

# Legislative Analysis

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## BREATHALYZER FOR MINORS

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**Senate Bill 1226 as passed by the Senate**

**Sponsor: Sen. Alan L. Cropsey**

**House Committee: Judiciary**

**Senate Committee: Judiciary**

### **First Analysis (7-11-06)**

**BRIEF SUMMARY:** A court could order, and a parent could request a court to order, breathalyzer tests for minors under 18 years of age who violated the state's liquor laws.

**FISCAL IMPACT:** The bill will result in increased administrative and testing costs for State and local government. It is possible such costs may be partially or fully recovered under various statutory provisions cited in the Michigan Liquor Control Code.

### **THE APPARENT PROBLEM:**

The "minor in possession" law prohibits a person under the age of 21 from having any bodily alcohol content and from purchasing, possessing, or consuming alcohol (or attempting to do the same). A penalty for a violation can include a fine, community service, substance abuse screening, probation, or jail, depending on whether it is a first or subsequent offense.

On at least one occasion, parents of a sixteen-year-old, who had been cited for underage drinking, believed their child was not complying with provisions of the diversion program into which she had been placed. When the parents requested that their daughter be given random breathalyzer tests, they were told they had no legal standing to make such a request; although the daughter was still a minor, a breathalyzer test could only be administered with her consent.

Some believe that parents should be allowed to request random or regular breathalyzer tests for their minor children who have been found in violation of the underage drinking laws.

### **THE CONTENT OF THE BILL:**

Senate Bill 1226 would amend the minor in possession law within the Michigan Liquor Control Code (MCL 436.1703) to allow a court to order a minor to submit to random or regular breathalyzer tests. Specifically, the court could order a minor subject to a conviction or juvenile adjudication of, or placed on probation regarding, a violation of the minor in possession law to submit to a random or regular preliminary chemical breath analysis. In addition, if the minor were less than 18 and not emancipated, his or her parent, guardian, or custodian could also request that breathalyzer tests be performed on a random or regular basis.

***HOUSE COMMITTEE ACTION:***

The House Judiciary Committee made no changes to the Senate-passed version.

***ARGUMENTS:***

***For:***

If a parent suspects or knows that his or her child is not complying with court-ordered conditions of probation or a diversion program for underage drinking, there is little the parent can do. Additional sanctions could be brought by the court if the child were caught drinking or in possession of alcohol, but many adolescents become adept at avoiding being caught again. The bill would make two changes to current law that may increase compliance by minors: 1) a court would specifically be allowed to order random or routine breathalyzer tests for any minor convicted of, found responsible for, or placed on probation for a violation of the MIP laws; 2) parents would be given legal standing to request a court to order random or routine breathalyzer tests for their unemancipated minor children under 18 years of age.

Thus, the bill would rebalance the relationship between parents and children who violated the state's liquor laws. Parents rightly should have the ability to help their children and to ensure that they are held accountable for their actions while participating in court-ordered rehabilitation programs. A court would still retain discretion whether to honor the parent's request or deny it, based on the circumstances of the case.

***POSITIONS:***

The Michigan Association of Substance Abuse Coordinating Committees indicated support for the bill. (6-28-06)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Richard Child

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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.