

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1409

SHORT TITLE: Keg Registration/19-20 Loophole Closed

SPONSOR(S): Representative Clary

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>
REVENUES					
ALE Keg ID Tag		No Estimate Available			
DMV License Fees	\$12,040	\$12,401	\$12,773	\$13,156	\$13,551
AOC Court Fees*	<u>\$235,520</u>	<u>\$242,586</u>	<u>\$249,863</u>	<u>\$257,359</u>	<u>\$265,080</u>
Subtotal	\$247,560	\$254,987	\$262,636	\$270,515	\$278,631
EXPENDITURES					
Alcohol Law Enforcement					
Recurring	\$201,431	\$277,963	\$287,414	\$296,611	\$306,399
Nonrecurring	\$29,937	\$0	\$0	\$0	\$0
Positions	(7)	(7)	(7)	(7)	(7)
Correction					
Recurring		No Fiscal Impact			
Nonrecurring					
Judicial					
Recurring	\$158,958	\$217,508	\$224,903	\$232,100	\$239,759
Nonrecurring	\$13,586	\$0	\$0	\$0	\$0
Positions	(3)	(3)	(3)	(3)	(3)
Indigent Defense	<u>\$121,800</u>	<u>\$125,454</u>	<u>\$129,218</u>	<u>\$133,094</u>	<u>\$137,087</u>
Subtotal	\$525,712	\$620,925	\$641,535	\$661,805	\$683,245
NET FISCAL IMPACT	\$278,152	\$365,938	\$378,899	\$391,290	\$404,614
(Expenditures-Revenues)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Alcohol Law Enforcement Division; Department of Correction; Judicial Department; Division of Motor Vehicles					
EFFECTIVE DATE: October 1, 1998					
*Assumes conservative court fee collection estimate of 50%.					

Salaried inflation rates were estimated at 3.5% for 1999-00, 3.4% for 2000-01, 3.2% for 2001-02, and 3.3% for 2002-03 (data from Office of State Budget and Management). Non-salaried inflation rates were calculated at 3%.

BILL SUMMARY: TO REGULATE THE OFF-PREMISE SALES OF MALT BEVERAGES IN KEGS AND MAKE ALCOHOL CONSUMPTION BY ANY PERSON UNDER TWENTY-ONE YEARS OF AGE A MISDEMEANOR. Adds new G.S. 18B-1006(n) regulating the keg sale of malt beverages. Requires that all kegs be marked with identification numbers and tags issued by the Alcohol Law Enforcement Div'n (ALE). Retailers must require all purchasers to complete form that includes identifying information about purchaser, penalties for violating keg law, and a statement completed by the purchaser indicating that he or she will not supply alcoholic beverages to any person under 21 years of age and will not deface or remove the keg identification or tag. Requires that retailers maintain forms for three years. Requires that retailers report to ALE failure to return a keg or defacement or removal of tag. Makes defacing or removing the ALE identification tag or possessing an unlabeled or untagged keg a Class 1 misdemeanor.

Repeals G.S. 18B-302(i), which makes it an infraction for a person who is 19 or 20 years old to purchase, attempt to purchase, or possess malt beverages or unfortified wine. Offenses, therefore, become Class 1 misdemeanors. Purchasing and attempting to purchase alcohol offense are subject to a one-year driver's license revocation by the Division of Motor Vehicles (DMV). Effective October. 1, 1998.

ASSUMPTIONS AND METHODOLOGY: Keg Registration

Alcohol Law Enforcement Division

This bill places several additional registration and identification responsibilities upon the Alcohol Law Enforcement (ALE) Division. Specifically, ALE must 1) issue identification tags for all kegs of malt beverages sold statewide by "off-premises retailers" (grocery stores, convenience stores, etc.) for a fee covering the costs of producing the tags, 2) collect these tags semiannually for destruction, 3) issue registration forms to retailers to be given to keg purchasers, and 4) enforcing provisions of this bill.

The following assumptions were used in this analysis:

1. According to FY 96-97 data from the Department of Revenue, there were **420,159** kegs of malt beverages shipped into the state for resale. Although a small number of kegs could have been returned, it is assumed that this number of kegs was sold statewide by wholesalers to various retailers.
2. An informal survey of the three primary beer wholesalers in the Raleigh area (comprising 98% of the local wholesale market) indicated that "off-premises" keg sales represent approximately 20% of the total keg sales. The additional 80% of kegs are sold to restaurants, bars, and other "on-premises" establishments.
3. Applying this off-premise percentage to the total number of kegs sold, an estimated **84,032** kegs (420,159 kegs X 20%) are sold annually to off-premises retailers.

