



House of Representatives

General Assembly

File No. 279

February Session, 2006

House Bill No. 5211

House of Representatives, March 31, 2006

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING UNDERAGE DRINKING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) No person having
2 possession of, or exercising dominion and control over, any dwelling
3 unit or private property shall (1) knowingly permit any minor to
4 possess alcoholic liquor in violation of subsection (b) of section 30-89 of
5 the general statutes, as amended by this act, in such dwelling unit or
6 on such private property, or (2) knowing that any minor possesses
7 alcoholic liquor in violation of subsection (b) of section 30-89 of the
8 general statutes, as amended by this act, in such dwelling unit or on
9 such private property, fail to make reasonable efforts to halt such
10 possession. For the purposes of this subsection, "minor" means a
11 person under twenty-one years of age.

12 (b) Any person who violates the provisions of subsection (a) of this
13 section shall, for a first offense, have committed an infraction and, for
14 any subsequent offense, be fined not more than five hundred dollars or
15 imprisoned not more than one year, or both.

16 Sec. 2. Subsection (b) of section 30-89 of the general statutes is
17 repealed and the following is substituted in lieu thereof (*Effective*
18 *October 1, 2006*):

19 (b) Any minor who possesses any alcoholic liquor [on any street or
20 highway or in any public place or place open to the public, including
21 any club which is open to the public, shall be fined not less than two
22 hundred nor more than five hundred dollars] on public or private
23 property shall, for a first offense, have committed an infraction and, for
24 any subsequent offense, be fined not less than two hundred dollars or
25 more than five hundred dollars. The provisions of this subsection shall
26 not apply to (1) a person over age eighteen who is an employee or
27 permit holder under section 30-90a and who possesses alcoholic liquor
28 in the course of [his] such person's employment or business, (2) a
29 minor who possesses alcoholic liquor on the order of a practicing
30 physician, or (3) a minor who possesses alcoholic liquor while
31 accompanied by a parent, guardian or spouse of the minor, who has
32 attained the age of twenty-one. Nothing in this subsection shall be
33 construed to burden a person's exercise of religion under section 3 of
34 article first of the Constitution of the state in violation of subsection (a)
35 of section 52-571b.

36 Sec. 3. Subsection (b) of section 30-86 of the general statutes is
37 repealed and the following is substituted in lieu thereof (*Effective*
38 *October 1, 2006*):

39 (b) (1) Any permittee or any servant or agent of a permittee who
40 sells or delivers alcoholic liquor to any minor [,] or [to] any intoxicated
41 person, or to any habitual drunkard, knowing the person to be such an
42 habitual drunkard, shall be subject to the penalties of section 30-113.

43 (2) Any person who sells, ships, delivers or gives [any such liquors
44 to such] alcoholic liquor to a minor, by any means, including, but not
45 limited to, the Internet or any other on-line computer network, except
46 on the order of a practicing physician, shall be fined not more than one
47 thousand five hundred dollars or imprisoned not more than eighteen
48 months, or both.

49 (3) The provisions of this [section] subsection shall not apply [(1)]
50 (A) to a sale, shipment or delivery made to a person over age eighteen
51 who is an employee or permit holder under section 30-90a and where
52 such sale, shipment or delivery is made in the course of such person's
53 employment or business, [(2)] (B) to a sale, shipment or delivery made
54 in good faith to a minor who practices any deceit in the procurement of
55 an identity card issued in accordance with the provisions of section 1-
56 1h, as amended, who uses or exhibits any such identity card belonging
57 to any other person or who uses or exhibits any such identity card that
58 has been altered or tampered with in any way, or [(3)] (C) to a
59 shipment or delivery made to a minor by a parent, guardian or spouse
60 of the minor, provided such parent, guardian or spouse has attained
61 the age of twenty-one and provided such minor possesses such
62 alcoholic liquor while accompanied by such parent, guardian or
63 spouse.

64 (4) For the purposes of this subsection, "minor" means a person
65 under twenty-one years of age.

