certified by the Department of Health for testing a person's blood, breath, saliva, or urine for the presence of alcohol. This sub-section shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this subsection shall preclude a defendant from offering evidence concerning the accuracy of testing devices. (Ord. 874-93)

Code Documents



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