



## Impact Analysis on Proposed Legislation

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### *Virginia Criminal Sentencing Commission*

#### **House Bill No. 668**

*(Patron – Bell)*

**Date Submitted:** 1/13/04

**LD #:** 04-1243232

**Topic:** Juvenile alcohol-related offenses

#### **Proposed Change:**

The proposal amends §§ 4.1-305, 16.1-278.9 and 16.1-306 of the *Code of Virginia* making it illegal for a person less than 21 years of age 1) to consume or attempt to consume alcoholic beverages, or 2) to use an altered or fake driver's license, birth certificate or student identification card (or the license, certificate or identification of another person) in order to establish a false identification or false age in order to consume alcoholic beverages. The proposal also allows persons convicted of first-time underage consumption or purchase of alcoholic beverages to be placed on probation, and upon successful completion, to have the proceedings dismissed. An amendment to §16.1-306 would require that court records be retained, not expunged, for juveniles found guilty of driving while intoxicated under §18.2-266.

Currently, under § 4.1-305 it is a Class 1 misdemeanor for persons less than 21 years of age to purchase or possess alcoholic beverages. The same penalty is applied to those who use an altered or fake driver's license, birth certificate or student identification card (or that of another person) in order to establish a false identification to purchase alcoholic beverages. The *Code* also allows those convicted of first-time underage possession of alcohol to be placed on probation, and upon successful completion, to have the proceedings dismissed. As currently written, the *Code* sections referenced do not specifically address the act of 'consumption' of alcoholic beverages by underage persons.

Additionally, §16.1-306 currently requires clerks of juvenile and domestic relations courts to destroy records pertaining to juvenile offenses involving the operation of a motor vehicle once the juvenile has attained the age of 29. Under the proposal, juvenile convictions for driving while intoxicated charged under §18.2-266 would not be destroyed; rather, they would be retained by the courts.

#### **Data Analysis:**

According to the FY2001 and FY2002 Local Inmate Data System (LIDS), which contains information on persons confined pre- or post-trial in local jails, there were 935 convictions of persons less than 21 years of age who purchased or possessed alcohol. The majority of these offenders (95%) received a jail term with a median sentence length of 20 days. During the same time period, there were 36 convictions of persons less than 21 years of age who used false identification to purchase or possess alcoholic beverages. All 36

offenders were sentenced to jail with a median sentence length of 10 days. See the *Background Sentencing Information* below for more details.

**Background Sentencing Information**

Misdemeanor Crimes	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median Local Responsible Sentence
Purchase or possession of alcohol by person < 21 yrs (§ 4.1-305(A))	935	5%	95%	0%	20 days
False identification used by person < 21 yrs to purchase alcohol (§ 4.1-305(B))	36	0%	100%	0%	10 days

Note: Includes only convictions of those held in the local jail pretrial or sentenced to serve time post-trial.  
Data Source: FY2001 and FY2002 Local Inmate Data System (LIDS) database

**Impact of Proposed Legislation:**

The proposed amendments to §§ 4.1-305, 16.1-278.9 and 16.1-306 add the act of ‘consumption’ to the existing language of crimes involving alcohol-related offenses committed by persons less than 21 years of age. While data are available regarding the acts of possession and/or purchase of alcoholic beverages under the current language, specific data relating to the act of consumption are not available. However, as this offense is punishable as a Class 1 misdemeanor, no impact on state-responsible (prison) bed space needs is expected.

Sentencing guidelines will not be affected by the proposal.

The Department of Juvenile Justice (DJJ) reports that, if the proposal is enacted, the minimum confinement assigned under the Department’s Length of Stay (LOS) guidelines would be 3-6 months. As a Class 1 misdemeanor, at least four Class 1 misdemeanors would be necessary to commit a juvenile without an accompanying or prior felony. DJJ does not believe that the proposal will affect Juvenile Correctional Center (JCC) bed space needs.

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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