



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4939 (Substitute H-1 as passed by the House)
Sponsor: Representative Peter J. Lucido
House Committee: Law and Justice
Senate Committee: Judiciary

Date Completed: 9-26-17

CONTENT

The bill would amend Public Act 89 of 2017, which will prohibit the administration of a preliminary chemical breath analysis if a minor does not consent to it, to change the effective date of the Act from October 10, 2017, to January 1, 2018.

MCL 436.1703

BACKGROUND

Section 703 of the Michigan Liquor Control Code prohibits a minor from purchasing or attempting to purchase, consuming or attempting to consume, or possessing or attempting to possess alcoholic liquor, or from having any bodily alcohol content, except as otherwise provided. A minor who violates Section 703(1) is guilty of a misdemeanor. The offense is commonly referred to as minor in possession, or MIP.

Public Act 357 of 2016 amends Section 703 to do the following:

- Designate a minor's first MIP violation as a State civil infraction rather than a misdemeanor.
- Allow the deferral and dismissal of an MIP violation only for a misdemeanor violation that occurs after one prior judgment for MIP or another specified alcohol-related violation.
- Allow a court to order random or regular preliminary chemical breath analysis for an MIP violation only for a person subject to a misdemeanor conviction or juvenile adjudication.
- Allow a peace officer to request, rather than require, a minor to submit to a preliminary chemical breath analysis if the officer has reasonable cause to believe that the minor has consumed alcohol.
- Allow the results of a preliminary chemical breath analysis or other acceptable blood alcohol test to be admitted in a State civil infraction proceeding or criminal prosecution.
- Delete authorization for a peace officer to arrest a person based on the results of a preliminary chemical breath analysis.
- Delete a provision specifying that it is a State civil infraction, subject to a civil fine, for a minor to refuse to submit to a breath analysis.

The effective date of Public Act 357 is January 1, 2018.

Public Act 89 of 2017 also amends Section 703 to provide that, if a minor does not consent to a preliminary chemical breath analysis, the analysis may not be administered without a court order. This amendment is scheduled to take effect on October 10, 2017. When Public

Act 89 was enacted, however, it included the changes made in Public Act 357. Thus, when Public Act 89 takes effect (on October 10, 2017), it will also make the Public Act 357 changes effective on October 10, instead of the original date of January 1, 2018.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan

SAS\S1718\s4939sa

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.