

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 95 CS

Alcoholic Beverages

SPONSOR(S): Henriquez

TIED BILLS:

IDEN./SIM. BILLS: SB 1154

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	8 Y, 0 N, w/CS	Kramer	Kramer
2) Business Regulation Committee		Morris	Liepshutz
3) Justice Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

An alcohol vaporizing device, also known as an “alcohol without liquid” machine or AWOL, allows users to inhale alcohol in the form of vapor. HB 95 CS makes it a first degree misdemeanor to sell or offer for sale an alcohol vaporizing device. A second conviction within 5 years will be a third degree felony. A person who purchases or uses an alcohol vaporizing device will be subject to a fine of \$250.

The provisions of this bill will have an insignificant fiscal impact on state revenue expenditures and collections.

The bill will take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill prohibits the use of an alcohol vaporizing device.

B. EFFECT OF PROPOSED CHANGES:

An alcohol vaporizing device, which is also known as an “alcohol without liquid” machine or AWOL, allows users to inhale alcohol in the form of vapor. The device works by pouring an alcoholic spirit into a diffuser capsule in the alcohol vaporizing device. The alcohol is absorbed by oxygen bubbles, and the user inhales the alcohol vapor. Alcohol vaporizing devices are being marketed on the internet as a low calorie and hangover free way to consume alcohol. There does not appear to be any evidence supporting either of these claims. There are obvious health risks associated with consuming a large amount of alcohol in a short amount of time.

HB 95 CS creates s. 562.61, F.S. which provides that no person shall purchase, sell, offer for sale, or use an alcohol vaporizing device. The bill makes it a first degree misdemeanor to sell or offer for sale an alcohol vaporizing device. A person who violates the provision by selling or offering for sale an alcohol vaporizing device after having been previously convicted of such offense within the past 5 years commits a third degree felony. A person who purchases or uses an alcohol vaporizing device shall be subject to a \$250 fine.

The term “alcohol vaporizing device” is defined as “any device, machine, or process which mixes spirits, liquor or other alcohol products with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.”

It is unknown how many, if any, of these machines are in commercial or private use in Florida at this time. The device is available for sale on eBay¹ and direct from the U.S. supplier at a cost of \$299 for single user machines to \$2895 for a commercial 4-person simultaneous use machine.²

There is currently no federal or state regulation of these devices. However, legislation has been introduced in Congress that would prohibit the sale of these alcohol vaporizing machines prior to pre-market approval by the Food and Drug Administration.³ In addition legislation similar to HB 95 CS was introduced in several states and has been implemented in Arizona, Colorado, Indiana, Kansas, Maine, Nevada, and Tennessee.⁴

The bill provides that these provisions will take effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Creates s. 562.61, F.S. relating to alcohol vaporizing devices.

Section 2. Provides effective date of July 1, 2006.

¹ Last checked January 3, 2006, listed three devices for sale ranging in price from \$210 to \$299 each.

² See <http://www.awolusa.com/page-3.htm> last visited January 3, 2006.

³ HR 613 by Representative Bob Beauprez of Colorado.

⁴ Information provided by the Distilled Spirits Council of the United States, a trade association representing producers and marketers of distilled spirits.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

On February 22, 2005, the Criminal Justice Impact Conference determined that HB 241, which was identical to this bill, would have an insignificant prison bed impact on the Department of Corrections.

There will be minimal costs associated with training of Division of Alcoholic Beverages and Tobacco law enforcement agents.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This legislation will prohibit the sale or use of certain alcohol vaporizing devices in the state of Florida. It is unknown how many, if any, of these devices are currently in use commercially or privately in the state.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It may be somewhat unclear whether the definition of an alcohol vaporizing device provided in this legislation could encompass devices such as perfume atomizers, aerosol air fresheners, disinfectants, etc. or medical devices such as nebulizers and vaporizers, etc.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The original bill contained provisions relating to malt beverage tastings. The Criminal Justice Committee adopted an amendment that removed this language from the bill.