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BILL



ANALYSIS

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House Bill 5501 (Substitute H-1 as passed by the House)
Sponsor: Representative Penny Crissman
House Committee: Judiciary and Civil Rights
Senate Committee: Judiciary

Date Completed: 12-2-96

CONTENT

The bill would amend the Michigan Liquor Control Act to do all of the following:

- **Revise the penalty for a first-time misdemeanor offense of purchase, consumption, or possession of alcohol by a person less than 21 years of age.**
- **Eliminate the legal presumption that a person under 21 has consumed or possessed alcohol if a preliminary chemical breath analysis or other acceptable blood alcohol test indicates that the person's blood contained .02% or more by weight of alcohol.**
- **Authorize the arrest of a person based upon the results of a preliminary chemical breath analysis and specify that those results would be admissible in a criminal prosecution for a minor's alcohol consumption or possession offense.**
- **Revise the terminology in a provision pertaining to license sanctions in a case that is appealed.**
- **Specify that "probate court disposition" would mean an order of disposition of either the probate court or the family division of the circuit court.**

The bill would take effect on April 1, 1997.

Penalty

It is a misdemeanor under the Liquor Control Act for a person under 21 to purchase, consume, or possess alcohol, or to attempt to purchase, consume or possess alcohol. For a first offense, a minor may be fined up to \$100 and may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense. The bill would add to the penalty that a minor could be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services, as defined in the Public Health Code, and designated by the administrator of Substance Abuse Services. (The option for the court to order substance abuse prevention or substance abuse treatment and rehabilitation services is currently included in the penalties for a second offense and for a third or subsequent offense.)

Under the Public Health Code, "substance abuse prevention services" means services that reduce the risk of individuals developing problems that could require entry into the substance abuse treatment system, including crisis intervention for potential substance abusers. "Substance abuse treatment and rehabilitation services" means providing identifiable services including crisis intervention counseling services for those who are current or former substance abusers; referral

services for those who are substance abusers, their families, and the general public; and planned treatment services, including chemotherapy, counseling, or rehabilitation for those who are physiologically or psychologically dependent upon or abusing alcohol or drugs.

Chemical Breath Analysis

The Act allows a peace officer who has reasonable cause to believe that a person under 21 has consumed alcohol to require the person to submit to a preliminary chemical breath analysis. The Act also requires the court to make a legal presumption that a person under 21 consumed or possessed alcohol if a preliminary chemical breath analysis or other acceptable blood alcohol test indicates that his or her blood contained .02% or more by weight of alcohol. The bill would delete the legal presumption provision.

The bill would explicitly authorize a peace officer to arrest a person based in whole or in part on the results of a preliminary chemical breath analysis. The results of the preliminary analysis or other acceptable blood alcohol test would be admissible in a criminal prosecution to determine whether a person under 21 had consumed or possessed alcohol.

Appeals

The Act specifies that, when license sanctions are imposed for an alcohol-related violation, the court may order the Secretary of State to “rescind” the license suspension, if the finding is “reviewed by” the circuit court. The bill provides, instead, that if the finding were “appealed to” the circuit court, the court could order the Secretary of State to “stay” the suspension pending the outcome of the appeal.

MCL 436.33b

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local units of government, if one assumes that the cost of any court-ordered substance abuse treatment and prevention services would be at the offender’s expense, as is the case if an offender is ordered to undergo substance abuse screening and assessment. If ordered substance abuse treatment and prevention services were not at the offender’s expense, then the cost to the State or local unit of government would be approximately \$55 per treatment visit per offender. As a point of reference, the average length of stay for persons in the Medicaid program in outpatient substance abuse treatment is 20 to 25 visits. If the experience of the offenders ordered into treatment under the provisions of this bill were similar to that of Medicaid-eligible individuals, then the average cost per offender would be \$1,100 to \$1,400.

Fiscal Analyst: P. Graham

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.