

HB03-1343 Bill Analysis
Health District of Northern Larimer County
Board of Directors Meeting April 10, 2003
Prepared by Polly Anderson

Bill Title : Concerning the Consumption of Alcohol

Sponsors : House: Briggs, Senate: None

Estimated Date of Next Action: Unknown

History: Introduced to House 3/27

Committee: Transportation and Energy (TE)

Date of Analysis: April 1, 2003

Summary: Makes the following changes to Colorado law related to alcohol consumption:

- Changes the level of alcohol for driving under influence of alcohol (DUI) from .10 to .08
 - Eliminates the crime of driving while ability impaired (removes the existing .05 BAC ability impaired law)
 - Authorizes liquor stores to allow tasting and sampling
 - Allows patrons at hotels and restaurants to reseal and take away from premises one open bottle of wine
-

Background on this Bill

BAC law change

As written, the purpose of the legislation is to retain the federal transportation dollars associated with lowering state BAC laws to .08. If passed, the bill would be automatically repealed if federal transportation monies were de-linked from BAC laws, and the .05 BAC ability impaired law would be restored.

Liquor store tasting

The bill would require liquor stores to submit an application to be allowed to conduct tastings. Highlights from these proposed laws follow:

- The local licensing authority may reject the application if the applicant fails to establish that he or she is able to conduct tastings without violating other laws or creating a public safety risk to the neighborhood.
- Local licensing authorities may establish their own application procedure and may charge reasonable fees.
- Tastings can be conducted only by person who has completed server training that meets the Department of Revenue Liquor Enforcement Division standards
- Samples shall not exceed one ounce of malt liquor or wine or one-half ounce of hard liquor; patrons may receive only four individuals samples

Removal of open containers

Customers of hotels and restaurants may reseal and remove an open container of wine (original container must be 750 ML or less, which is the standard wine bottle volume).

Fiscal Impact of this Bill

A fiscal note has not yet been generated from HB 1343. Figures from HB 1184, which also would have changed Colorado's DUI law from .10 to .08 BAC, follow:

State Revenue Increases

1. Fees paid to the state for license revocation reinstatement (from drunk driving) go to the Highway Users Tax Fund (HUTF). This money goes to the state, counties and municipalities for highway purposes and is not exempt from TABOR limits. The state expects 4,478 additional license revocations annually, resulting in the following additional revenue:
 - FY 2003-04 — \$114, 425
 - FY 2004-05 — \$228, 863
2. Compliance with a federal drunken driving standard of .08 BAC prevents the loss of the federal monies as follows:

Federal FY	Penalty	Est. Federal Funds
2004	2%	\$4,947,739
2005	4%	\$9,895,477
2006	6%	\$14,843,216
2007	8%	\$19,790,955

These monies may be used only for transportation purposes and do not count toward the state's revenue limit (from TABOR). Monies lost in federal FY 2004-2006 will be repaid if the state passes

State Expenditure Increases

Department	State FY and Expenditures	Reason
Judicial	FY 2003-04 — \$12,452 FY 2004-05 — \$9,834	Caseload increase of 2,602 DUI annually; 1% of those additional cases resulting in trials. Note: this estimate also includes estimates of caseload increases for the offense of driving while ability impaired; HB 1343 removes this provision from law, so the caseload increase in this area would not be expected.
Revenue	FY 2003-04 — \$30,175-92,179 FY 2004-05 — \$36,423 – 115,320	Hearings for license revocations (low end of range estimates hearings increase by 6%; high end is a 20% increase estimate)
Corrections	FY 2003-04 — \$0 FY 2004-05 — \$76,414 FY 2005-06 — \$121,347 (1.1 beds) FY 2006-07 — \$81,616 (2.4 beds) FY 2007-08 — \$142,834 (2.6 beds)	Lower BAC leads to longer sentences for both vehicular homicide (aggravated and not) and vehicular assault. Section 2-2-703 of Colorado Revised Statutes specifies that bills resulting in a net increase in imprisonment cannot be passed without five years of appropriations for prison bed construction and operation. The figures at left reflect annual increases in both bed construction and operation.

Local Government Impact

The fiscal note states that HUTF distributions to counties and municipalities will increase (see above). The fiscal note does not address increased costs associated with additional DUI ticketing.

Note: HB 03-1184 was introduced January 15. The bill as postponed indefinitely by the House Information and Technology committee postponed in February.

Background on BAC Laws

Thirty-four states, the District of Columbia and Puerto Rico have a .08 BAC law. Colorado's current BAC laws are summarized as follows:

- Driving with a BAC of .10 or greater is a misdemeanor offense
- Driving while ability impaired (driving after consumption of alcohol or one or more drugs) is a misdemeanor offense. This is commonly used for BACs between .05 and .10; lesser penalties are applied.
- Driving with a BAC of .02 - .05 is a Class A traffic infraction for persons under age 21

Why are BAC limits important?

