

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** Senate Bill 120 Up Some Underage Penalties

**SHORT TITLE:** Up Some Underage Penalties

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

<b>FISCAL IMPACT</b>					
	<b>Yes ( )</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 1999-00</u></b>	<b><u>FY 2000-01</u></b>	<b><u>FY 2001-02</u></b>	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>
<b>REVENUES</b>					<b>No Fiscal Impact</b>
<b>EXPENDITURES</b>					<b>No Fiscal Impact</b>
<b>POSITIONS:</b>					<b>No Fiscal Impact</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Administrative Office of the Courts (Judicial Branch); Department of Correction					
<b>EFFECTIVE DATE:</b> 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) sale is made in violation of GS 18B-302(a) is a Class 1 misdemeanor, and if made by person other than ABC permittee, punishment for first offense is a minimum fine of \$1000 and minimum of 150 hours of community service; for second or subsequent offense the maximum fine permitted by law and minimum of 30 days imprisonment; and, (2) for persons over 21 who aid and abet an underage person in making illegal purchase of alcohol, the same classification and punishment as described in (1) above is applicable. Directs that fines collected under new section must be used by school board for alcohol prevention use programs. Effective Dec. 1, 1999.

Source: Institute of Government, Daily Bulletin, February 17, 1999.

## **ASSUMPTIONS AND METHODOLOGY:**

The bill does not change the offense level of the two crimes it addresses: the sale of alcoholic beverages to underage persons in violation of G.S. 18B-302(a), and the aiding and abetting by persons over 21 of underage persons making illegal purchases of alcohol in violation of G.S. 18B-302(c)(2). However, it does provide specific punishments when persons other than ABC permittees commit this offense. It provides that a first offense is to be punished with a substantial fine (at least \$1,000) and a substantial community service requirement (at least 150 hours). A second or subsequent offense is to be punished with the maximum fine permitted by law and incarceration for at least 30 days. Paying a small fine punishes defendants convicted under current law. They rarely receive supervised probation, and only a few are ordered to perform any community service.

### **Judicial Branch**

According to the Administrative Office of the Courts, this bill will have little or no fiscal impact on the court system. Under the present G.S. 18B-302(a), there were 1,835 defendants charged with underage sales. Under the present G.S. 18B-302(c)(2), there were 205 defendants over the age of 21 charged with aiding/abetting.

The new G.S. 18B-302A, as outlined in this bill, relates to violations *by persons other than ABC permittees*. This provision limits the bill's applicability greatly. In 1998, 377 defendants were charged under G.S. 18B-304 with sale or possession for sale of alcoholic beverages by persons who do not have ABC permits. The Administrative Office of the Courts predicts that there will be substantially less than the present number of 377 defendants affected by this bill. These defendants are already being charged with misdemeanor-level offenses under current law. Therefore, the Judicial Branch, can absorb these associated charges within existing court resources.

### **Department of Correction**

Section (a) of this bill requires a fine of at least \$1,000.00 and completion of no less than 150 hours of community service for a first offense. Although this section of the bill could cause an increase in the amount of fines imposed and the amount of community service ordered, it would not relate to an impact on the prison system. The bill uses the term "supervised community service". If this terminology is being used in the same way as supervised probation, it will have little or no impact on the probation program within the Department of Corrections. Currently, 3% of those convicted of this offense receive supervised probation as a community punishment.

Section (a) of this bill also speaks to a second or subsequent offense. In 1997/98, 132 offenders were convicted with one to four prior convictions. Like the first offense mentioned above, the maximum fine permitted by law would be imposed. Of these 132 offenders with prior convictions, only five received active time. According to the Sentencing Commission, if all of these 132 offenders received the required 30 day jail sentence, the impact on the county jail population would be approximately 10 beds per year. The county jails and state prison system could handle these additional inmates within existing resources.

Section (b) of this bill provides specific penalties for G.S. 18B-302(c)(2). For Fiscal Year 1997/98, there were 38 sentencing episodes where these crimes were the most serious conviction. Of those 38 sentencing episodes, 29 were convictions for offenders with no prior convictions and nine were convictions for offenders with one to four prior convictions. Like section (a) of this bill, additional fines will be imposed for the first offense, as well as additional community service. This will have no impact on the state prison system. For second or subsequent offenses, no additional county jail beds or state prison beds will be needed. This is based on the small number of episodes that took place in 1997/98. There will be fewer numbers of offenders charged under this proposed provision.

**TECHNICAL CONSIDERATIONS:** None.

**FISCAL RESEARCH DIVISION 733-4910**

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**DATE:** Thursday, April 29, 1999



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