4. Spreading this number of kegs equally across ALE's 12 enforcement districts, each district would be responsible for the identification and registration of an estimated **7,003** kegs (84,032 kegs / 12 districts) sold annually. Actual keg sales could vary substantially in each district, however; but information on keg sales by district was not available.

ALE estimates that it will need an additional agent in each of the 12 districts to complete the provisions of this bill. However, after reviewing the legislation, the Fiscal Research Division believes that most of the new duties under this bill would be administrative functions (such as processing keg registrations and checking identification records) instead of inspection and enforcement functions. We have no evidence that suggests substantial non-compliance with the bill's regulations will occur and thus warrant extensive enforcement provisions. FRD agrees that ALE needs additional personnel to implement the bill's regulations, but believes that these should be administrative personnel instead of agents.

FRD believes at this time that the additional enforcement and inspection duties associated with this bill can be absorbed within ALE without the need for new agents. ALE has approximately 8 agents in each of its 12 districts; this number of agents should be sufficient for the duties required by this bill. There might still be a future need for new agents if these duties are more expansive or complex than expected. Once the regulations are implemented, it is assumed ALE will conduct a sample of preventative inspections and verify records to determine the level of non-compliance with these regulations. Information on non-compliance could then better determine actual resource needs in future years.

ALE indicates, and FRD concurs, that it would need to hire an additional administrative assistant in its Raleigh headquarters to oversee district implementation of the new regulations. Assuming a 3.5% inflation rate, the position costs follow.

Cost of New Raleigh Assistant	<u>FY 98-99 (eff. 10/1)</u>	<u>FY 99-00</u>
Recurring (salary and benefits)	\$28,775	\$39,709
Nonrecurring (computer and supplies)	\$4,133	\$0
Total Cost of Raleigh Assistant	\$32,908	\$39,709

Each of ALE's 12 districts would incur personnel expenses in implementing these regulations. After reviewing ALE information, FRD believes that part-time administrative personnel in each district could handle the new administrative functions under this bill. These administrative assistants would keep a database of the registered kegs and send out the appropriate forms and identification tags. No data was available on keg sales by district, but to estimate each district's personnel costs, we took 50% of the costs for the Raleigh assistant.

District Personnel Costs	<u>FY 98-99 (eff. 10/1)</u>	<u>FY 99-00</u>
Recurring	\$14,388	\$19,855
Nonrecurring	\$2,067	\$0

Statewide Total (12 districts)		
Recurring	\$172,656	\$238,254
Nonrecurring	\$24,804	\$0
Total Recurring ALE Costs	\$201,431	\$277,963
Total Nonrecurring ALE Costs	\$28,937	\$0
Positions	(7)	(7)

Judicial Department

Establishing a Class 1 misdemeanor for defacement or removal of a keg’s registration tag or possessing an untagged keg will result in additional criminal charges. However, the Judicial Department does not believe there would be a substantial number of new charges, as most defendants would face other charges, such as possession of malt beverages by people under age 21. This provision is thus not expected to bring additional defendants into the court system.

ASSUMPTIONS AND METHODOLOGY: Closing 19-20 Year-Old Alcohol Loophole

Department of Correction

Since this bill creates new misdemeanor offenses, there is no direct effect on the state prison population. The bill would have a minimal effect on the county jail population. The Sentencing Commission estimates that statewide, 4 people would receive active jail time for purchasing or attempting to purchase alcohol and 65 people would receive active time for possessing alcohol. Using data from the Sentencing Commission and the NC Association of County Commissioners, this bill would add 12 additional county jail inmates statewide by FY 2002-03 and increases costs by \$12,000 (12 additional inmates X \$40 per inmate per day X 25 days for average sentence).

Judicial Department

The Administrative Office of the Courts (AOC) expects this provision to have a substantial impact on the court system. Individuals aged 19 and 20 are currently charged with a non-criminal infraction if they purchase, attempt to purchase, or possess malt beverages or unfortified wine. The maximum punishment for these offenses is a \$25 fine without any court costs assessed. These offenses are waivable, in that offenders may pay the fine by mail without appearing in court. This bill makes these offenses punishable as Class 1 misdemeanors and allows only possession offenses to be waived. Purchase or attempted purchase violations by 19- and 20-year olds would also now be reported to the DMV for a one-year license revocation.

