

Legislative Analysis



MIP REVISIONS: MEDICAL AMNESTY

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House Bill 4876 (Substitute H-1)
Sponsor: Rep. Mark Meadows
Committee: Judiciary

First Analysis (10-21-09)

BRIEF SUMMARY: The bill would exempt a minor from the criminal sanctions for underage drinking under certain conditions.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact on state and local governments as discussed later in the analysis.

THE APPARENT PROBLEM:

Currently, it is a misdemeanor for a person less than 21 years of age to consume, purchase, or possess alcohol (or attempt to do the same) or to have any bodily alcohol content. The penalty for a conviction or juvenile adjudication can include a fine (up to \$100 for a first offense, \$200 for a second offense, and \$500 for a third or subsequent offense), community service, substance abuse prevention or treatment and rehabilitation services, and/or substance abuse screening and assessment (at the offender's own cost). A person convicted of a repeat offense can go to jail if he or she violates probation conditions.

Meant to deter underage drinking, an unfortunate and unintended result of the penalties is that a minor who believes he or she – or a friend – is suffering a medical crisis due to alcohol consumption is less likely to call 9-1-1 or to go to an emergency room because of the fear of arrest and the associated penalties if convicted. Every year, teens and young adults die from alcohol poisoning – a dangerous condition that requires immediate medical attention.

One solution that has been proposed is to create medical amnesty by which a minor who sought self treatment or treatment for another person that had consumed too much alcohol would be insulated from an arrest under the minor in possession (MIP) law. It is believed that codifying the amnesty provision will encourage underage drinkers to call for medical assistance sooner when it appears excessive drinking may have put someone at risk for alcohol poisoning.

THE CONTENT OF THE BILL:

House Bill 4876 would amend the Michigan Liquor Control Code to exempt certain minors meeting specified criteria from sanctions under the minor in possession (MIP) law. Specifically, the following minors would not be in violation of the MIP law:

- A minor who had consumed alcohol and who presents himself or herself to a health facility or agency for treatment or for observation. "Health facility or agency" would mean that term as defined in the Public Health Code.
- A minor who accompanies the person described above.
- A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance. "Emergency medical services personnel" would mean that term as defined by the Public Health Code.

The Public Health Code defines "health facility or agency" to mean, among other things, an ambulance operation, medical first response service, hospital, an HMO, and a county medical care facility.

"Emergency medical services personnel" means a medical first responder, emergency medical technician, emergency medical technician specialist, paramedic, or emergency medical services instructor-coordinator.

MCL 436.1703

BACKGROUND INFORMATION:

Information on alcohol poisoning and the signs and symptoms can be found at many sites on the Internet. According to the Mayo Clinic, alcohol poisoning is the consequence of consuming large amounts of alcohol in a short period of time. The Mayo Clinic says that drinking too much quickly can affect a person's breathing, heart rate, and gag reflex and can lead to coma and death. Binge drinking, in which a person rapidly consumes five or more drinks in a row, is the main cause of alcohol poisoning. However, ingesting products containing alcohol, such as hand sanitizer, can also lead to alcohol poisoning. Whenever a person is suspected of having alcohol poisoning, 9-1-1 should be called immediately, as the person is in need of immediate medical attention. If products containing alcohol have been ingested, the local poison control center should be called.

The following is from the Mayo Clinic website (www.mayoclinic.com).

If you drink, have friends who drink or have children of any age, know the signs and symptoms of alcohol poisoning:

- Confusion, stupor
- Vomiting
- Seizures
- Slow breathing (less than eight breaths a minute)
- Irregular breathing
- Blue-tinged skin or pale skin
- Low body temperature (hypothermia)

- Unconsciousness ("passing out")

It's not necessary for all of these symptoms to be present before you seek help. A person who is unconscious or can't be roused is at risk of dying.

When to see a doctor

If you suspect that someone has alcohol poisoning — even if you don't see the classic signs and symptoms — seek immediate medical care. In an emergency, follow these suggestions:

If the person is unconscious, breathing less than eight times a minute or has repeated, uncontrolled vomiting, call 9-1-1 or your local emergency number immediately. Keep in mind that even when someone is unconscious or has stopped drinking, alcohol continues to be released into the bloodstream and the level of alcohol in the body continues to rise. Never assume that a person will "sleep off" alcohol poisoning.

If the person is conscious, call **800-222-1222**, and you'll automatically be routed to your local poison control center. The staff at the poison control center or emergency call center can instruct you as to whether you should take the person directly to a hospital. All calls to poison control centers are confidential.

Be prepared to provide information. If you know, be sure to tell hospital or emergency personnel the kind and amount of alcohol the person ingested, and when.

