

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 22, 2005

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB13 by Corte (Relating to punishment for the sale of an alcoholic beverage to a minor.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB13, As Introduced: a negative impact of (\$1,044,694) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$161,976)
2007	(\$882,718)
2008	(\$1,084,361)
2009	(\$1,127,586)
2010	(\$1,178,138)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1
2006	(\$161,976)
2007	(\$882,718)
2008	(\$1,084,361)
2009	(\$1,127,586)
2010	(\$1,178,138)

Fiscal Analysis

The bill would amend the Alcoholic Beverage Code by making the criminally negligent sale of alcohol to a minor punishable as a state jail felony if the person has been previously convicted of a sale to a minor or of a sale to an intoxicated or insane person. The offense of selling an alcoholic beverage to a minor is currently punishable as a Class A misdemeanor.

Methodology

Based on misdemeanor probation placements data and assumptions for individuals dealt with by misdemeanor fines and county jail time for the offense of criminally negligent sale of alcohol to a minor, it is estimated that there were 492 criminally negligent sale of alcohol offenders in fiscal year 2004. Since the bill only applies to repeat offenders, it is assumed that the bill would apply in 25% of

cases for this offense. Based on direct court sentencing trends, 64 of the 492 placements would be sentenced directly to a term of incarceration in a state jail facility. It is also assumed that 60 of the 492 placements would be placed under felony probation supervision. Offenders placed on felony probation would have a revocation rate of 26% after 3 years of supervision.

In order to estimate the future impact of the proposal, the changes proposed for admission and release policy are applied in a simulation model to (1) state jail admissions that reflect the distribution of offenses, sentence lengths, and time served, and (2) the increase in the number of people on community supervision. Included in the estimated costs are projected community supervision operating costs.

Costs of incarceration by the Department of Criminal Justice are estimated on the basis of \$33.78 per state jail inmate per day for state jail facilities, reflecting approximate costs of either operating facilities or contracting with other entities. No costs are included for state jail construction. Options available to address the increased demand for state jail capacity that would result from implementation of this bill include construction of new facilities and contracting with counties or private entities for additional capacity.

Local Government Impact

Increasing the penalty for the criminally negligent sale of alcohol to a minor from a Class A misdemeanor to a state jail felony would represent a shift in responsibility from local government to the State in dealing with incarceration expenses. The shift would likely represent an increase in demands upon the correctional resources of the State; however, the likely positive impact to local government would be spread proportionately (based on the frequency of convictions).

Source Agencies: 458 Alcoholic Beverage Commission

LBB Staff: JOB, JRO, VDS, GG, KJG