

HOUSE BILL REPORT

SHB 1183

As Amended by the Senate

Title: An act relating to persons under age twenty-one who are under the influence of intoxicating liquor or drugs in public.

Brief Description: Making it a crime for a person under age twenty-one to be under the influence of intoxicating liquor or drugs in public.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Chappell, Brumsickle, Riley, Tate, Sehlin, Ludwig, H. Myers, Johanson, Brough, Van Luven, R. Meyers, Ballard, Padden, Sheahan, Talcott, Roland, Long, Holm, Wang, Ballasiotes, Mielke, Wood, Foreman and Vance.)

Brief History:

Reported by House Committee on:
Judiciary, March 3, 1993, DPS;
Passed House, March 11, 1993, 98-0;
Amended by Senate.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

Background: It is unlawful for a person under the age of 21 years old to acquire, possess, or consume liquor. This offense is covered by a general penalty provision in the Liquor Code that establishes the following penalties: for a first offense, up to two months in jail and a \$500 fine; for a second offense, up to six months in jail; and for a third offense, up to one year in jail.

Exceptions to this prohibition against possession or consumption by a minor are provided for the following circumstances:

- o When liquor is consumed by a person under the age of 21 in the presence of the person's parent. This exception does not apply in a licensed premises.
- o When liquor is given to a person under the age of 21 for medicinal purposes by a parent, physician, or dentist.
- o When liquor is given to a person under the age of 21 as part of a religious service and in the minimum amount necessary for the service.

In 1988, the Legislature made a violation of this "minor in possession" law an offense for which a police officer may make an arrest without a warrant and without having witnessed the offense. However, the state Supreme Court has ruled that alcohol in the body does not amount to "possession" or "consumption" under this law.

A number of other provisions in the Liquor Code also prohibit underage persons from acquiring, attempting to acquire, or consuming liquor. A general provision makes it a misdemeanor for anyone to buy liquor from an illegal source. Likewise, it is illegal for anyone, including an underage person, to consume liquor in a public place or on a public conveyance. Underage persons in particular are prohibited from applying for a liquor permit, purchasing liquor, entering or remaining in a tavern or cocktail lounge, or misrepresenting their age in order to enter a tavern or lounge.

In addition to the criminal penalties that apply to persons under age 21 who violate any of the above mentioned provisions, a loss of driving privileges also applies to any person between the ages of 12 and 18 who violates one of these or any other provision of the Liquor Code.

There is no general prohibition against adults or minors being in public while under the influence of liquor or drugs. The crime of being drunk in public was repealed several years ago. The Legislature has declared it the policy of the state that intoxicated persons may not be criminally prosecuted solely because of their intoxication. While the Uniform Controlled Substances Act prohibits the possession of certain drugs, it does not make being under the influence of a drug illegal. The state's DWI law makes it illegal to operate or be in physical control of a vehicle while under the influence of alcohol or drugs.

Summary of Bill: It is unlawful for a person under the age of 21 to be in a public place while under the influence of

or affected by intoxicating liquor or any drug. Exceptions to this prohibition are provided for:

- o Liquor or drugs given under the direction of a physician or dentist; or
- o Liquor given in minimal amounts for religious services.

For a person age 18, 19, or 20, who violates this law, the penalty is as follows: for a first offense, up to two months in jail and a \$500 fine; for a second offense, up to six months in jail; and for a third offense, up to one year in jail. For a person under age 18, a violation of this law is the lowest category of juvenile offense, category E.

EFFECT OF SENATE AMENDMENT(S): The Senate striking amendment is identical to ESB 5138. It differs from the House bill in four ways:

1. The amendment expands the definition of "premises" in the existing law that prohibits a person from allowing a minor to consume alcohol on premises under the person's control. Motor vehicles and boats are added to the definition.

2. The amendment adds indicia for determining when a minor is "exhibiting the effects" of having consumed alcohol. These indicia include the odor of liquor on the breath and either proximity to a liquor container or effected speech or behavior.

3. The amendment provides an exception for a minor who is in the presence of his or her parent or guardian.

4. The amendment applies only to the consumption of alcohol. The House version applies to liquor or drugs.

Fiscal Note: Not requested.

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

Testimony For: Young people make a mockery of the consumption and possession laws by appearing in public under the influence. The bill will be an important tool in combatting alcohol related problems.

Testimony Against: None.

Witnesses: Tim Schellberg, Washington Association of Sheriffs and Police Chiefs (pro, with amendment); and Tom Breckel.

VOTE ON FINAL PASSAGE:

Yeas 98