

SENATE BILL No. 132

February 27, 1991, Introduced by Senators BARCIA, WELBORN, CONROY and MILLER and referred to the Committee on State Affairs and Military/Veteran Affairs.

A bill to amend sections 33, 33b, and 33c of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," section 33b as amended by Act No. 176 of the Public Acts of 1986 and section 33c as amended by Act No. 12 of the Public Acts of 1983, being sections 436.33, 436.33b, and 436.33c of the Michigan Compiled Laws; and to add sections 20a and 33d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 33, 33b, and 33c of Act No. 8 of the
2 Public Acts of the Extra Session of 1933, section 33b as amended
3 by Act No. 176 of the Public Acts of 1986 and section 33c as
4 amended by Act No. 12 of the Public Acts of 1983, being sections
5 436.33, 436.33b, and 436.33c of the Michigan Compiled Laws, are
6 amended and sections 20a and 33d are added to read as follows:

1 SEC. 20A. NOTWITHSTANDING SECTION 20(1), THE COMMISSION
2 SHALL NOT TAKE ACTION AGAINST A LICENSEE FOR A VIOLATION OF
3 SECTIONS 22(3) OR 33B WHICH IS THE RESULT OF AN UNDERCOVER OPERA-
4 TION IN WHICH THE PERSON LESS THAN 21 YEARS OF AGE PURCHASED OR
5 RECEIVED THE ALCOHOLIC LIQUOR UNDER THE DIRECTION OF THE LICENSEE
6 WITH THE APPROVAL OF THE LOCAL PROSECUTOR'S OFFICE AS PART OF AN
7 EMPLOYER-SPONSORED INTERNAL ENFORCEMENT ACTION.

8 Sec. 33. (1) Alcoholic liquor shall not be sold or fur-
9 nished to a person unless the person has attained 21 years of
10 age. A person who knowingly sells or furnishes alcoholic liquor
11 to a person who is less than 21 years of age, or who fails to
12 make diligent inquiry as to whether the person is less than 21
13 years of age, is guilty of a misdemeanor. A suitable sign ~~which~~
14 ~~describes~~ DESCRIBING THE CONTENT OF this section and the penal-
15 ties for ~~violating this section~~ ITS VIOLATION shall be posted
16 in a conspicuous place in each room where alcoholic ~~liquors are~~
17 LIQUOR IS sold. The signs shall be approved and furnished by the
18 ~~state liquor control~~ commission.

19 (2) In an action for the violation of this section, proof
20 that the defendant or the defendant's agent or employee demanded
21 and was shown, before furnishing alcoholic liquor to a person
22 ~~under~~ LESS THAN 21 years of age, a motor vehicle operator's OR
23 CHAUFFEUR'S license or a registration certificate issued by the
24 federal selective service, or other bona fide documentary evi-
25 dence of the age and identity of that person, shall be a defense
26 to an action BROUGHT under this section.

1 (3) THE COMMISSION SHALL PROVIDE, ON AN ANNUAL BASIS, A
2 WRITTEN REPORT TO THE DEPARTMENT OF STATE POLICE AS TO THE NUMBER
3 OF ACTIONS HEARD BY THE COMMISSION INVOLVING VIOLATIONS OF THIS
4 SECTION AND SECTION 22(3). THE REPORT SHALL INCLUDE THE DISPOSI-
5 TION OF EACH ACTION AND CONTAIN FIGURES REPRESENTING THE FOLLOW-
6 ING CATEGORIES:

7 (A) DECOY OPERATIONS.

8 (B) OFF-PREMISES VIOLATIONS.

9 (C) ON-PREMISES VIOLATIONS.

10 (D) REPEAT OFFENSES WITHIN THE 3 YEARS PRECEDING THE DATE OF
11 THAT REPORT.

12 Sec. 33b. (1) A person less than 21 years of age shall not
13 purchase OR ATTEMPT TO PURCHASE alcoholic liquor, consume OR
14 ATTEMPT TO CONSUME alcoholic liquor in a licensed premises, or
15 possess OR ATTEMPT TO POSSESS alcoholic liquor, except as pro-
16 vided in THIS SECTION AND section 33a(1). ~~of this act.~~ A
17 person less than 21 years of age who violates this subsection is
18 RESPONSIBLE FOR A CIVIL VIOLATION, IS liable for ~~the following~~
19 A civil ~~finer and shall not be subject to the penalties pre-~~
20 ~~scribed in section 50:~~ FINE OF NOT LESS THAN \$100.00 AND NOT
21 MORE THAN \$500.00, MAY BE ORDERED TO UNDERGO SUBSTANCE ABUSE
22 SCREENING AND ASSESSMENT AT HIS OR HER OWN EXPENSE AS DESCRIBED
23 IN SUBSECTION (5), AND MAY BE ORDERED TO PERFORM COMMUNITY SERV-
24 ICE OR PARTICIPATE IN SUBSTANCE ABUSE PREVENTION SERVICES OR SUB-
25 STANCE ABUSE TREATMENT AND REHABILITATION SERVICES AS DEFINED IN
26 SECTION 6107 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC
27 ACTS OF 1978, BEING SECTION 333.6107 OF THE MICHIGAN COMPILED

1 LAWS, AND LICENSED BY THE OFFICE OF SUBSTANCE ABUSE SERVICES. IN
2 ADDITION, THE PERSON IS SUBJECT TO OPERATOR OR CHAUFFEUR LICENSE
3 SANCTIONS DESCRIBED IN SUBSECTION (6) BUT SHALL NOT BE SUBJECT TO
4 THE PENALTIES PRESCRIBED IN SECTION 50.

5 ~~(i) For the first violation a fine of not more than~~
6 ~~\$25.00.~~

7 ~~(ii) For a second violation a fine of not more than \$50.00,~~
8 ~~or participation in substance abuse prevention services as~~
9 ~~defined in section 6107 of the public health code, Act No. 368 of~~
10 ~~the Public Acts of 1978, being section 333.6107 of the Michigan~~
11 ~~Compiled Laws and designated by the administrator of substance~~
12 ~~abuse services, or both.~~

13 ~~(iii) For a third or subsequent violation a fine of not more~~
14 ~~than \$100.00, or participation in substance abuse prevention~~
15 ~~services as defined in section 6107 of the public health code,~~
16 ~~Act No. 368 of the Public Acts of 1978, and designated by the~~
17 ~~administrator of substance abuse services, or both.~~

18 (2) ~~Fifty percent of the~~ THE fines collected under subsec-
19 tion (1) shall be deposited with the state treasurer for deposit
20 in the general fund to the credit of the department of public
21 health for substance abuse PREVENTION, treatment, and rehabilita-
22 tion services.

23 (3) A person who furnishes fraudulent identification to a
24 person less than 21 years of age, or a person less than 21 years
25 of age who uses fraudulent identification to purchase alcoholic
26 liquor, is guilty of a misdemeanor. The court shall order the
27 secretary of state to suspend, PURSUANT TO SECTION 319(6) OF THE

1 MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949,
2 BEING SECTION 257.319 OF THE MICHIGAN COMPILED LAWS, for a period
3 of 90 days, the operator or chauffeur license of a person who is
4 convicted of using fraudulent identification in violation of this
5 subsection and the operator or chauffeur license of that person
6 shall be surrendered to the court. The court shall immediately
7 forward the surrendered license and a certificate of conviction
8 to the secretary of state. A suspension ordered under this sub-
9 section shall be in addition to any other suspension of the
10 person's operator or chauffeur license.

11 (4) A LAW ENFORCEMENT AGENCY, UPON DETERMINING THAT A PERSON
12 LESS THAN 18 YEARS OF AGE ALLEGEDLY CONSUMED, POSSESSED, PUR-
13 CHASED, OR ATTEMPTED TO CONSUME, POSSESS, OR PURCHASE ALCOHOLIC
14 LIQUOR IN VIOLATION OF SUBSECTION (1) SHALL NOTIFY THE PARENT OR
15 PARENTS, CUSTODIAN, OR GUARDIAN OF THE PERSON AS TO THE NATURE OF
16 THE VIOLATION IF THE NAME OF A PARENT, GUARDIAN, OR CUSTODIAN IS
17 REASONABLY ASCERTAINABLE BY THE LAW ENFORCEMENT AGENCY. THE
18 NOTICE REQUIRED BY THIS SUBSECTION SHALL BE MADE NOT LATER THAN
19 48 HOURS AFTER THE LAW ENFORCEMENT AGENCY DETERMINES THAT THE
20 PERSON WHO ALLEGEDLY VIOLATED SUBSECTION (1) IS LESS THAN 18
21 YEARS OF AGE AND MAY BE MADE IN PERSON, BY TELEPHONE, OR BY FIRST
22 CLASS MAIL.

23 (5) THE COURT MAY ORDER THE PERSON FOUND VIOLATING SUBSEC-
24 TION (1) TO UNDERGO SCREENING AND ASSESSMENT BY A PERSON OR
25 AGENCY AS DESIGNATED BY THE SUBSTANCE ABUSE COORDINATING AGENCY
26 AS DEFINED IN SECTION 6103 OF ACT NO. 368 OF THE PUBLIC ACTS OF
27 1978, BEING SECTION 333.6103 OF THE MICHIGAN COMPILED LAWS, IN

1 ORDER TO DETERMINE WHETHER THE PERSON IS LIKELY TO BENEFIT FROM
2 REHABILITATIVE SERVICES, INCLUDING ALCOHOL OR DRUG EDUCATION AND
3 ALCOHOL OR DRUG TREATMENT PROGRAMS.

4 (6) IMMEDIATELY UPON THE ENTRY OF A FINDING OF A CIVIL VIO-
5 LATION OR A PROBATE COURT ORDER OF DISPOSITION FOR A VIOLATION OF A
6 SUBSECTION (1), A COURT SHALL CONSIDER ALL PRIOR FINDINGS OF A
7 CIVIL VIOLATION, CONVICTIONS, OR PROBATE COURT ORDERS OF DISPOSI-
8 TION OF SUBSECTION (1), OR A LOCAL ORDINANCE OR LAW OF ANOTHER
9 STATE SUBSTANTIALLY CORRESPONDING TO SUBSECTION (1), AND SHALL
10 IMPOSE THE FOLLOWING SANCTIONS:

11 (A) IF THE COURT FINDS THAT THE PERSON HAS NO SUCH PRIOR
12 FINDINGS OF A CIVIL VIOLATION, CONVICTIONS, OR PROBATE COURT
13 ORDERS OF DISPOSITION, THE COURT SHALL ORDER THE SECRETARY OF
14 STATE TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE
15 PERSON FOR A PERIOD OF 90 DAYS. THE COURT MAY ORDER THE SECRE-
16 TARY OF STATE TO ISSUE TO THE PERSON A RESTRICTED LICENSE DURING
17 ALL OR A SPECIFIED PORTION OF THE PERIOD OF SUSPENSION IN THE
18 MANNER DESCRIBED IN SUBSECTION (7) AND PROVIDED FOR IN SECTION
19 319E OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
20 SECTION 257.319E OF THE MICHIGAN COMPILED LAWS.

21 (B) IF THE COURT FINDS THAT THE PERSON HAS 1 SUCH PRIOR
22 FINDING OF A CIVIL VIOLATION, CONVICTION, OR PROBATE COURT ORDER
23 OF DISPOSITION, THE COURT SHALL ORDER THE SECRETARY OF STATE TO
24 SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE PERSON FOR A
25 PERIOD OF NOT LESS THAN 90 DAYS OR MORE THAN 180 DAYS. THE COURT
26 MAY ORDER THE SECRETARY OF STATE TO ISSUE TO THE PERSON A
27 RESTRICTED LICENSE DURING A PORTION OF THE PERIOD OF SUSPENSION

1 IN THE MANNER DESCRIBED IN SUBSECTION (7) AND PROVIDED FOR IN
2 SECTION 319E OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
3 SECTION 257.319E OF THE MICHIGAN COMPILED LAWS, EXCEPT THAT THE
4 COURT SHALL NOT ORDER AND THE SECRETARY OF STATE SHALL NOT ISSUE
5 A RESTRICTED LICENSE DURING THE FIRST 30 DAYS OF THE PERIOD OF
6 THE SUSPENSION.

7 (C) IF THE COURT FINDS THAT THE PERSON HAS 2 OR MORE SUCH
8 PRIOR FINDINGS OF A CIVIL VIOLATION, CONVICTIONS, OR PROBATE
9 COURT ORDERS OF DISPOSITION, THE COURT SHALL ORDER THE SECRETARY
10 OF STATE TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE
11 PERSON FOR A PERIOD OF NOT LESS THAN 180 DAYS OR MORE THAN 1 YEAR
12 AND SHALL NOT ORDER THE SECRETARY OF STATE TO ISSUE A RESTRICTED
13 LICENSE TO THE PERSON.

14 (7) IN THOSE CASES WHERE A RESTRICTED LICENSE IS ALLOWED
15 UNDER THIS SECTION, THE COURT SHALL NOT ORDER THE SECRETARY OF
16 STATE TO ISSUE A RESTRICTED LICENSE UNLESS THE PERSON STATES
17 UNDER OATH, AND THE COURT FINDS BASED UPON THE RECORD IN OPEN
18 COURT, THAT THE PERSON IS UNABLE TO TAKE PUBLIC TRANSPORTATION TO
19 AND FROM HIS OR HER WORK LOCATION, PLACE OF ALCOHOL OR DRUG EDU-
20 CATION TREATMENT, PROBATION DEPARTMENT, COURT-ORDERED COMMUNITY
21 SERVICE PROGRAM, OR EDUCATIONAL INSTITUTION, AND DOES NOT HAVE
22 ANY FAMILY MEMBERS OR OTHERS ABLE TO PROVIDE TRANSPORTATION. THE
23 COURT ORDER UNDER SUBSECTION (6) AND THE RESTRICTED LICENSE SHALL
24 INDICATE THE WORK LOCATION OF THE PERSON TO WHOM IT IS ISSUED,
25 THE APPROVED ROUTE OR ROUTES AND PERMITTED TIMES OF TRAVEL, AND
26 SHALL PERMIT THE PERSON TO WHOM IT IS ISSUED ONLY TO DO 1 OR MORE
27 OF THE FOLLOWING:

1 (A) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND WORK
2 LOCATION.

3 (B) DRIVE IN THE COURSE OF THE PERSON'S EMPLOYMENT OR
4 OCCUPATION.

5 (C) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND AN ALCOHOL
6 OR DRUG EDUCATION OR TREATMENT PROGRAM AS ORDERED BY THE COURT.

7 (D) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND THE COURT
8 PROBATION DEPARTMENT, OR A COURT-ORDERED COMMUNITY SERVICE PRO-
9 GRAM, OR BOTH.

10 (E) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND AN EDUCA-
11 TIONAL INSTITUTION AT WHICH THE PERSON IS ENROLLED AS A STUDENT.

12 (8) IMMEDIATELY UPON THE ENTRY OF A FINDING OF A CIVIL VIO-
13 LATION OR A PROBATE COURT ORDER OF DISPOSITION FOR A VIOLATION OF
14 SUBSECTION (1), THE COURT SHALL ORDER THE PERSON FOUND RESPONSI-
15 BLE FOR THE VIOLATION TO SURRENDER TO THE COURT HIS OR HER
16 OPERATOR'S OR CHAUFFEUR'S LICENSE. THE COURT SHALL IMMEDIATELY
17 FORWARD A NOTICE OF COURT-ORDERED LICENSE SANCTIONS TO THE SECRE-
18 TARY OF STATE. IF THE FINDING IS REVIEWED BY THE CIRCUIT COURT,
19 THE COURT MAY, EX PARTE, ORDER THE SECRETARY OF STATE TO RESCIND
20 THE SUSPENSION OR RESTRICTED LICENSE ISSUED PURSUANT TO THIS
21 SECTION. IMMEDIATELY FOLLOWING IMPOSITION OF THE SANCTION, THE
22 COURT SHALL FORWARD A NOTICE TO THE SECRETARY OF STATE INDICATING
23 THE SANCTION IMPOSED.

24 (9) ~~-(4)-~~ This section shall not be construed to prohibit a
25 person less than 21 years of age from possessing alcoholic liquor
26 during regular working hours and in the course of his or her
27 employment if employed by a person licensed by this act, by the

1 ~~liquor control~~ commission, or by an agent of the ~~liquor~~
2 ~~control~~ commission, if the alcoholic liquor is not possessed for
3 his or her personal consumption.

4 (10) ~~-(5)-~~ This section shall not be construed to limit the
5 civil or criminal liability of the vendor or the vendor's clerk,
6 servant, agent, or employee for a violation of this act.

7 (11) ~~-(6)-~~ The consumption of alcoholic liquor by a person
8 ~~under~~ LESS THAN 21 years of age who is enrolled in a course
9 offered by an accredited post secondary educational institution
10 in an academic building of the institution under the supervision
11 of a faculty member shall not be prohibited by this act if the
12 purpose OF THE CONSUMPTION is solely educational and IS a neces-
13 sary ingredient of the course.

14 (12) SUBSECTION (1) DOES NOT APPLY TO A PERSON LESS THAN 21
15 YEARS OF AGE WHO PARTICIPATES IN EITHER OR BOTH OF THE
16 FOLLOWING:

17 (A) AN UNDERCOVER OPERATION IN WHICH THE PERSON LESS THAN 21
18 YEARS OF AGE PURCHASED OR RECEIVED ALCOHOLIC LIQUOR UNDER THE
19 DIRECTION OF THE PERSON'S EMPLOYER AND WITH THE APPROVAL OF THE
20 LOCAL PROSECUTOR'S OFFICE AS PART OF AN EMPLOYER-SPONSORED INTER-
21 NAL ENFORCEMENT ACTION.

22 (B) AN UNDERCOVER OPERATION IN WHICH THE PERSON LESS THAN 21
23 YEARS OF AGE PURCHASED OR RECEIVED ALCOHOLIC LIQUOR UNDER THE
24 DIRECTION OF THE STATE POLICE, THE COMMISSION, OR A LOCAL POLICE
25 AGENCY AS PART OF AN ENFORCEMENT ACTION.

26 (13) AS USED IN THIS SECTION:

1 (A) "PROBATE COURT ORDER OF DISPOSITION" MEANS A PROBATE
2 COURT ORDER OF DISPOSITION FOR A CHILD FOUND TO BE WITHIN THE
3 PROVISIONS OF CHAPTER XIIA OF ACT NO. 288 OF THE PUBLIC ACTS OF
4 1939, BEING SECTIONS 712A.1 TO 712A.28 OF THE MICHIGAN COMPILED
5 LAWS.

6 (B) "WORK LOCATION" MEANS, AS APPLICABLE, EITHER THE SPE-
7 CIFIC PLACE OR PLACES OF EMPLOYMENT, OR THE TERRITORY OR TERRITO-
8 RIES REGULARLY VISITED BY THE PERSON IN PURSUANCE OF THE PERSON'S
9 OCCUPATION, OR BOTH.

10 Sec. 33c. (1) A sheriff or deputy sheriff; village or town-
11 ship marshal; an officer or member of a village, township, or
12 city police department; an officer of the department of state
13 police; or an inspector of the commission who witnesses a viola-
14 tion of section 33b or a local ordinance corresponding to that
15 section, ~~for~~ which IS A CIVIL violation FOR WHICH a civil fine,
16 LICENSE SUSPENSION, OR OTHER SANCTION is prescribed, may stop and
17 detain the person for purposes of obtaining satisfactory identi-
18 fication, seizing illegally possessed alcoholic ~~beverages~~
19 LIQUOR, and issuing an appearance ticket.

20 (2) As used in this section, "appearance ticket" means a
21 complaint or written notice, issued and subscribed by a law
22 enforcement officer OF THE TYPE DESCRIBED IN SUBSECTION (1) or
23 inspector of the commission, directing a designated person to
24 appear in a ~~designed district or municipal~~ DESIGNATED court at
25 a designated time in connection with the alleged CIVIL violation
26 for which a civil fine, LICENSE SUSPENSION, OR OTHER SANCTION is

1 prescribed. The appearance ticket shall consist of the following
2 parts:

3 (a) The original which shall be a complaint or notice to
4 appear by the officer and filed with the court.

5 (b) The first copy which shall be the abstract of court
6 record.

7 (c) The second copy which shall be delivered to the alleged
8 violator.

9 (d) The third copy which shall be retained by the law
10 enforcement agency.

11 (3) A judge may accept an admission by the defendant of the
12 allegations of an appearance ticket and the judge shall then
13 ~~direct the~~ IMPOSE A civil ~~finer~~ FINE, LICENSE SUSPENSION, OR
14 OTHER SANCTION as ~~prescribed~~ FURTHER AUTHORIZED by section
15 33b. If the defendant denies the allegations of the appearance
16 ticket, the judge shall then set a date for trial OR HEARING. If
17 the defendant fails to appear on the date specified on the
18 appearance ticket, the judge shall enter a default judgment
19 against that defendant AND IMPOSE A CIVIL FINE, LICENSE SUSPEN-
20 SION, OR OTHER SANCTION AUTHORIZED BY SECTION 33B.

21 SEC. 33D. (1) A PERSON 21 YEARS OF AGE OR OLDER SHALL NOT
22 FURNISH ALCOHOLIC LIQUOR TO A PERSON LESS THAN 21 YEARS OF AGE.

23 (2) NOTWITHSTANDING SECTION 50, A PERSON WHO VIOLATES SUB-
24 SECTION (1) IS GUILTY OF A MISDEMEANOR AND SHALL BE FINED
25 \$500.00. IN ADDITION, THE PERSON MAY BE SENTENCED TO IMPRISON-
26 MENT FOR NOT MORE THAN 90 DAYS OR MAY BE ORDERED TO PERFORM
27 COMMUNITY SERVICE.

1 Section 2. This amendatory act shall take effect upon the
2 expiration of 60 days after the date of its enactment.

3 Section 3. This amendatory act shall not take effect unless
4 Senate Bill No. 133
5 of the 86th Legislature is enacted into law.