

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 120 , 3rd Edition

SHORT TITLE: Up Some Underage Penalties

SPONSOR(S): Senators Allran; Carpenter, Cochrane, Forrester, Foxx, Garwood, Hartsell, Jordan, Metcalf, Moore, Phillips, and Shaw of Guilford

FISCAL IMPACT

Yes (X) No () No Estimate Available ()

FY 1999-00 FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04

REVENUES Fines will increase but the amount can not be accurately estimated.

EXPENDITURES

Judicial Branch (indigent defense costs)	\$71,167	\$122,000	\$122,000	\$122,000	\$122,000
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POSITIONS: None

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Administrative Office of the Courts (Judicial Branch);
Department of Correction
Community Service Work Program
County Jails

EFFECTIVE DATE: Effective December 1, 1999.

BILL SUMMARY:

UP SOME UNDERAGE SALES PENALTIES. TO INCREASE THE PENALTIES RELATED TO UNDERAGE DRINKING. Adds new GS 18B-302A to provide penalties for some sales of alcohol to underage persons as follows:

(1) Specifies that for violations of GS 18B-302(a) (Class 1 misdemeanor) if court does not impose active punishment, they must include as condition of probation a fine of at least \$250 plus at least 25 hours of community service. If offender has previous conviction of same offense during previous four years, and court does not impose active punishment, court must impose at least \$500 fine and 150 hours of service.

(2) Makes violation of GS 18B-302(c)(2) (aiding or abetting, by person over lawful drinking age, another person to sell or give alcoholic beverages to underage person ,or an underage person to purchase or possess alcoholic beverages) a Class 1 misdemeanor. If active punishment not imposed, requires minimum fine (at least \$1000 if previous conviction of same offense within previous four years and \$500 otherwise) and community service (at least 150 hours if previous conviction and 25 hours otherwise).

(3) Repeals GS 18B-302(i), which now makes underage purchase or possession of malt beverages or unfortified wine only an infraction (not a crime) if offender is 19 or 20 years of age; result is that such offenses would become Class 1 misdemeanors subject to other provisions of bill. (Institute of Government Daily Bulletin, April 29,1999)

ASSUMPTIONS AND METHODOLOGY:

Sections 1(a) of the bill does not change the offense level of the crime it addresses: the sale of alcoholic beverages to underage persons in violation of G.S. 18B-302(a) is already a Class 1 Misdemeanor. However, it does provide specific punishments , fines, and community service hours, when an active sentence is not imposed . Based on 1998 data, 1,835 defendants will be affected. In 1997-98 there were 472 sentencing episodes (convictions) where this was the most serious charge. The result of SB 120 is to increase the number of offenders performing community service and to increase fines levied.

Section 1(b) of the bill also increases the punishment level without changing the offense level (Misdemeanor 1) for the offense of aiding and abetting by persons over 21 of underage persons making illegal purchases of alcohol in violation of G.S. 18B-302(c)(2). Based on 1998 data, 205 defendants will be affected, resulting in larger fines and increased community service hours. In 1997-98 there were 38 sentencing episodes for this charge.

Section 2 of the bill increases the penalty for purchase or possession by 19 and 20 year olds from an infraction/\$25 fine to a Class 1 Misdemeanor. Class 1 Misdemeanors carry some threat of active sentence and count as prior record in subsequent offenses. Violations involving purchase would also be reported to DMV for a one year revocation of the offender's drivers' license. Under current law, those found guilty of the infraction of 19-20 year old possession can not be assessed court costs. With the changes in SB120, courts costs could be assessed.

Judicial Branch

Based on 1998 data, the new punishments in sections 1 and 2 could affect 2,040 offenders. The more severe punishments would be expected to result in defendants more likely to contest the charges. This would result in more district court trials and potential appeals to Superior Court. This will affect Judicial Branch workload. Because it is not possible to project how many of these 2,040 defendants will mount a more vigorous defense, no estimate is available of the fiscal impact of this change.