Don't leave an unconscious person alone. While waiting for help, don't try to make the person vomit. People who have alcohol poisoning have an impaired gag reflex and may choke on their own vomit or accidentally inhale (aspirate) vomit into their lungs, which could cause a fatal lung injury.

In addition, the Mayo Clinic says that home remedies – such as black coffee and "walking it off" do not work. Placing the person in a cold shower can cause a loss of consciousness and a person can lose consciousness if left to fall asleep. Instead, always stay with a person who is vomiting and try to keep the person in a sitting position. If he or she must lie down, turn his or her head to the side to prevent choking. Try to keep the person awake to prevent loss of consciousness. Most importantly, call for professional medical assistance.

FISCAL INFORMATION:

House Bill 4876 would likely have a positive, but indeterminate, fiscal impact on the judiciary. By exempting certain minors from prosecution for underage drinking, the bill would reduce court costs and administrative costs associated with processing the violation. However, public libraries and county law libraries would see a reduction, albeit small, in fine revenue due to the exemption of certain minors from prosecution under MCL 436.1703. The reduction would be related to the number of minors exempted from prosecution.

To the extent that the bill barred misdemeanor prosecutions that otherwise would have gone forward, local units of government could avoid the costs of misdemeanor sanctions, which could include misdemeanor probation supervision and jail.

ARGUMENTS:

For:

Binge drinking, in which a person consumes a large amount of alcohol in a short time (typically, five drinks or more in a row), has become a popular component of social gatherings among teens and young adults. Unfortunately, because drinking more than one drink an hour overtaxes the liver, slowing metabolism, a person can consume a lethal dose before passing out. Once unconscious, a person's blood alcohol level can continue to rise. Too much alcohol in the blood causes breathing to slow to a dangerous level. Without immediate medical attention, alcohol poisoning can cause brain damage or death.

Too often friends, associates, or roommates of an individual who has drunk too much ignore signs of alcohol poisoning and the person is left to "sleep it off." Some may be ignorant of the dangers posed by alcohol poisoning, whereas others are reticent to call for help because of the fear of prosecution for underage drinking – both for themselves and for the person who has drunk too much.

The bill would address this problem by creating medical amnesty – immunity under the MIP laws for any individual who calls for help on the behalf of another person. Also, a person who recognizes, or fears, that he or she may have over-consumed alcohol can seek treatment without fear of prosecution.

The bill does not excuse or promote underage drinking. It merely focuses on saving the lives of young people who are inexperienced with alcohol or under the influence of peer pressure. More individuals will be encouraged to call 9-1-1 when a companion passes out, rather than hoping the person will be all right in the morning. The bill means that more individuals will have the chance to grow up and grow smarter and more responsible about alcohol consumption.

For:

The bill would not immunize a person from all alcohol violations. For example, a minor who used a fake ID to purchase alcohol, or furnished alcohol to another minor could still face prosecution for those actions. However, the bill would mean that the minor, or the person on whose behalf treatment was sought, could not be prosecuted for a MIP violation arising from the event.

For:

It has been the informal practice of some law enforcement agencies not to charge minors with MIP violations if an ambulance or the police were called on behalf of a person who had drunk too much alcohol, even if the minors had also been drinking. The bill would codify this informal policy and make it uniform across the state. In short, there should be

no barriers to calling for professional medical assistance. Passage of the bill is the right thing to do, and will encourage more young people to do the right thing when help is needed.

Against:

Some feel that the bill should be expanded to include controlled substances. Too many young people die from drug overdoses that could be prevented if companions or witnesses did not fear personal prosecution.

Response:

Controlled substances are in a different category than alcohol. Alcohol is a legal substance for those over 21 years of age, though certain alcohol-related conduct, like driving when drunk, is prohibited. Controlled substances, on the other hand, are strictly regulated because of the high risk of abuse and impact on the individual's health and safety. Moreover, several years ago, stiff penalties were enacted for anyone giving or selling drugs to another causing that person's death. To create a medical amnesty for drug overdoses would seriously hamper law enforcement's ability to deter the illegal diversion of controlled substances.

POSITIONS:

The Student Association of Michigan (SAM) supports the bill. (10-14-09)

The Michigan Student Assembly supports the bill. (10-14-09)

By resolution, the City of East Lansing supports the bill. (9-22-09)

A representative of the East Lansing Police Department testified in support of the bill. (10-14-09)

The prosecutor for Ingham County testified in support of the bill on behalf of his office and the Prosecuting Attorneys Association of Michigan (PAAM). (10-14-09)

The Ingham County medical examiner testified in support of the bill. (10-14-09)

A representative of the Associated Students of Michigan State University (ASMSU) testified in support of the bill. (10-14-09)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.