The *Burden of Disease, Injury and Underlying Causes 2002 Report* prepared by Bruce Cooper, MD and presented to the Health District board in March 2002 showed that traffic accidents were the seventh leading causing of death in the district in 2000 and were second in years of life lost (after Ischemic heart disease). Alcohol-impaired driving was number 12 on the list of attributable burden due to risk factors in 2001.

A complete overview of alcohol-impaired driving was prepared by Health District staff and presented to the board of directors in December 2002. Please refer to this document for additional information on the burden of alcohol-impaired driving and on other options for reducing the associated death and disability. [For a copy of this overview, please call Ms. Nancy Stirling at (970) 224-5209.]

Note about this Analysis

This analysis will focus on the sections of HB 03-1343 related to changes to Colorado's BAC laws.

Reasons to support lowering the BAC limit to .08:

- According to the National Highway Traffic Safety Administration (NHTSA) State Legislative Fact Sheet, the results of nearly 300 reviewed studies show that virtually all drivers are impaired at .08 BAC.
- Lower BAC laws save lives:
 - Nationally the National Highway Traffic Safety Administration (NHTSA) estimates that .08 BAC laws saved 274 lives in 1997. If all 50 states (rather than the 15 that had .08 laws in place at that time) had .08 BAC laws, an additional 590 lives could have been saved that year.

- According to NHTSA, lowering Colorado's BAC limit to .08 would reduce alcohol-related fatalities by 8%.
- Lower BAC laws save money:
 - According to the NHTSA publication "Impaired Driving in Colorado," alcohol-related crashes account for an estimated 12% of Colorado's auto insurance payments. Reducing alcohol related-crashes by 10% would save \$30 million in claims payments and loss adjustment expenses annually.
- Colorado needs the money:
 - Beginning in October of 2003, states not enacting a .08 BAC law will have federal transportation funds withheld. [See background on page one for details.]
 - Reductions in federal transportation funds may put additional pressure on the already limited state General Fund
- The Task Force on Community Preventive Services *strongly recommends* .08 BAC laws as a means to reduce motor-vehicle occupant injury.

Nationally, groups favoring tougher BAC laws are diverse and well organized. Such groups include: NHTSA, physician groups, the US Surgeon General, the International Association of Chiefs of Police (IACP), Mothers Against Drunk Driving, National Association of Governors' Highway Safety Representatives (NAGHSR), National Sheriffs' Association (NSA) and automobile manufacturers.

Reasons to oppose lowering the BAC limit to .08:

- Costs associated with enacting and enforcing this law (and reflected in the fiscal note) come at a bad time considering the state's current fiscal shortfall.
- The bill eliminates Colorado's .05 BAC driving while ability impaired law. Law enforcement will no longer be able to ticket impaired motorists with BACs greater than .05 but less than .08.
- A lower BAC law is most effective when accompanied by intensive media/public education campaigns. This bill does not provide funding for such efforts.
- The original fiscal note did not consider costs to local police and sheriff departments for increased DUI offenses, including:
 - Time spent off the road handling the initial ticket and arrest
 - Time spent attending both the criminal trial and the license revocation hearing
- According to some .08 opponents, lower BAC laws:
 - Criminalize social drinking and target blue collar workers who can't afford taxis or well-stocked liquor cabinets at home
 - Target casual drinkers instead of high BAC offenders
 - May have a negative financial impact on bars and taverns
- The increased HUTF monies associated with this law change count toward the State's revenue limit under TABOR. These funds may only be used for transportation, thus "crowding out" other areas of the state budget when the 6% revenue cap is met.
- Many believe that federal initiatives to change state law violate state rights, on principle. Further, many consider the threat of reduced highway funds to be unacceptable.

Groups opposing tougher BAC laws nationally are not formally organized and mostly consist of beer and wine wholesalers, restaurant owners, defense attorneys and others. According to NHTSA, the only significant organization that consistently opposes .08 BAC laws is the American Beverage Institute.

Board position:

The board *actively supports* the section of HB 1343 that would lower Colorado's BAC law to .08 and also *actively supports* the following related positions:

- The .08 BAC limit change should be permanent.
- The .05 driving while ability impaired law should be retained.

Note: No position was taken on the other aspects of the bill

About this Analysis

This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. Analyses are based on bills or issues at the time of their consideration by the Board and are accurate to the best of staff knowledge. It is suggested that people check to see that a bill has not changed during the course of a legislative session by visiting the Colorado General Assembly web page at www.state.co.us/gov_dir/stateleg.html. To see whether the Health District Board of Directors took a position on this or other policy issues, please visit www.healthdistrict.org/policy.

About the Health District

The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves.

For more information about this analysis or the Health District, please contact Polly Anderson at (970) 224-5209 or panderson@healthdistrict.org.