The increased penalty for underage possession will have a greater effect. Based on 1998 data, there were 7,252 19 and 20 year olds charged with underage possession and 313 charged with purchase/attempt to purchase.

Personnel Cost

- ❖ The 313 charged with purchase would face a Class 1 Misdemeanor and a 1-year revocation of their license. The Judicial Branch estimates each of these cases would require 1 hour of court time. **Total impact: 313 hours in District Court**
- ❖ Some of the 7,252 charged with possession would waive their rights for trial (pay the fine, result in a criminal conviction on their record) but a lower percentage than under current law. Currently, 55% of those charged with the infraction choose to waive. The Judicial Branch estimates conservatively that 37% of those charged with the higher Misdemeanor 1 will choose to waive. That leaves 63% or 4,569 defendants involved in court trials.
- ❖ Of these 4,569 defendants, 1,305 of them (18%) are cases that would have been otherwise waived. The incremental effect on court time is estimated at 30 minutes per case or a total of **653 court hours**.
- ❖ The remaining 3,264 would go to trial under existing law, but the trials will be lengthier due to the greater penalty. The Judicial Branch estimates an increase of 15 minutes per case or a **total of 816 hours**

Based on the analysis above, court workload will increase by 1,782 hours, equivalent to a fulltime District Court Judge, Assistant DA and Deputy Clerk of Court. Personnel costs for these 3 positions total \$217,766 ,full year, recurring. However, since this increased workload will be spread statewide, Fiscal Research believes it can be absorbed within existing resources.

There will also be an estimated \$43,200 in costs for programming changes to the Court Information System to allow electronic transmittal of information to DMV. These costs can be absorbed within the existing information systems resources.

Indigent Defense Cost

The increased penalty for underage possession/purchase would also increase indigent defense costs. The Judicial Branch estimates 25% of defendants would qualify as indigent with a fee of \$100/case or an annual cost of \$122,000.

Department of Correction

The provisions of Section 1 of this bill are unlikely to have any impact on the Department of Correction

Section 2 of the bill raises the penalty for 19-20 year old possession. The Sentencing Commission estimates this would add 6 inmates to county jails in 1999-2000, increasing to 17 inmates by 2003-4. This small increase statewide can be absorbed within existing resources.

Community Service Work Program

SB 120 would increase the number of offenders with community service work requirements. Sentencing Commission data indicates that in 1997-98, 11.2% of first offenders convicted for selling and 10.7% of first offenders convicted for aiding and abetting received community

service hours averaging 29.4 and 25 respectively. With all 1st offenders required to perform at least 25 hours, the number of hours would increase at least 8,169 hours. The requirement that those with prior offenses complete 150 hours could increase the hours ordered by an additional 21,150. Currently, offenders perform over 2.35 Million hours of community service each year. This small increase can be absorbed within existing resources.

Fines and Court Costs

SB 120 specifies minimum fines for selling and aiding and abetting. AOC data indicates the following:

Selling---1 st conviction	85.3 %	averaging \$67.12	new min: \$250	(340 convict)
Subsequent	88.6%	\$79.91	new min \$500	(127 convict)
Aid/Abet 1 st conviction	89.7%	\$91.54	new min \$500	(29 convict)
Subsequent	88.9%	\$80.62	new min \$1000	(9 convict)

Based on these data, fines levied would increase a **minimum of** (maximum fine is not specified) **at least \$140,500.**

By changing the penalty for 19-20 year old possession/purchase, SB 120 will give the courts the option of assessing court costs (averaging \$86/case) for this offense. It is not possible to project the amount by which court costs actually assessed and collected will increase.

TECHNICAL CONSIDERATIONS:

SB 989, Governor’s 1999 DWI Amendments also raise the penalty for underage possession/purchase to a Class 1 Misdemeanor. HB1135, which has passed the House, raises it to a Class 3 Misdemeanor. Neither the Sentencing Commission nor the Judicial Branch see any significant difference between the fiscal impact of a Class1 and Class 3 Misdemeanor.

FISCAL RESEARCH DIVISION 733-4910

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