

HB 1404 - H AMD 30

By Representative Klippert

FAILED 03/05/2013

1 On page 2, beginning on line 34, after "(6)(a)" strike all
2 material through "assistance" on page 3, line 5 and insert "An
3 affirmative defense to a prosecution under this section is available
4 to a person under the age of twenty-one years who sought medical
5 assistance by calling 911 for someone experiencing alcohol poisoning,
6 if the evidence for the charge was obtained as a result of the person
7 seeking 911 medical assistance. For purposes of this defense, the
8 defendant must prove by a preponderance of the evidence that the
9 person he or she believed to be experiencing alcohol poisoning had
10 symptoms that included vomiting, seizures, slow or irregular
11 breathing, pale skin, low body temperature, slurred speech, impaired
12 balance, dehydration, reduced inhibitions, erratic behavior, or being
13 in a state of confusion, stupor, or euphoria.

14 (b) An affirmative defense to a prosecution under this section is
15 available to a person under the age of twenty-one years who
16 experienced alcohol poisoning and was in need of medical assistance,
17 if the evidence for the charge is obtained as a result of the
18 poisoning and need for 911 medical assistance. For purposes of this
19 defense, the defendant must prove by a preponderance of the evidence
20 that he or she experienced symptoms that included vomiting, seizures,
21 slow or irregular breathing, pale skin, low body temperature, slurred
22 speech, impaired balance, dehydration, reduced inhibitions, erratic
23 behavior, or being in a state of confusion, stupor, or euphoria"

EFFECT: Makes an affirmative defense, for a Minor in Possession offense, available to a minor who:

- Sought medical assistance by calling 911 for someone experiencing alcohol poisoning; or
- Experienced alcohol poisoning and was in need of medical

assistance, if the evidence for the charge is obtained as a result of the poisoning and need for 911 medical assistance.

To use this defense, the defendant in either case must prove by a preponderance of the evidence that the person experiencing alcohol poisoning experienced symptoms that included vomiting, seizures, slow or irregular breathing, pale skin, low body temperature, slurred speech, impaired balance, dehydration, reduced inhibitions, erratic behavior, or being in a state of confusion, stupor, or euphoria.

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