

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5078-01
Bill No.: HB 1629
Subject: Alcohol; Children and Minors; Crimes and Punishment
Type: Original
Date: January 5, 2016

Bill Summary: This proposal increases the penalty for knowingly allowing minors to drink or possess alcohol or failing to stop a minor from drinking or possessing alcohol and establishes provisions relating to powdered alcohol.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(Less than \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state the bill establishes provisions for powdered alcohol and creates a class C misdemeanor for the illegal possession of powdered alcohol. The DOC would not supervise the offense.

The bill also increases the penalty for allowing minors to obtain alcohol from a misdemeanor to a felony. The first offense is a class D felony and repeat offenses are a class C felony. The felony offenses would be supervised by the DOC. In FY15 there were 15 offenders convicted of a first offense and 4 offenders convicted of a repeat offense. The DOC estimates that a similar number of convictions will occur in FY17 and in subsequent years and the disposition of the sentencing will be similar to the average sentencing of Class D felonies in FY15.

Applying the sentence averages, it is estimated that there will be 19 additional offenders received by the DOC, of which four will be sent to prison, two to 120 day and thirteen will be placed on probation.

The offenses are eligible for earned credit compliance so the field supervision will be less than the total sentence. The full impact will be six offenders in prison and 51 offenders on supervision after four years.

The FY15 average cost of supervision is \$6.04 per offender per day or an annual cost of \$2,205 per offender. The DOC cost of incarceration is \$16.809 per day or an annual cost of \$6,135 per offender.

In summary, DOC assumes a cost of \$44,338 in FY 2017 (4 in prison and 13 on probation), \$105,019 in FY 2018 (6 in prison and 30 on probation), \$146,119 in FY 2019 (6 in prison and 47 on probation), and \$158,401 in FY 2020 (6 in prison and 51 on probation).

Oversight will reflect the potential cost to the Department of Corrections as "Less than \$100,000" in FY 2017, and "Could exceed \$100,000" in the following years.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with enhanced penalties for knowingly allowing a minor to drink or possess alcohol or failing to stop a minor from drinking or possessing alcohol - a new Class D felony. The penalties increase if injury or death should occur. It also makes the purchase, possession or sale of powdered alcohol a new Class C misdemeanor.

ASSUMPTION (continued)

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Public Safety (Missouri Highway Patrol and Alcohol and Tobacco Control)**, the **Office of the State Courts Administrator** and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
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GENERAL REVENUE

Costs - Department of Corrections

Incarceration / Supervision of convicted offenders	(Less than <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)
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ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)
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<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill specifies that the provisions regarding the sale of intoxicating liquor to a minor and the permitted drinking or possession of intoxicating liquor of a minor are to be known as Austin's Law.

The bill changes the penalty for a person who knowingly allows a minor to drink or possess intoxicating liquor who is not the minor's parent or guardian from a class B misdemeanor to a class D felony for an offense committed before January 1, 2017, and a class E felony for an offense committed on or after January 1, 2017.

The penalty for any subsequent violation is changed from a class A misdemeanor to a class C felony for an offense committed before January 1, 2017, and a class D felony for any subsequent violation committed on or after January 1, 2017. If an individual under the age of 21 injures or kills another person while intoxicated, the penalty is a class B felony. The bill exempts any business licensed to sell alcohol and his or her employee from the class B felony provisions of the bill.

A person commits the offense of illegal possession of powdered alcohol if he or she purchases, possesses, offers for sale or use, uses, or sells powdered alcohol or ships any package or container that contains powdered alcohol into this state. Any person who violates this provision must be guilty of a class C misdemeanor.

"Powdered alcohol" means alcohol that is prepared in a powdered, crystalline, or capsule form either for direct use or for reconstitution in a nonalcoholic liquid. These provisions do not apply to any hospital that operates primarily for the purpose of scientific research; any state institution or college or university conducting scientific research; or any pharmaceutical or biotechnology company conducting research.

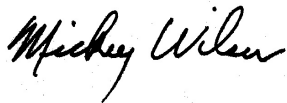
The provisions of the bill regarding powdered alcohol contain an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Public Safety
Office of the State Courts Administrator
Department of Corrections
Office of Prosecution Services
Office of the State Public Defender



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January 5, 2016

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