

HOUSE BILL REPORT

HB 2296

*As Reported By House Committee on:
Judiciary*

Title: An act relating to persons under the age of twenty-one who are apparently under the influence of alcohol in a public place.

Brief Description: Making under-aged persons in a public place under the influence of alcohol guilty of a misdemeanor.

Sponsor(s): Representatives Rasmussen, Padden, Wineberry, Mielke, Locke, Forner, Haugen, Ebersole, Scott, Nelson, Kremen, Chandler, Ludwig, Paris, Broback, Riley, Tate, Dorn, Vance, Lisk, Van Luven, Sheldon, Hochstatter, Silver and P. Johnson.

Brief History:

Reported by House Committee on:
Judiciary, February 6, 1992, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 16 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Broback; Forner; Hargrove; Inslee; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; and Vance.

Minority Report: *Do not pass.* Signed by 1 member: Representative Belcher.

Staff: Bill Perry (786-7123).

Background:

Criminal sanctions for being intoxicated in public were repealed in this state several years ago. Generally, however, it is against the law for anyone to supply alcohol to a person under the age of 21 or for a minor to possess or consume alcohol in public or private. It is also against the law for a person to permit a minor to consume alcohol on "premises" under the person's control. Exceptions to these

general prohibitions are made for alcohol supplied by and consumed in the presence of a parent, and alcohol consumed for religious or medical purposes. It is also a crime for a person of any age to drive or to be in physical control of a car while under the influence of alcohol.

Until recently, it was necessary for a law enforcement officer to obtain a warrant or actually to see a person under the age of 21 possessing or consuming alcohol in order to make an arrest for "minor in possession" (MIP). In 1988, however, the Legislature amended the arrest statute to allow an arrest for MIP without a warrant and without officer observation of the crime, if the officer has probable cause to believe the crime was committed.

Some law enforcement agencies report difficulty in getting convictions under the supplying to a minor or MIP laws. In some cases there have been rulings that exclude vehicles or boats from the meaning of "premises" under a person's control. There may also be difficulty in proving where a minor consumed alcohol. That is, a minor who is obviously intoxicated in a public place may claim that the alcohol was consumed legally, or in another county or state.

Summary of Substitute Bill:

It is a misdemeanor for a person under the age of 21 to be in public, or in a car that is in a public place, while exhibiting the effects of having consumed alcohol. The effects of consuming alcohol are demonstrated by the odor of alcohol on the minor's breath and either the presence of a liquor container or behavior showing the minor is under the influence of alcohol.

These new criminal provisions do not apply if the minor is in the presence of a parent or if the alcohol was consumed for religious or medical reasons.

A definition of "premises," explicitly including cars and boats, is added for purposes of the prohibition against permitting a minor to consume alcohol on premises under a person's control.

Substitute Bill Compared to Original Bill:

The substitute bill adds the expanded definition of "premises."

The original bill defines the new crime simply as a minor being in public "after having consumed alcohol." The substitute bill adds the requirement of exhibiting the effects of the consumption.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Many minors are aware of the shortcomings of the current law and flaunt their public drunkenness. This bill will allow intervention before a more serious crime, such as DWI is committed.

Testimony Against: None.

Witnesses: Tim Schellberg, Washington Association of Sheriffs and Police Chiefs (in favor); Bill Brookshire, Montesano Police Chief (in favor); and David Koss, Cowlitz County Prosecutor's Office (in favor).