66 (5) Nothing in this subsection shall be construed to burden a
67 person's exercise of religion under section 3 of article first of the
68 Constitution of the state in violation of subsection (a) of section 52-
69 571b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	New section
Sec. 2	October 1, 2006	30-89(b)
Sec. 3	October 1, 2006	30-86(b)

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal
Various Criminal Justice Agencies	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Municipal Police Departments	Potential Cost	Minimal	Minimal

Explanation

Any state revenue impact associated with infractions under the bill is anticipated to be minimal. The bill establishes an infraction that may be imposed on a person in control of private property who permits a minor (under twenty-one years of age) to possess alcohol. It also provides that an infraction may be imposed on the minor for possession of alcohol on private property; current law prohibits possession by a minor on public property, only.

The dollar value of the bill’s infractions would range from \$74 to \$136. The Judges of the Superior Court must determine the exact amount of the infractions, provided they are between \$35 and \$90.¹ Subsequent to this determination, various other statutory surcharges would be added to bring the total amounts due to the range provided above. The revenue gain associated with the new infractions is expected to be minimal given the number of fines imposed and associated revenues for the possession of alcohol by a minor in a public place: about 300 fines are imposed annually with revenues of \$37,000 (average fine of \$123).

¹ See CGS Section 51-164m.

Note that the bill alters the fine amount that may be imposed on a minor in possession of alcohol in a public place. Minors receive an average fine of \$123 under current law. However, the bill could provide for a fine of between \$74 and \$136. Any revenue impact associated with this change would be less than \$15,000 annually. The bill will result in a net revenue gain to the state from the two new infractions related to possession of alcohol on private property.

The bill also makes it a crime, punishable by a fine of up to \$500 and/or imprisonment for up to one year, for any person in control of private property to repeatedly allow any minors to possess alcohol. To the extent that offenders are subject to incarceration or probation supervision in the community as a result of the bill, a potential cost to criminal justice agencies exists. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

Law enforcement agencies and the Division of Criminal Justice could accommodate enforcement of the bill’s provisions without requiring additional appropriations.

The Out Years

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$	FY 11 \$
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal	Minimal
Various Criminal Justice Agencies	GF - Cost	Potential	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$	FY 11 \$
Municipal Police Departments	Potential Cost	Minimal	Minimal	Minimal

**OLR Bill Analysis
HB 5211**

AN ACT CONCERNING UNDERAGE DRINKING.

SUMMARY:

This bill makes it illegal for someone who possesses or controls private property, including a dwelling unit, to (1) knowingly permit a minor to illegally possess alcohol in the unit or on the property or (2) fail to make reasonable efforts to stop the possession of alcohol in the unit or on the property by a minor he knows possesses alcohol illegally. The bill makes a first offense an infraction and subsequent offenses subject to up to one year in prison, a fine of up to \$500, or both.

The bill also makes it illegal for a minor to possess alcohol anywhere, rather than only in public places. Under current law, the penalty for illegal possession in public places is a fine of \$200 to \$500. The bill makes this the penalty for second and subsequent offenses of illegal possession, regardless of location, and makes a first offense an infraction.

Under current law, the provisions on illegal possession by minors do not apply to a minor who possesses alcohol while accompanied by a parent, guardian, or spouse over age 21. The bill specifies that it must be the minor's parent, guardian, or spouse.

The bill also specifies that the prohibitions on illegal possession and those against selling, shipping, delivering, or giving alcohol to minors cannot be construed to burden a person's exercise of religion as protected by the state constitution.

EFFECTIVE DATE: October 1, 2006

BACKGROUND***Other Exceptions to Illegal Possession by Minors***

By law, the provisions on illegal possession by minors do not apply to a minor who (1) is over age 18 and possesses alcohol in the course of employment or (2) possesses alcohol on a physician's order.

Exercise of Religion

The state constitution provides that, "The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in the state; provided, that the right hereby declared and established, shall not be construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the state" (Article I, § 3).

The law prohibits the state or a political subdivision from burdening a person's constitutional exercise of religion even with a rule of general applicability unless the burden (1) furthers a compelling government interest and (2) is the least restrictive means to further that interest (CGS § 52-571b).

Related Bill

HB 5676, reported favorably by the General Law Committee, prohibits hosting an event on public or private property where alcohol is consumed or dispensed to minors unless accompanied by a parent, guardian, or spouse age 21 or older.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 38 Nay 0 (03/13/2006)