

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0758/P1dn
ARG:jld:ph

September 20, 2013

ATTN: Bethany Anderson

Please review the attached draft carefully to ensure that it is consistent with your intent.

As discussed by e-mail, I spoke with Chief Kiederlen, Chief of Police at the UW-Whitewater. According to Chief Kiederlen, his department sometimes exercises police discretion not to issue a citation or to delay issuance of the citation. If there is an underage drinking incident, the investigating officer might decline to issue a citation and instead tell the offender that, if he or she completes an alcohol class, writes a paper, and has no further incidents within 90 days, the officer will exercise police discretion not to issue any citation at all. Chief Kiederlen calls it the department's "alcohol diversion program." If the offender satisfies all these conditions, the officer will keep his or her promise and no citation is issued. If the offender fails to meet these conditions within the next 90 days, then a regular citation is issued within that 90-day period following the incident. Chief Kiederlen, who reviewed AB-256, advised of his belief that the citation clemency in the bill should apply only if the applicable law enforcement agency has an established alcohol diversion program. Because my understanding of the instructions was to try to incorporate the concept of Chief Kiederlen's approach into AB-256, I have followed his suggestion that an established alcohol diversion program be a requirement under the bill. With this addition, it could be argued that the bill would have limited real-world effect for law enforcement, as demonstrated by the fact that no statutory change is needed for Chief Kiederlen's program.

I have also included in this amendment the provision numbered as subd. 3. This change is intended to make bill section 5 more similar to bill section 2, an issue flagged for me by the Legislative Council. Please let me know if you would like the provision removed.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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