

SENATE BILL REPORT

SB 5304

As Reported By Senate Committee On:
Judiciary, February 12, 1999

Title: An act relating to penalties imposed for violations of the state liquor code.

Brief Description: Making violations of the liquor code misdemeanor offenses.

Sponsors: Senators Costa, Heavey, Fairley, Goings, McCaslin and West.

Brief History:

Committee Activity: Judiciary: 2/8/99, 2/12/99 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5304 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Hargrove, Haugen, Johnson, Long, McCaslin, Roach, Thibaudeau and Zarelli.

Staff: Lidia Mori (786-7755)

Background: Keg Registration; Drinking in Public. Washington law requires the seller and purchaser of kegs or other containers containing four gallons or more of malt liquor to complete certain registration requirements prior to the sale. In addition, the kegs or containers themselves must carry certain identification marks. The only penalty provided for a violation is a fine up to \$500. No jail time may be imposed.

With certain exceptions, opening a liquor container or consuming liquor in public is a violation of the code. A violation of this law is designated as a "misdemeanor," and the only penalty provided for a violation is a fine of up to \$100. No jail time may be imposed.

Because no jail time may be imposed for the above offenses, a court may not issue a bench warrant for the arrest of a defendant who fails to appear in court. This has resulted in a significant number of cases languishing indefinitely.

General Penalty Provision. The state's liquor code has a variety of penalty provisions for violations of the code. Violations of provisions that lack their own penalty provisions are covered by a general criminal penalty provision. This general provision provides the following criminal penalties for individual persons: on a first conviction, a fine of up to \$500 and imprisonment for up to two months; on a second conviction, imprisonment for up to six months; and on a third conviction, imprisonment for up to one year.

Because of the way this general provision is structured, fines may not be imposed against individuals for second or third convictions. The maximum imprisonment allowed for a third conviction against an individual under the general penalty provision is one year. This

maximum is the same as the maximum imprisonment possible for a gross misdemeanor. The maximum fine for a gross misdemeanor is \$5,000.

Summary of Substitute Bill: Keg registration violations and furnishing kegs to minors are gross misdemeanors. The general penalty section for RCW 66.44 provides that violations of RCW 66.44 are misdemeanors. Any person who sells liquor to a minor is guilty of a gross misdemeanor.

Substitute Bill Compared to Original Bill: The substitute bill makes keg registration violations and furnishing kegs to minors gross misdemeanors. The original bill made keg registration violations misdemeanors. In the substitute bill, the general penalty section for RCW 66.44 provided violations of RCW 66.44 for which no penalty has been specifically set forth are misdemeanors while in the original bill, they were made gross misdemeanors.

Appropriation: None.

Fiscal Note: Requested on February 4, 1999.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 1999.

Testimony For: This bill standardizes the penalties for keg violations and providing kegs to minors. This bill improves current law by giving the courts the needed ability to either dismiss a violation or give an enforceable penalty.

Testimony Against: None.

Testified: Judge Robert McBeth (pro); Gary Gilbert, Liquor Control Board (pro with concerns); Dick Ducharme, WA Beer and Wine Wholesalers (pro in part, con in part).