

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0798/P1dn

ARG:kjf:rs

November 22, 2004

ATTN: Kimber Liedl

Under federal law, each state is subject to forfeiture of 10 percent of certain federal highway aid annually if the state is not in compliance with the national minimum drinking age of 21 years of age. See 23 USC 158 (a). The attached draft is a redraft of 2003 LRB-2293. On May 9, 2003, the National Highway Traffic Safety Administration (NHTSA) in the U.S. DOT issued an opinion letter that the attached draft, if enacted, would cause Wisconsin to be out of compliance with the national minimum drinking age and would accordingly subject Wisconsin to forfeiture of 10 percent of the state's federal highway aid apportionment. A copy of the NHTSA opinion letter was forwarded to your office on May 13, 2003. If you would like another copy, please let me know. If you would like to know the estimated dollar amount of the forfeiture, I believe that Attorney Joe Maassen, 266-8810, in WisDOT's Office of General Counsel can provide you with that information.

Certain constitutional issues may be implicated by lowering the legal drinking age only for certain persons. For example, arguments might be made under the Equal Protection Clause, Interstate Commerce Clause, or Privileges and Immunities Clause of the U.S. Constitution based on allowing a 19-year-old nonresident service member stationed in Wisconsin to purchase alcohol but denying that right to a 19-year-old resident service member stationed in Wisconsin, or based on allowing a 19-year-old nonresident service member stationed in Wisconsin to purchase alcohol but denying that right to a 19-year-old nonresident college student living in Wisconsin. While it is difficult to predict the outcome of a challenge to the constitutionality of the provisions of this bill, there is at least the potential that the provisions might be challenged in court.

Please let me know if you would like any changes made to the attached bill. If the attached draft meets with your approval, I can redraft it as an introducible "1" bill.

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