

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 567 Underage Consumption of Alcohol
SPONSOR(S): Robaina
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1110

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice (Sub)	7 Y, 0 N	Cole	De La Paz
2) Public Safety & Crime Prevention			
3) Public Safety Appropriations			
4) Appropriations			
5)			

SUMMARY ANALYSIS

Current law prohibits the possession of alcohol by a person under the age of 21. It also prohibits a person under the age of 21 from operating a vehicle with a breath or blood alcohol level of .02 or higher. However, there is no prohibition against consuming alcoholic beverages by a person under the age of 21. It is illegal for a minor to consume alcoholic beverages on the premises of an establishment licensed to sell such beverages.

HB 567 creates a prohibition for consuming alcoholic beverages for underage people. It also allows for law enforcement to detain an individual who they have probable cause to believe is underage and has been drinking to request a breath or blood sample to determine the alcoholic content of their breath or blood. If the person has a breath or blood alcohol level of .02 or higher, the first conviction is a second degree misdemeanor. A second, or subsequent conviction, is a first degree misdemeanor. A refusal to submit to a requested test may be used as evidence in any criminal proceeding.

Portable Breath Test instruments approved by U.S. Department of Transportation are authorized to be used as an enforcement tool.

There does not appear to be any fiscal impact to this bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0567a.ps.doc
DATE: March 3, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill creates a crime which allows arrest and prosecution thus increasing the case load of the judiciary system. The bill also prohibits minors under 21 years of age from consuming alcohol, limiting their personal freedom.

B. EFFECT OF PROPOSED CHANGES:

Law enforcement officers across the state routinely come in contact with people under 21 years of age who they believe have been drinking alcoholic beverages. Unless the officers catch them driving or actually holding some type of alcoholic beverage, there is no specific charge that could be leveled against these underage drinkers. HB 567 is an effort to give the law enforcement community another tool to try and curtail underage drinking.

Current law prohibits people under 21 years of age from possessing alcoholic beverages and from having a blood or breath alcohol limit of .02 g/100L or .02 g/210L or greater while operating a vehicle. There is no prohibition for consuming the beverages, except on the premises of a licensed establishment.¹

HB 567 prohibits people under 21 years of age from actually consuming alcoholic beverages. The bill authorizes law enforcement officers to detain an individual they have probable cause to believe is underage and has been consuming alcoholic beverages. They may request a breath or blood test to determine the actual alcoholic content level. The bill authorizes the use of any breath test instrument that has been approved by the U.S. Department of Transportation as an evidential breath measurement device to be used to determine an offender's breath alcohol level. There have been over 1000 Portable Breath Test instruments (PBT's) provided to agencies by either federal grant or from being purchased by organizations such as Mother's Against Drunk Driving. There are also over 400 Intoxilyzer 5000 evidential breath test instruments at agencies throughout the state which could be used for enforcement. The bill also authorizes the admissibility of the results of those tests, or the refusal to take the test, to be used as evidence in any criminal proceeding. The bill makes it a second degree misdemeanor to be convicted for a first offense of underage consumption of alcoholic beverages. The bill also makes it a first degree misdemeanor for any subsequent conviction.

C. SECTION DIRECTORY:

Section 1: Amends S. 562.111, F.S., relating to the consumption of alcoholic beverages.

Section 2: Reenacts S. 322.056, F.S., relating to driver's license restrictions.

Section 3: Reenacts S. 397.951, F.S., relating to treatment and sanctions.

Section 4: Provides an effective date.

¹ S. 562.11(1)(a)

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There does not appear to be any fiscal impact to this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A strike-all amendment was adopted by the Criminal Justice Subcommittee that removed all of the newly proposed language in the bill outlining probable cause, alcohol levels in suspects, testing methods, and what evidence may or may not be used in a criminal proceeding. The strike-all amendment adds consumption of alcohol by a person under 21 as a second degree misdemeanor.