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## **TITLE III ALCOHOLIC BEVERAGES & CONTROLLED SUBSTANCES**

### **CHAPTER 3 PUBLIC INTOXICATION**

- 3-3-1      Definition
- 3-3-2      Public Intoxication Prohibited
- 3-3-2      Arrest, Testing and Alcohol Level Prohibited
- 3-3-4      Penalties for Violation

3-3-1      DEFINITION. The definition as utilized by Iowa Code Section 123.46 shall hereby be adopted for utilization by this chapter.

3-3-2      PUBLIC INTOXICATION PROHIBITED. A person shall not be intoxicated or simulate intoxication in a public place. A person violating this section shall be guilty of a simple misdemeanor.

3-3-3      ARREST, TESTING AND ALCOHOL LEVEL PROHIBITED. When a peace officer arrests a person on a charge of public intoxication under this chapter, the peace officer shall inform the person that the person may have a chemical test of the person's blood, urine, or breath, administered at the person's own expense. If a device approved by the commission of public safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In prosecution for public intoxication, evidence of the results of a chemical test performed under this section is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of the arrest. A person commits the violation of public intoxication while in a public place, while having an alcohol concentration of .08 or more.

3-3-4      PENALTIES FOR VIOLATION. Any person convicted of a violation of any provisions of this chapter shall be guilty of public offenses or misdemeanors. Misdemeanors are and shall be referred to as simple misdemeanors within Chapter 708 of the Code of Iowa. The penalty for violation and being found guilty upon a misdemeanor are public offenses subject to a penalty of 30 days in jail and/or a fine of at least \$200.00 but not more than \$500.00 or any part thereof as determined by a court of law.