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UNDERAGE DRINKING: PENALTIES

House Bills 4323 and 4324
Sponsor: Rep. Dianne Byrum
Committee: Liquor Control

Complete to 3-4-93

A SUMMARY OF HOUSE BILLS 4323 and 4324 AS INTRODUCED 2-23-93

House Bill 4324 would amend the Liquor Control Act (MCL 436.33 et al.) to alter the penalties for conduct related to the purchase, possession, and consumption of alcohol by a person under the legal drinking age of 21. The bill would permit the suspension or restriction of a driver's license for repeat offenders of underage drinking. House Bill 4323 would make complementary amendments to a section of the Michigan Vehicle Code (MCL 257.319 et al.) dealing with license suspensions. The two bills are tie-barred to one another and would take effect April 1, 1994.

House Bill 4324 would do the following:

-- Specify that if a licensee, such as a bar or package store, was to be cited for selling or furnishing alcohol to an underage person (a misdemeanor), then the underage person would have to be cited for a civil infraction (unless it was an undercover operation). Further, the Liquor Control Commission would be prohibited from taking action against a licensee for a violation that was the result of an undercover operation in which the underage drinker purchased or received alcohol under the direction of the licensee with the approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

-- Increase the civil fines for an underage person who purchased, attempted to purchase, consumed, or attempted to consume alcohol in a licensed premise or who possessed or attempted to possess alcohol. (The "attempt" language is not in the act currently.) The maximum fines would be increased from \$25 to \$100 for a first violation; from \$50 to \$200 for a second violation; and from \$100 to \$500 for third and subsequent violations. Currently, 50 percent of the fines are earmarked for use by the Department of Public Health for substance abuse programs. The bill would earmark all of the fines for that purpose. (The language also would specifically refer to "prevention" programs in addition to treatment and rehabilitation programs.)

-- Allow courts to order the performance of community service for second and subsequent violations.

-- Allow courts to order violators to undergo substance abuse screening and assessment at their own expense. (A separate provision would permit courts to order this screening in order to determine whether the person was likely to benefit from rehabilitative services, including alcohol or drug education programs or alcohol or drug treatment programs.)

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-- Provide for the suspension and restriction of the driver's license in cases where an underage person had one or more prior violations and court found on the record that the person had a substance abuse problem that impaired his or her ability to operate a motor vehicle. The court could order the secretary of state to suspend a license for up to 180 days for a person with one prior violation and for up to one year for two or more prior violations. The court could also order the secretary of state to issue the person a restricted license during all or a specified portion of the suspension. The bill would require the court, in imposing its sanctions, to consider all prior underage drinking violations, including violations of local ordinances and similar laws in other states.

A court would not be allowed to order a restricted license unless the affected person stated under oath, and the court found based on the record in open court, that the person was unable to take public transportation to work, substance abuse programs, or school, and did not have anyone who could provide the transportation. The court order and the restricted license would indicate the work location of the affected person, the approved route or routes and the permitted times of travel. The restricted license would only permit the person to drive to and from work and in the course of employment, to and from school, to and from a treatment program, to and from the court probation department, to and from community service, and to and from school. (The suspension or restriction could be rescinded pursuant to a circuit court review.)

-- Require law enforcement agencies to notify the parents, guardians, or custodians, when they were reasonably ascertainable, of alleged violations of underage consumption, possession, or purchase (or attempts) of alcohol by those under 18 years of age. The notice would have to be made in person, by telephone, or by first class mail no more than 48 hours after the agency's determination of an alleged violation.

-- Specify that a non-licensee who illegally sold or furnished alcohol to an underage drinker would be fined not less than \$200 and not more than \$1,000 and could be sentenced to up to 90 days' imprisonment or ordered to perform community service.

-- Require the Liquor Control Commission to provide an annual written report to the state police on the number of actions they had heard involving violations of selling or furnishing alcohol to underage drinkers (and to people who were visibly intoxicated). The report would include the disposition of each action and contain figures regarding decoy operations, off-premises violations, on-premises violations, and repeat offenses within the previous three years. The state police would be required by House Bill 4323 to include such information in its annual drunk driving audit.

House Bill 4323 would, additionally, provide for the suspension of an operator's or chauffeur's license of a person cited for or determined to be responsible for a violation of underage drinking provisions who first failed to answer a citation or a notice to appear in court or failed to comply with an order or judgment of the court and then failed to respond to a subsequent notice from the court giving them 7 days to appear or 14 days to comply.