



H.B. 17

124th General Assembly
(As Introduced)

Reps. Willamowski, Hartnett, Flowers, Jerse, Setzer, Redfern, Williams, Allen

BILL SUMMARY

- Prohibits a person under 21 years of age from being under the influence of any beer or intoxicating liquor in any public or private place.

CONTENT AND OPERATION

Existing law

Existing Liquor Control Law generally prohibits a person under 21 years of age from doing any of the following in any public or private place (R.C. 4301.632):

- (1) Ordering, paying for, sharing the cost of, or attempting to purchase any beer or intoxicating liquor;
- (2) Consuming any beer or intoxicating liquor, either from a sealed or unsealed container or by the glass or by the drink;
- (3) Possessing any beer or intoxicating liquor.

A person who violates any of these prohibitions is guilty of a misdemeanor of the first degree. If the offender was under 18 years of age at the time of the offense and the offense occurred while the offender was the operator of or a passenger in a motor vehicle, the court, in addition to any other penalties it imposes upon the offender, must suspend the offender's temporary instruction permit or probationary driver's license for a period of six months. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender is not eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of 15 years and six months, the offender is not eligible to be issued a temporary instruction permit until the offender attains the age of 16 years (R.C. 4301.99(C)--not in the bill).

Operation of the bill

The bill additionally prohibits a person under 21 years of age from being under the influence of any beer or intoxicating liquor in any public or private place. A person who violates this new prohibition is guilty of a misdemeanor of the first degree. If the offender was under 18 years of age at the time of the offense and the offense occurred while the offender was the operator of or a passenger in a motor vehicle or was under 15 years and six months of age at the time of the offense, the offender is subject to the same possible additional penalties as discussed above under 'Existing law.' (R.C. 4301.632(D) and R.C. 4301.99(C)--not in the bill.)

COMMENT

1. The term "under the influence" is not defined for the purposes of this provision. Sec. 4511.19, the prohibition against operating a motor vehicle under the influence of alcohol, a drug of abuse, or both, prohibits a person from operating any vehicle, streetcar, or trackless trolley within Ohio if the person is "under the influence of alcohol." In *State v. Hardy* (1971), 28 Ohio St.2d 89, 91-92, the Ohio Supreme Court stated that it believed the statute prohibiting operating a vehicle while "under the influence" was enacted to protect persons and property from drivers "whose physical and mental ability to act and react are altered from the normal" because of the consumption of alcohol and that the influence effect some deprivation of clearness of intellect and control which one would otherwise possess. In *State v. Lowman* (Warren County, 1992), 82 Ohio App.3d 831, 836, the Twelfth District Court of Appeals held that the prosecution must prove that a person who is charged with operating a vehicle "under the influence" operated a vehicle when the person's faculties were appreciably impaired by the consumption of alcohol. Although not dispositive, these cases may indicate the scope of the meaning of the term "under the influence."

2. Existing section 4301.69(E) prohibits a person under 21 years of age from knowingly possessing or consuming any beer or intoxicating liquor, in any public or private place, unless the person is accompanied by a parent, spouse who is 21 years of age or older, or legal guardian, or unless the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced h0017-i.124/k1	01-31-01	p. 96

