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BILL ANALYSIS

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Senate Bill 1226 (Substitute S-1 as reported)  
Sponsor: Senator Alan L. Cropsey  
Committee: Judiciary

(as enrolled)

Date Completed: 5-9-06

### **RATIONALE**

The Michigan Liquor Control Code prohibits a minor (which, under the Code, refers to a person under 21 years of age) from committing various alcohol-related offenses, including purchasing, consuming, or possessing alcohol. In addition to prescribing other sanctions, the Code allows the court to order a person convicted of committing such an offense to undergo screening and assessment to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. When a minor is in such a program, however, his or her parent evidently has no standing to request that the minor be tested for alcohol use, even if the minor is under 18 and not emancipated. Some people believe that a parent should be allowed to request random or regular breathalyzer tests for his or her child under these circumstances.

### **CONTENT**

The bill would amend the Michigan Liquor Control Code to allow a sentencing court to order a minor who was subject to a conviction or juvenile adjudication of, or placed on probation regarding, certain alcohol-related violations to submit to a random or regular preliminary chemical breath analysis. In the case of a minor under 18 and not legally emancipated, the minor's parent, guardian, or custodian could request a random or regular preliminary chemical breath analysis as part of the probation.

The bill would apply to a minor convicted of, or found responsible for, purchasing, consuming, or possessing alcohol;

attempting to purchase, consume, or possess alcohol; or having "any bodily alcohol content". Under the Code, "any bodily alcohol content" means either of the following:

- An alcohol content of 0.02 gram or more per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine.
- Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption as part of a generally recognized religious service or ceremony.

MCL 436.1703

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The Senate Judiciary Committee heard testimony from the father of a 16-year-old girl who was enrolled in an alcohol treatment program after she was the subject of a juvenile adjudication for alcohol consumption by a minor. According to the testimony, from the girl's behavior and the smell of alcohol on her breath, it was evident to her parents that she was continuing to use alcohol while she was in the treatment program. The girl's father brought this to the attention of a counselor with the treatment program and asked that she be given a breath test for alcohol. He evidently was told that parents had no standing to make such a request and that the test could be administered only with his daughter's consent.

By specifying that the court could order a person convicted of or subject to a juvenile adjudication for a minor's alcohol-related offense to submit to random or regular preliminary chemical breath analysis, and that the parent or guardian of an unemancipated minor under 18 could request such testing, the bill would rebalance the relationship between parents and children in trouble with the law for an alcohol violation. Parents need to have the power and ability to help their children, and ensure that they are held accountable for their actions, while participating in court-ordered rehabilitation programs. Parents should have the legal authority to request chemical breath testing for the presence of alcohol.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

To the extent that the bill would increase the number of chemical breath analyses administered, State and local governments would incur increased administrative and testing costs. According to the Department of Corrections, the cost of the materials for each test is approximately 10 cents. The cost for tests administered by local governments for offenders under local jurisdiction is likely to be similar.

Fiscal Analyst: Lindsay Hollander  
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.