



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [H.B. 351 of the 128th G.A.](#)

Date: April 13, 2010

Status: As Introduced

Sponsor: Rep. Bolon

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Modifies certain penalties for permitting underage consumption of beer or intoxicating liquor

State Fiscal Highlights

- The bill could lead to a higher number of convictions for permitting underage consumption of beer or intoxicating liquor. If so, this would lead to a small increase in locally collected court cost revenues that are deposited into the Indigent Defense Support Fund (Fund 5DY0) administered by the Public Defender Commission and the Victims of Crime/Reparations Fund (Fund 4020) administered by the Office of the Attorney General.

Local Fiscal Highlights

- The bill could generate additional cases involving underage consumption to be prosecuted at the local level. Some of this additional expense would be offset by court costs and fine revenues collected by county and municipal criminal justice systems statewide. Overall, the number of new cases that occur as a result of the bill is not likely to be significant.

Detailed Fiscal Analysis

Under current law, an owner or occupant of any public or private place is prohibited from "knowingly" allowing any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor. There is an exception if the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse, or legal guardian and the parent, spouse, or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor. A violation is punishable by a first degree misdemeanor, which carries a fine of up to \$1,000 and up to 180 days in jail.

The bill changes the law concerning this aspect of underage consumption of alcohol in two respects. First, the bill changes the culpable mental state applicable to the above prohibition to a person who "knows or should know" that beer or intoxicating liquor is being possessed or consumed by such an underage person in or on the place. Secondly, the bill provides for a criminal penalty if an owner or occupant of any public or private place "recklessly" allows underage persons to possess or consume beer or intoxicating liquor. The penalty under the latter condition is a misdemeanor punishable with a fine between \$250 and \$500 with no jail time involved.

Cases arising from the prohibition against knowingly allowing underage alcohol consumption are difficult to try because it is not always possible for law enforcement to prove there was actual knowledge of underage consumption. By reducing the level of culpability required to impose liability on a "social host," that is to say a person who permits underage consumption of beer or liquor on their premises, the bill could make it easier for local prosecutors to try these cases. According to a representative of the Ohio Prosecuting Attorneys Association, the bill could result in more cases and convictions, but this increase is unlikely to be significant. Although there could also be a minimal increase in county and municipal court caseloads, court costs and fine revenue imposed on guilty persons would probably offset some of the costs involved with the additional workload. At the state level, the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020) could realize a small gain in court cost revenue from any new convictions under the bill. For misdemeanors, Fund 5DY0 receives \$20 per case while Fund 4020 receives \$9 per case.