

SUBJECT: Suspending drivers licenses for giving alcohol to minors

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 7 ayes — Flores, Chisum, Hamilton, Homer, D. Jones, Morrison, Quintanilla

0 nays

2 absent — Geren, Goolsby

WITNESSES: For — Winnfield Atkins, DIAGEO

Against — None

BACKGROUND: Alcoholic Beverage Code, sec. 106.06, makes it a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) to buy alcohol for a minor or to give alcohol to a minor or, with criminal negligence, to make alcohol available to a minor. The code allows someone to buy alcohol for or give alcohol to a minor if that person is present when the minor consumes the alcohol and if that person is the minor's adult parent, guardian, or spouse, or has custody of the minor.

Under Alcoholic Beverage Code, sec. 106.071(d)(2), courts must order the Department of Public Safety (DPS) to suspend the driver's license or permit of a minor convicted of certain alcohol offenses for 30 days if it is the minor's first offense, 60 days for a second offense, and 180 days for a third offense.

The offenses that apply to these two provisions are: public intoxication, purchase of alcohol by a minor, attempt to purchase alcohol by a minor, consumption of alcohol by a minor, possession of alcohol by a minor, misrepresentation of age by a minor, and driving under the influence of alcohol by a minor.

Alcoholic Beverage Code, sec. 106.115, requires courts to order minors convicted of some alcohol offenses to attend alcoholic awareness courses and gives courts the option of ordering some minors to attend the courses.

Defendants must present to the court evidence that they satisfactorily have completed the course or performed required community service. If a defendant does not present this evidence, courts are required to order DPS to suspend the defendant's driver's license or permit for six months or to deny the issuance of a license or permit for six months.

DIGEST:

HB 1357 would require automatic suspension of the driver's licenses of people convicted of purchasing alcohol for a minor or of furnishing it to a minor. DPS could not issue driver's licenses to those convicted of these offenses. For first offenses, licenses would be suspended for 180 days after the final conviction or for 180 days after an application for a license was made. Second offenses would result in a one-year suspension after the conviction and after an application.

HB 1357 also would lengthen the time that courts must suspend minors' driver's licenses or permits upon conviction of certain alcohol offenses. For a first offense the term of suspension or denial of a license or permit would be 180 days, instead of the current 30 days, and the term would be one year for second or subsequent offenses, instead of 60 or 180 days. This would apply to the offenses of alcohol by a minor, attempt to purchase alcohol by a minor, consumption of alcohol by a minor, possession of alcohol by a minor, and misrepresentation of age by a minor.

If minors who were repeat offenders did not present to a court the required evidence showing successful completion of an alcohol awareness program, courts would order DPS to suspend their licenses or permits for up to one year or to deny a license or permit for one year.

The bill would take effect September 1, 2005, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 1357 would address the problem of underage drinking by automatically suspending the driver's license of adults who provided alcohol to minors and by increasing penalties for minors who committed some alcohol offenses. At least four other states have enacted similar legislation.

Underage drinking continues to be a problem in Texas, and studies show that minors most often get alcohol from adults. One study reported that 65 percent of underage drinkers got their alcohol from family and friends, and only 7 percent got it from a store or bar that did not check identification. A

2003 report to Congress identified parties, friends, and adults as the biggest source of alcohol for underage drinkers.

Current law making it a class A misdemeanor for adults to furnish alcohol to minors is not a sufficient deterrent. HB 1357 would add to this penalty automatic license suspension for the adult so that the adult would be deterred from providing alcohol to minors. Providing alcohol to minors, who then often drive, is akin to giving them a lethal weapon. The seriousness of the offense of providing alcohol to minors, and its key role in underage drinking, would warrant this expanded penalty. This would give courts another tool to combat underage drinking.

HB 1357 also would increase the current license suspension period for minors who commit certain alcohol offense so that they appropriately would be punished and so that the law would deter them from committing the crimes. The current suspension period of 30 days is just not long enough to impress on minors the seriousness of their actions. The bill also would require a suspension of a license for one year for repeat offenders who had shown by committing another offense that they needed to be treated more harshly and needed to be kept off the roads to protect the public. A year-long license suspension, instead of the current six months, for minors who had not provided courts with proof that they had attended a required alcohol awareness course is appropriate because these kids are defying the court and proving they are not yet ready to be on the road.

HB 1357 would not place an undue hardship on anyone who had a legitimate transportation need that could not be met except by driving. Current law has procedures for adults and minors to ask a court for a provisional license. Courts would evaluate the requests and needs of someone who had a license suspended under HB 1357, and if appropriate, grant them a license for limited, necessary driving.

HB 1357 would not change what would be considered criminal offenses and would not change current exceptions to the law. The current exceptions allowing parents to give alcohol to their own children or to their spouses would remain, and the laws allowing use of alcohol for religious or sacramental purposes would not change.

The state has chosen in other situations to suspend driver's licenses for non-driving actions. Non-payment of child support by a non-custodial parent can result in suspending driver's, professional, and hunting and

fishing licenses. Also, courts are authorized to order DPS to suspend a drivers license upon a conviction for graffiti.

**OPPONENTS
SAY:**

Adults who provide alcohol to minors already are subject to criminal penalties, and these should be enforced. Suspending the driver's licenses of adults who provide alcohol to minors could make it difficult or impossible for them to do necessary tasks, such as driving to work or taking family members to work or school. Obtaining a provisional license can be expensive and time consuming. The state generally reserves the penalty of license suspension for offenses tied to driving. HB 1357 would be another unwise break with this practice.

Penalizing minors who commit certain alcohol offenses with an automatic six-month license suspension could be too punitive for first offenses. Youths often make bad decisions or find themselves in the wrong place at the wrong time. Many minors work or drive to school and obtaining a provisional license could be expensive and difficult. The current automatic 30-day suspension for first offenses would be more appropriate.