

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 241 Alcohol Vaporizing Devices
SPONSOR(S): Henriquez and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 794

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee		Kramer	Kramer
2) Business Regulation Committee			
3) Justice Appropriations Committee			
4) Justice Council			
5) _____			

SUMMARY ANALYSIS

An alcohol vaporizing device allows users to inhale alcohol in the form of vapor. HB 241 makes it a first degree misdemeanor to sell or offer for sale an alcohol vaporizing device. A second conviction within 5 years is a third degree felony. A person who purchases or uses an alcohol vaporizing device shall be subject to a fine of \$250.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill prohibits the use of an alcohol vaporizing device.

B. EFFECT OF PROPOSED CHANGES:

An alcohol vaporizing device which is also known as an alcohol without liquor machine or AWOL allows users to inhale alcohol in the form of vapor. The device works by pouring an alcoholic spirit into a diffuser capsule in the alcohol vaporizing device. The alcohol is absorbed by oxygen bubbles, and the user inhales the alcohol vapor. Alcohol vaporizing devices are being marketed on the internet as a low calorie and hangover free way to consume alcohol. There does not appear to be any evidence supporting either of these claims. There are obviously health risks associated with consuming a large amount of alcohol in a short amount of time. There is currently no federal or state regulation of these devices.

HB 241 creates s. 562.61, F.S. which provides that no person shall purchase, offer for sale, or use an alcohol vaporizing device. The bill makes it a first degree misdemeanor to sell or offer for sale an alcohol vaporizing device. A person who violates the provision by selling or offering for sale an alcohol vaporizing device after having been previously convicted of such offense within the past 5 years commits a third degree felony. A person who purchases or uses an alcohol vaporizing device shall be subject to a \$250 fine.

The term "alcohol vaporizing device" is defined as "any device, machine, or process which mixes spirits, liquor or other alcohol products with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation."

C. SECTION DIRECTORY:

Section 1. Creates s. 562.61, F.S. relating to alcohol vaporizing devices.

Section 2. Provides effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

On February 22, 2005, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would prohibit a business from selling or purchasing alcohol vaporizing devices.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Subsection (2) of the bill provides that no person shall “purchase, offer for sale, or use an alcohol vaporizing device.” The bill also makes it a first degree misdemeanor for any person who “violates the provisions of this section by *selling* or offering for sale an alcohol vaporizing device.” However, as written, there is no prohibition on the “sale” of an alcohol vaporizing device, only on the purchase, offering for sale or use. It is recommended that subsection (2) be amended to add the word “sale” to clarify that selling an alcohol vaporizing device is prohibited.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES