

SUBSTITUTE FOR
SENATE BILL NO. 332

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 703 (MCL 436.1703), as amended by 2012 PA 125.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 703. (1) A minor shall not purchase or attempt to
2 purchase alcoholic liquor, consume or attempt to consume alcoholic
3 liquor, possess or attempt to possess alcoholic liquor, or have any
4 bodily alcohol content, except as provided in this section. A minor
5 who violates this subsection is **RESPONSIBLE FOR A STATE CIVIL**
6 **INFRACTION OR** guilty of a misdemeanor ~~punishable by the following~~
7 ~~finer and sanctions~~ **AS FOLLOWS** and is not subject to the penalties
8 prescribed in section 909:

9 (a) For the first violation, ~~by~~ **THE MINOR IS RESPONSIBLE FOR** a
10 ~~fine of~~ **STATE CIVIL INFRACTION AND SHALL BE FINED** not more than

1 \$100.00. A court may order a minor under this subdivision to
 2 participate in substance ~~abuse prevention services or substance~~
 3 ~~abuse treatment and rehabilitation~~ **USE DISORDER** services as defined
 4 in section ~~6107-6230~~ of the public health code, 1978 PA 368, MCL
 5 ~~333.6107,~~ **333.6230**, and designated by the administrator of the
 6 office of substance abuse services, and may order ~~that~~ **THE** minor to
 7 perform community service and to undergo substance abuse screening
 8 and assessment at his or her own expense as described in subsection
 9 (5).

10 (b) ~~For a second violation of~~ **IF A VIOLATION OF THIS**
 11 **SUBSECTION OCCURS AFTER 1 PRIOR JUDGMENT FOR VIOLATING** this
 12 subsection, section 33b(1) of former 1933 (Ex Sess) PA 8, or a
 13 local ordinance substantially corresponding to this subsection or
 14 section 33b(1) of former 1933 (Ex Sess) PA 8, **THE MINOR IS GUILTY**
 15 **OF A MISDEMEANOR. A MISDEMEANOR UNDER THIS SUBDIVISION IS**
 16 **PUNISHABLE** by imprisonment for not more than 30 days ~~but only if~~
 17 the court finds that the minor violated an order of probation,
 18 failed to successfully complete any treatment, screening, or
 19 community service ordered by the court, or failed to pay any fine
 20 for that conviction or juvenile adjudication, by a fine of not more
 21 than \$200.00, or both. A court may order a minor under this
 22 subdivision to participate in substance ~~abuse prevention services~~
 23 ~~or substance abuse treatment and rehabilitation~~ **USE DISORDER**
 24 services as defined in section ~~6107-6230~~ of the public health code,
 25 1978 PA 368, MCL ~~333.6107,~~ **333.6230**, and designated by the
 26 administrator of the office of substance abuse services, to perform
 27 community service, and to undergo substance abuse screening and

1 assessment at his or her own expense as described in subsection
2 (5).

3 (c) ~~For a third or subsequent violation~~ **IF A VIOLATION OF THIS**
4 **SUBSECTION OCCURS AFTER 2 OR MORE PRIOR JUDGMENTS** of this
5 subsection, section 33b(1) of former 1933 (Ex Sess) PA 8, or a
6 local ordinance substantially corresponding to this subsection or
7 section 33b(1) of former 1933 (Ex Sess) PA 8, **THE MINOR IS GUILTY**
8 **OF A MISDEMEANOR. A MISDEMEANOR UNDER THIS SUBDIVISION IS**
9 **PUNISHABLE** by imprisonment for not more than 60 days, ~~but only if~~
10 the court finds that the minor violated an order of probation,
11 failed to successfully complete any treatment, screening, or
12 community service ordered by the court, or failed to pay any fine
13 for that conviction or juvenile adjudication, by a fine of not more
14 than \$500.00, or both, **AS APPLICABLE**. A court may order a minor
15 under this subdivision to participate in substance ~~abuse prevention~~
16 ~~services or substance abuse treatment and rehabilitation~~ **USE**
17 **DISORDER** services as defined in section ~~6107-6230~~ of the public
18 health code, 1978 PA 368, MCL ~~333-6107, 333.6230~~, and designated by
19 the administrator of the office of substance abuse services, to
20 perform community service, and to undergo substance abuse screening
21 and assessment at his or her own expense as described in subsection
22 (5).

23 (2) An individual who furnishes fraudulent identification to a
24 minor ~~—~~or, notwithstanding subsection (1), a minor who uses
25 fraudulent identification to purchase alcoholic liquor, is guilty
26 of a misdemeanor punishable by imprisonment for not more than 93
27 days or a fine of not more than \$100.00, or both.

1 (3) ~~When~~ **IF** an individual who has ~~not previously been~~
 2 ~~convicted~~ **NO PRIOR JUDGMENTS** of ~~or received a juvenile adjudication~~
 3 ~~for a~~ **MISDEMEANOR** violation of subsection (1) pleads guilty to a
 4 **MISDEMEANOR** violation of subsection (1) or offers a plea of
 5 admission in a juvenile delinquency proceeding for a **MISDEMEANOR**
 6 violation of subsection (1), the court, without entering a judgment
 7 of guilt in a criminal proceeding or a determination in a juvenile
 8 delinquency proceeding that the juvenile has committed the offense
 9 and with the consent of the accused, may defer further proceedings
 10 and place the individual on probation. The terms and conditions of
 11 that probation include, but are not limited to, the sanctions set
 12 forth in subsection ~~(1)(a)~~, **(1)(C)**, payment of the costs including
 13 minimum state cost as provided for in section 18m of chapter XIIIA
 14 of the probate code of 1939, 1939 PA 288, MCL 712A.18m, and section
 15 1j of chapter IX of the code of criminal procedure, 1927 PA 175,
 16 MCL 769.1j, and the costs of probation as prescribed in section 3
 17 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL
 18 771.3. If a court finds that an individual violated a term or
 19 condition of probation or that the individual is utilizing this
 20 subsection in another court, the court may enter an adjudication of
 21 guilt, or a determination in a juvenile delinquency proceeding that
 22 the individual has committed the offense, and proceed as otherwise
 23 provided by law. If an individual fulfills the terms and conditions
 24 of probation, the court shall discharge the individual and dismiss
 25 the proceedings. ~~Discharge~~ **A DISCHARGE** and dismissal under this
 26 section ~~shall be~~ **IS** without adjudication of guilt or without a
 27 determination in a juvenile delinquency proceeding that the

1 individual has committed the offense and is not a conviction or
2 juvenile adjudication for purposes of disqualifications or
3 disabilities imposed by law ~~upon~~**ON** conviction of a crime. An
4 individual may obtain only 1 discharge and dismissal under this
5 subsection. The court shall maintain a nonpublic record of the
6 matter while proceedings are deferred and the individual is on
7 probation and if there is a discharge and dismissal under this
8 subsection. The secretary of state shall retain a nonpublic record
9 of a plea and of the discharge and dismissal under this subsection.

10 These records shall be furnished to any of the following:

11 (a) To a court, prosecutor, or police agency ~~upon~~**ON** request
12 for the purpose of determining if an individual has already
13 utilized this subsection.

14 (b) To the department of corrections, a prosecutor, or a law
15 enforcement agency, ~~upon~~**ON** the department's, a prosecutor's, or a
16 law enforcement agency's request, subject to all of the following
17 conditions:

18 (i) At the time of the request, the individual is an employee
19 of the department of corrections, the prosecutor, or the law
20 enforcement agency, or an applicant for employment with the
21 department of corrections, the prosecutor, or the law enforcement
22 agency.

23 (ii) The record is used by the department of corrections, the
24 prosecutor, or the law enforcement agency only to determine whether
25 an employee has violated his or her conditions of employment or
26 whether an applicant meets criteria for employment.

27 (4) A **MISDEMEANOR** violation of subsection (1) successfully

1 deferred, discharged, and dismissed under subsection (3) is
 2 considered a prior ~~violation~~ **JUDGMENT** for the purposes of
 3 subsection ~~(1)(b) and (c)~~. **(1)(C)**.

4 (5) A court may order an individual **FOUND RESPONSIBLE FOR OR**
 5 convicted of violating subsection (1) to undergo screening and
 6 assessment by a person or agency as designated by the ~~substance~~
 7 ~~abuse coordinating agency as defined in section 6103 of the public~~
 8 ~~health code, 1978 PA 368, MCL 333.6103, in order~~ **DEPARTMENT-**
 9 **DESIGNATED COMMUNITY MENTAL HEALTH ENTITY AS DEFINED IN SECTION**
 10 **100A OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100A,** to
 11 determine whether the individual is likely to benefit from
 12 rehabilitative services, including alcohol or drug education and
 13 alcohol or drug treatment programs. A court may order an individual
 14 subject to a **MISDEMEANOR** conviction or juvenile adjudication of, or
 15 placed on probation regarding, a violation of subsection (1) to
 16 submit to a random or regular preliminary chemical breath analysis.
 17 The parent, guardian, or custodian of a minor ~~under~~ **WHO IS LESS**
 18 **THAN** 18 years of age not emancipated under 1968 PA 293, MCL 722.1
 19 to 722.6, may request a random or regular preliminary chemical
 20 breath analysis as part of the probation.

21 (6) The secretary of state shall suspend the operator's or
 22 chauffeur's license of an individual convicted of ~~violating~~ **A**
 23 **SECOND OR SUBSEQUENT VIOLATION OF** subsection (1) or **OF VIOLATING**
 24 **SUBSECTION** (2) as provided in section 319 of the Michigan vehicle
 25 code, 1949 PA 300, MCL 257.319.

26 (7) A peace officer who has reasonable cause to believe a
 27 minor has consumed alcoholic liquor or has any bodily alcohol

1 content may ~~require~~ **REQUEST** that individual to submit to a
2 preliminary chemical breath analysis. ~~A peace officer may arrest an~~
3 ~~individual based in whole or in part upon the results of a~~
4 ~~preliminary chemical breath analysis.~~ The results of a preliminary
5 chemical breath analysis or other acceptable blood alcohol test are
6 admissible in a **STATE CIVIL INFRACTION PROCEEDING OR** criminal
7 prosecution to determine ~~whether~~ **IF** the minor has consumed or
8 possessed alcoholic liquor or had any bodily alcohol content. ~~A~~
9 ~~minor who refuses to submit to a preliminary chemical breath test~~
10 ~~analysis as required in this subsection is responsible for a state~~
11 ~~civil infraction and may be ordered to pay a civil fine of not more~~
12 ~~than \$100.00.~~

13 (8) A law enforcement agency, ~~upon~~ **ON** determining that an
14 individual less than 18 years of age who is not emancipated under
15 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed,
16 purchased alcoholic liquor, attempted to consume, possess, or
17 purchase alcoholic liquor, or had any bodily alcohol content in
18 violation of subsection (1) shall notify the parent or parents,
19 custodian, or guardian of the individual as to the nature of the
20 violation if the name of a parent, guardian, or custodian is
21 reasonably ascertainable by the law enforcement agency. The law
22 enforcement agency shall notify the parent, guardian, or custodian
23 not later than 48 hours after the law enforcement agency determines
24 that the individual who allegedly violated subsection (1) is less
25 than 18 years of age and not emancipated under 1968 PA 293, MCL
26 722.1 to 722.6. The law enforcement agency may notify the parent,
27 guardian, or custodian by any means reasonably calculated to give

1 prompt actual notice including, but not limited to, notice in
2 person, by telephone, or by first-class mail. If an individual less
3 than 17 years of age is incarcerated for violating subsection (1),
4 his or her parents or legal guardian shall be notified immediately
5 as provided in this subsection.

6 (9) This section does not prohibit a minor from possessing
7 alcoholic liquor during regular working hours and in the course of
8 his or her employment if employed by a person licensed by this act,
9 by the commission, or by an agent of the commission, if the
10 alcoholic liquor is not possessed for his or her personal
11 consumption.

12 (10) The following individuals are not considered to be in
13 violation of subsection (1):

14 (a) A minor who has consumed alcoholic liquor and who
15 voluntarily presents himself or herself to a health facility or
16 agency for treatment or for observation including, but not limited
17 to, medical examination and treatment for any condition arising
18 from a violation of sections 520b to 520g of the Michigan penal
19 code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a
20 minor.

21 (b) A minor who accompanies an individual who meets both of
22 the following criteria:

23 (i) Has consumed alcoholic liquor.

24 (ii) Voluntarily presents himself or herself to a health
25 facility or agency for treatment or for observation including, but
26 not limited to, medical examination and treatment for any condition
27 arising from a violation of sections 520b to 520g of the Michigan

1 penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed
2 against a minor.

3 (c) A minor who initiates contact with a peace officer or
4 emergency medical services personnel for the purpose of obtaining
5 medical assistance for a legitimate health care concern.

6 (11) If a minor ~~under the age of~~ **WHO IS LESS THAN 18 YEARS OF**
7 **AGE AND** who is not emancipated under 1968 PA 293, MCL 722.1 to
8 722.6, voluntarily presents himself or herself to a health facility
9 or agency for treatment or for observation as provided under
10 subsection (10), the health facility or agency shall notify the
11 parent or parents, guardian, or custodian of the individual as to
12 the nature of the treatment or observation if the name of a parent,
13 guardian, or custodian is reasonably ascertainable by the health
14 facility or agency.

15 (12) This section does not limit the civil or criminal
16 liability of a vendor or the vendor's clerk, servant, agent, or
17 employee for a violation of this act.

18 (13) The consumption of alcoholic liquor by a minor who is
19 enrolled in a course offered by an accredited postsecondary
20 educational institution in an academic building of the institution
21 under the supervision of a faculty member is not prohibited by this
22 act if the purpose of the consumption is solely educational and is
23 a requirement of the course.

24 (14) The consumption by a minor of sacramental wine in
25 connection with religious services at a church, synagogue, or
26 temple is not prohibited by this act.

27 (15) Subsection (1) does not apply to a minor who participates

1 in either or both of the following:

2 (a) An undercover operation in which the minor purchases or
3 receives alcoholic liquor under the direction of the person's
4 employer and with the prior approval of the local prosecutor's
5 office as part of an employer-sponsored internal enforcement
6 action.

7 (b) An undercover operation in which the minor purchases or
8 receives alcoholic liquor under the direction of the state police,
9 the commission, or a local police agency as part of an enforcement
10 action unless the initial or contemporaneous purchase or receipt of
11 alcoholic liquor by the minor was not under the direction of the
12 state police, the commission, or the local police agency and was
13 not part of the undercover operation.

14 (16) The state police, the commission, or a local police
15 agency shall not recruit or attempt to recruit a minor for
16 participation in an undercover operation at the scene of a
17 violation of subsection (1), section 701(1), or section 801(2).

18 (17) In a ~~criminal~~ prosecution for the violation of subsection
19 (1) concerning a minor having any bodily alcohol content, it is an
20 affirmative defense that the minor consumed the alcoholic liquor in
21 a venue or location where that consumption is legal.

22 (18) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
23 SENTENCE UNDER THIS SECTION BASED UPON THE DEFENDANT HAVING 1 OR
24 MORE PRIOR JUDGMENTS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE
25 COMPLAINT AND INFORMATION, OR AN AMENDED COMPLAINT AND INFORMATION,
26 FILED IN DISTRICT COURT, MUNICIPAL COURT, OR FAMILY DIVISION OF
27 CIRCUIT COURT, A STATEMENT LISTING THE DEFENDANT'S PRIOR JUDGMENTS.

1 A PRIOR JUDGMENT SHALL BE ESTABLISHED AT SENTENCING BY 1 OR MORE OF
2 THE FOLLOWING:

3 (A) A COPY OF A JUDGMENT OF CONVICTION OR JUVENILE
4 ADJUDICATION.

5 (B) AN ABSTRACT OF CONVICTION OR JUVENILE ADJUDICATION.

6 (C) A TRANSCRIPT OF A PRIOR TRIAL OR A PLEA-TAKING OR
7 SENTENCING PROCEEDING.

8 (D) A COPY OF A COURT REGISTER OF ACTIONS.

9 (E) A COPY OF THE DEFENDANT'S DRIVING RECORD.

10 (F) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

11 (G) AN ADMISSION BY THE DEFENDANT.

12 (19) ~~(18)~~—As used in this section:

13 (a) "Any bodily alcohol content" means either of the
14 following:

15 (i) An alcohol content of 0.02 grams or more per 100
16 milliliters of blood, per 210 liters of breath, or per 67
17 milliliters of urine.

18 (ii) Any presence of alcohol within a person's body resulting
19 from the consumption of alcoholic liquor, other than consumption of
20 alcoholic liquor as a part of a generally recognized religious
21 service or ceremony.

22 (b) "Emergency medical services personnel" means that term as
23 defined in section 20904 of the public health code, 1978 PA 368,
24 MCL 333.20904.

25 (c) "Health facility or agency" means that term as defined in
26 section 20106 of the public health code, 1978 PA 368, MCL
27 333.20106.

1 (D) "PRIOR JUDGMENT" MEANS A CONVICTION, JUVENILE
2 ADJUDICATION, FINDING OF RESPONSIBILITY, OR ADMISSION OF
3 RESPONSIBILITY FOR ANY OF THE FOLLOWING, WHETHER UNDER A LAW OF
4 THIS STATE, A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO A LAW
5 OF THIS STATE, A LAW OF THE UNITED STATES SUBSTANTIALLY
6 CORRESPONDING TO A LAW OF THIS STATE, OR A LAW OF ANOTHER STATE
7 SUBSTANTIALLY CORRESPONDING TO A LAW OF THIS STATE:

8 (i) THIS SECTION OR SECTION 701 OR 707.

9 (ii) SECTION 624A OR 625 OF THE MICHIGAN VEHICLE CODE, 1949 PA
10 300, MCL 257.624A AND 257.625.

11 (iii) SECTION 80176, 81134, OR 82127 OF THE NATURAL RESOURCES
12 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.80176,
13 324.81134, AND 324.82127.

14 (iv) SECTION 167A OR 237 OF THE MICHIGAN PENAL CODE, 1939 PA
15 328, MCL 750.167A AND 750.237.

16 Enacting section 1. This amendatory act takes effect 90 days
17 after the date it is enacted into law.