

**SENATE BILL REPORT**

**ESB 5138**

**AS PASSED SENATE, MARCH 4, 1993**

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

**SPONSORS:** Senators M. Rasmussen, Roach, Erwin, Moyer, A. Smith, Wojahn, Haugen, Spanel, McCaslin, Nelson, Quigley, Winsley and Oke

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, and Spanel.

**Staff:** Lidia Mori (786-7755)

**Hearing Dates:** January 27, 1993

**BACKGROUND:**

It is unlawful for a minor to possess, consume, or otherwise acquire any liquor. In a 1986 Washington case, the Supreme Court determined that for a police officer to lawfully arrest a minor for possessing or consuming liquor, the officer must actually see the minor physically holding or drinking the liquor. The law in Washington was amended in 1987 so that police officers may now arrest the minor even though the possession or consumption did not take place in the officer's presence, provided there is probable cause that the crime occurred. Concern exists that despite the statutory change in 1987, police and prosecutors are still finding it problematic to prove that a minor consumed or possessed alcohol outside of the officer's presence.

**SUMMARY:**

It is unlawful for any person to permit a person under the age of 21 years to consume liquor on his or her premises or on any premises under that person's control. Premises includes real property, houses, buildings, and other structures, motor vehicles and watercraft.

It is unlawful for a minor to be in a public place or to be in a motor vehicle that is in a public place while exhibiting the effects of having consumed liquor unless the minor is in the presence of a parent or guardian; or the liquor was consumed in connection with religious services; or a parent, guardian, dentist, or physician gave the minor the liquor for medicinal purposes. A person exhibits the effects of having consumed liquor by having the odor of liquor on his or her breath and possessing or being in close proximity to a container that has or recently had liquor in it. Exhibiting the effects of

having consumed liquor also means having the odor of liquor on one's breath and showing, through speech, manner, appearance, behavior, lack of coordination or otherwise, that one is under the influence of liquor.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**TESTIMONY FOR:**

Provides a mechanism to arrest youth who are in a public place and intoxicated even though the police officer did not see the youth consume the alcohol. The danger from accidents involving a drinking driver outweigh the possibility that this type of law might be used to harass teenagers.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Tim Schellberg, Washington State Sheriffs and Police Chiefs; Kathy Matson, Redmond High School student; Jill Griffin, Redmond High School student; Kim Muter, Redmond High School student; Carrie Seacord, Redmond High School student