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BILL ANALYSIS

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House Bill 4393 (Substitute H-4 as passed by the House)
Sponsor: Representative Anthony G. Forlini
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 3-12-12

CONTENT

The bill would amend the Michigan Liquor Control Code to do the following:

- **Exempt a minor from a violation involving the purchase, consumption, or possession of alcohol if he or she sought medical treatment or accompanied another person who sought treatment.**
- **Require a health facility or agency to notify the parent, guardian, or custodian of a minor under the age of 18 who voluntarily sought treatment or observation after consuming alcohol.**
- **Specify that a violation that was deferred, discharged, and dismissed would be considered a prior violation.**

Exemption from Minor's Alcohol Violation

The Code prohibits a minor from purchasing, consuming, or possessing alcoholic liquor, attempting to purchase, consume, or possess alcoholic liquor, or having any bodily alcohol content, except as otherwise provided. (Under the Code, "minor" means a person under 21 years of age.)

Under the bill, the following individuals would not be considered to be in violation of those prohibitions:

- A minor who had consumed alcohol and voluntarily presented himself or herself to a health facility or agency for treatment or observation.
- A minor who accompanied an individual who had consumed alcohol and voluntarily presented himself or herself to a health facility or agency for treatment or observation.
- A minor who initiated contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.

"Emergency medical services personnel" and "health facility or agency" would mean those terms as defined in the Public Health Code.

(The Liquor Control Code defines "any bodily alcohol content" as either of the following:

- An alcohol content of 0.02 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

-- Any presence of alcohol within a person's body resulting from the consumption of alcohol, other than as part of a generally recognized religious service or ceremony.)

A violation of the prohibitions is a misdemeanor punishable by a maximum fine of \$100 for a first offense, \$200 for a second offense, or \$500 for a third or subsequent offense, and the offender may be ordered to participate in substance abuse prevention services or treatment, perform community service, and undergo substance abuse screening and assessment. If a repeat offender has violated an order of probation, failed to complete any treatment, screening, or community service ordered by the court, or failed to pay a fine for a prior violation, the sentence may include incarceration for up to 30 days for a second offense or 60 days for a third or subsequent offense.

Notification of Parent, Guardian, or Custodian

The bill specifies that, if a minor under the age of 18, who was not emancipated, voluntarily presented himself or herself to a health facility or agency for treatment or observation after consuming alcohol, the health facility or agency would have to notify the minor's parent or parents, guardian, or custodian as to the nature of the treatment or observation. This requirement would apply if the health facility or agency could reasonably ascertain the name of a parent, guardian, or custodian.

Discharge & Dismissal of Violation

Under the Liquor Control Code, when an individual who has not previously been convicted of, or received a juvenile adjudication for, an alcohol violation described above pleads guilty or admits to responsibility in a juvenile delinquency proceeding, the court may place the individual on probation and defer further proceedings without entering a judgment of guilt or responsibility. If the person fulfills the terms and conditions of probation, the court must discharge the individual and dismiss the proceedings, without disqualifications or disabilities imposed by law, including the additional penalties imposed for a second or subsequent violation.

Under the bill, however, a violation that was successfully deferred, discharged, and dismissed would be considered a prior violation for the purposes of enhanced sentencing for a second or subsequent violation.

MCL 436.1703

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate, but likely minor, fiscal impact on State and local government. The exact number of future cases that could fall under this amnesty clause is unknown, but to the extent that it reduced misdemeanor convictions there would be a corresponding drop in local incarceration and supervision costs as well as decreased fine revenue.

Fiscal Analyst: Dan O'Connor

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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.