



Senate Fiscal Agency  
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## BILL ANALYSIS



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Senate Bill 630 (Substitute S-1 as reported)  
Sponsor: Senator Rick Jones  
Committee: Judiciary

Date Completed: 10-24-17

### **RATIONALE**

Under Section 703(1) of the Michigan Liquor Control Code, a minor (an individual under 21 years of age) is prohibited from purchasing or attempting to purchase, consuming or attempting to consume, or possessing or attempting to possess alcoholic liquor, or from having any bodily alcohol content, except as otherwise provided. A minor who violates this prohibition is guilty of a misdemeanor. The offense is commonly referred to as minor in possession, or MIP. Public Act 357 of 2016 amended Section 703(1) to designate a minor's first MIP violation as a State civil infraction, instead of a misdemeanor. A minor's second or subsequent violation of the MIP prohibition will be a misdemeanor. The effective date of Public Act 357 is January 1, 2018.

The Michigan Vehicle Code requires a court to notify an individual who fails to appear or comply with a court order or judgment in response to a State civil infraction or a charge or conviction for certain offenses (including a violation of Section 703(1) of the Liquor Control Code) about the driver license sanction that the individual will be subject to if he or she does not respond within a certain period of time. The notice requirements differ based on whether the offense is a misdemeanor or a State civil infraction. Some believe that because a first-time MIP violation will be a civil infraction, instead of a misdemeanor, the notice requirement should be the same as for other civil infractions.

### **CONTENT**

**The bill would amend the Michigan Vehicle Code to change a reference to a provision of the Michigan Liquor Control Code that prohibits a minor from purchasing, consuming, or possessing liquor, to refer instead to provisions making a second or subsequent violation of that prohibition a misdemeanor.**

Under the Michigan Vehicle Code, if an individual is charged with, or convicted of, a violation of Section 624a (transportation or possession of open alcoholic liquor in motor vehicle) or Section 624b (transportation or possession of alcoholic liquor by an individual less than 21 years of age) of the Vehicle Code, or Section 703(1) of the Liquor Control Code or a substantially corresponding local ordinance, and he or she fails to answer a citation or a notice to appear in court or fails to comply with an order or judgment of the court, the court must immediately give notice by first-class mail that if the individual fails to appear within seven days after the notice is issued, or fails to comply with the court order or judgment within 14 days after the notice is issued, the Secretary of State (SOS) must suspend his or her operator's or chauffeur's license.

The bill would revise the reference to Section 703(1) of the Liquor Control Code to refer instead to Section 703(1)(b) or (c) of the Code. (Please see **BACKGROUND** for information on those offenses.)

Within 28 days after an individual fails to appear in response to a citation issued for, or fails to comply with an order or judgment involving, a State civil infraction, the court must give notice by

ordinary mail that if he or she fails to appear or comply with the order or judgment within 14 days after the notice is issued, the court will notify the SOS. Upon receiving notice of that failure, the SOS may not issue or renew the individual's operator's or chauffeur's license until both of the following occur: a) the court informs the SOS that the individual has resolved all outstanding matters regarding each notice or citation; and b) he or she has paid to the court a \$45 driver license clearance fee (unless the court waives the fee).

Under the bill, this would apply except for a violation of Section 624a or 624b of the Michigan Vehicle Code or Section 703(1)(b) or (c) of the Michigan Liquor Code or a substantially corresponding local ordinance that would require the court to provide notice as described above.

The bill would take effect on January 1, 2018.

MCL 257.321a

## **BACKGROUND**

Effective January 1, 2018, under Section 703(1)(a), a minor who violates Section 703(1) for the first time will be responsible for a State civil infraction, punishable by a \$100 fine. Under Section 703(1)(b), if a violation occurs after one prior judgment, the minor will be guilty of a misdemeanor punishable by up to 30 days' imprisonment (if the minor violated a probation order, failed to complete court-ordered treatment, screening, or community service, or failed to pay a fine for a previous conviction), a maximum fine of \$200, or both. Under Section 703(1)(c), if a violation occurs after two or more prior judgments, the minor will be guilty of a misdemeanor punishable by up to 60 days' imprisonment (under the same circumstances listed above), a maximum fine of \$500, or both.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Currently, if a minor violates the MIP prohibition for the first time, and he or she fails to appear or comply with a court judgment or order, the minor must be notified immediately about the possible suspension of his or her license, as prescribed for various alcohol-related misdemeanors. Under Public Act 357 of 2016, a first-offense MIP violation will be a State civil infraction. The notice requirement for an individual's failure to appear or comply with a court order or judgment involving a civil infraction is not triggered until 28 days after he or she fails to appear or comply, and the person must be informed about the possible denial of his or her license. The bill would prescribe the same notice requirements for a first MIP offense as required for other State civil infractions, providing for consistency within the statutes.

Legislative Analyst: Jeff Mann

## **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.