Court Personnel Expenses

This bill increases court workload and personnel expenses with the additional misdemeanor cases. The AOC used the following assumptions to estimate the additional workload:

1. 1997 AOC data indicates that 7,767 individuals aged 19 and 20 were charged with purchasing, attempting to purchase, or possessing alcohol. Of these 7,767 individuals, 344 were charged with purchasing or attempting to purchase alcohol, while 7,423 were charged with possessing alcohol.
2. The 344 individuals charged with purchasing or attempting to purchase alcohol are expected to pursue more vigorous litigation since these offenses are not waivable and offenders face a one-year license revocation. Assuming one hour of court time across the different types of dispositions, the AOC estimates an additional 344 hours of court time.
3. 59% of individuals currently charged with possessing alcohol resolve their cases by waiving appearance and admitting responsibility. Using the above data, approximately 3,043 individuals (7,423 X 41%) would not waive appearance and continue their cases. The AOC believes this waiver percentage will be lower under this bill due to the increased offense class. Assuming a new waiver rate of 39%, a total of 4,528 individuals (7,423 X 61%) would not waive appearance and continue their cases under this bill.
4. Following the prior assumptions, there are 1,485 defendants (4,528 – 3,043) who would have waived appearance under current law but would be disposed otherwise under this bill. Assuming non-waiver dispositions require an average of 30 minutes of court time, there would be an additional 743 hours of court time (1485 X 0.5 hours).
5. There are 3,043 defendants (4,528 – 1,485) who would not waive appearance under current law or under this bill, and instead would continue their cases. Assuming the increase in offense class requires an additional 15 minutes of court time (these cases currently require 15 minutes), there would be additional 761 hours of court time (3,043 X 0.25 hours).
6. Summing the increase in court hours for possession offenses yields 1,504 additional hours (743 + 761). Combining these hours with the additional hours to process purchase or attempted purchase cases, there would be a total increase of **1,848 additional court hours** (1,504 + 344).

Assuming 1,800 available court hours per year, these additional hours reflect court resource needs to handle these cases, equaling a new district court judge, assistant district attorney, and courtroom clerk. Total personnel costs are listed below (assuming a 3.5% inflation rate):

	<u>District Court Judge</u>	<u>Asst. DA</u>	<u>Clerk</u>	<u>Personnel Expenses</u>
FY 98-99 (eff. 10/1/98)	\$95,412	\$52,822	\$24,310	\$172,544
FY 99-00	\$118,039	\$71,305	\$28,164	\$217,508

Indigent Defense Expenses

There will be an increase in indigent defense expenditures with this bill since misdemeanants are eligible for court-appointed counsel, unlike offenders with infractions. The AOC estimates that 25% of the 4,872 purchasing and possessing offenders not expected to waive appearance would

be indigent, producing a total of 1,218 indigents (86 charged with purchasing and 1,132 charged with possessing). Assuming an average indigent counsel fee of \$100 per case, there would be an additional **\$121,800** in indigent defense expenses (1,218 defendants X \$100 per case).

Reporting of Conviction Information to DMV for License Revocation

This bill requires courts to report convictions in purchasing offenses by 19- and 20 year-olds to the DMV for a one-year license revocation. The AOC's Court Information System will need to be modified to electronically transmit the information to the DMV. The AOC's Court Management and Information Services Division estimates that it will take 720 total hours for the necessary programming, testing, and training. At an average cost of \$45 an hour, the AOC would incur approximately \$43,200 in expenses. **FRD believes these additional expenses can be absorbed with current departmental resources.**

The DMV processes 600,000 license revocations annually. The additional 344 purchasing offense revocations under this bill would thus cause a minimal impact to the DMV in personnel and technology expenses. However, this bill would increase revenues due to the \$35 restoration and duplicate license fees these offenders would pay after the one-year revocation. This revenue increase would total **\$12,040** (344 offenders X \$35).

Additional Revenue Gained by Assessing Court Costs

19- and 20-year olds charged with these infractions are currently not assessed court costs, as G.S. 18B-302(i) prohibits such costs for alcohol infractions. By removing this section, the bill would make all individuals guilty of the purchasing or possessing charge liable for court costs. The following assumptions outline the potential revenue gained by these new assessments.

1. AOC data indicates that 5,887 defendants were found responsible for the affected infraction offenses in 1997. This number of convictions might decrease in future years due to the reduction of waivers caused by this bill and lower additional revenues.
2. These cases would be criminal cases in district court, with court fees set at \$80.
3. It is difficult to estimate how much of the assessed court fees will be collected. The AOC believes the collection rate would probably range between 50% and 75%, and increase revenues by between **\$235,520** (2,944 defendants X \$80) and **\$353,200** (4,415 defendants X \$80), respectively.

SOURCES OF DATA: Alcohol Law Enforcement Division; Judicial Department; Department of Correction; Division of Motor Vehicles

TECHNICAL CONSIDERATIONS: None

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