



HOUSE BILL No. 4010

February 2, 1993, Introduced by Reps. Griffin and Dobb and referred to the Committee on Liquor Control.

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 section 20a.

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 section 20a is 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 LICENSEE WHO VIO-
14 LATES THIS SUBSECTION SHALL BE PUNISHED IN THE MANNER PROVIDED
15 FOR IN SECTION 50. NOTWITHSTANDING SECTION 50, A PERSON WHO IS
16 NOT A LICENSEE AND WHO VIOLATES THIS SUBSECTION SHALL BE FINED
17 NOT LESS THAN \$200.00 AND NOT MORE THAN \$1,000.00 AND MAY BE SEN-
18 TENCED TO IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR ORDERED TO
19 PERFORM COMMUNITY SERVICE. A suitable sign ~~which describes~~
20 DESCRIBING THE CONTENT OF this section and the penalties for
21 ~~violating this section~~ ITS VIOLATION shall be posted in a con-
22 spicuous place in each room where alcoholic ~~liquors are~~ LIQUOR
23 IS sold. The signs shall be approved and furnished by the ~~state~~
24 ~~liquor control~~ commission.

25 (2) In an action for the violation of this section, proof
26 that the defendant or the defendant's agent or employee demanded
27 and was shown, before furnishing alcoholic liquor to a person

1 ~~under~~ LESS THAN 21 years of age, a motor vehicle operator's OR
2 CHAUFFEUR'S license or a registration certificate issued by the
3 federal selective service, or other bona fide documentary evi-
4 dence of the age and identity of that person, shall be a defense
5 to an action BROUGHT under this section.

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

12 (A) DECOY OPERATIONS.

13 (B) OFF-PREMISES VIOLATIONS.

14 (C) ON-PREMISES VIOLATIONS.

15 (D) REPEAT OFFENSES WITHIN THE 3 YEARS PRECEDING THE DATE OF
16 THAT REPORT.

17 Sec. 33b. (1) A person less than 21 years of age shall not
18 purchase OR ATTEMPT TO PURCHASE alcoholic liquor, consume OR
19 ATTEMPT TO CONSUME alcoholic liquor in a licensed premises, or
20 possess OR ATTEMPT TO POSSESS alcoholic liquor, except as pro-
21 vided in THIS SECTION AND section 33a(1). ~~of this act. A~~
22 NOTWITHSTANDING SECTION 50, A person less than 21 years of age
23 who violates this subsection is RESPONSIBLE FOR A CIVIL INFRAC-
24 TION AS DEFINED IN SECTION 113 OF THE REVISED JUDICATURE ACT OF
25 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTION
26 600.113 OF THE MICHIGAN COMPILED LAWS, IS liable for the

1 following civil fines AND SANCTIONS, and ~~shall~~ IS not ~~be~~
2 subject to ~~the penalties prescribed in~~ section 50:

3 (A) ~~(i)~~ For the first violation a fine of not more than
4 ~~\$25.00~~ \$100.00 AND MAY BE ORDERED TO UNDERGO SUBSTANCE ABUSE
5 SCREENING AND ASSESSMENT AT HIS OR HER OWN EXPENSE AS DESCRIBED
6 IN SUBSECTION (5).

7 (B) ~~(ii)~~ For a second violation a fine of not more than
8 ~~\$50.00~~ \$200.00, ~~or participation~~ MAY BE ORDERED TO
9 PARTICIPATE in substance abuse prevention OR TREATMENT services
10 as defined in section 6107 of the public health code, Act No. 368
11 of the Public Acts of 1978, being section 333.6107 of the
12 Michigan Compiled Laws, and designated by the administrator of
13 substance abuse services, or ~~both~~ TO PERFORM COMMUNITY SERVICE,
14 AND MAY BE ORDERED TO UNDERGO SUBSTANCE ABUSE SCREENING AND
15 ASSESSMENT AT HIS OR HER OWN EXPENSE AS DESCRIBED IN
16 SUBSECTION (5).

17 (C) ~~(iii)~~ For a third or subsequent violation a fine of
18 not more than ~~\$100.00~~ \$500.00, ~~or participation~~ MAY BE
19 ORDERED TO PARTICIPATE in substance abuse prevention OR TREATMENT
20 services as defined in section 6107 of ~~the public health code,~~
21 Act No. 368 of the Public Acts of 1978, and designated by the
22 administrator of substance abuse services, or ~~both~~ TO PERFORM
23 COMMUNITY SERVICE, AND MAY BE ORDERED TO UNDERGO SUBSTANCE ABUSE
24 SCREENING AND ASSESSMENT AT HIS OR HER OWN EXPENSE AS DESCRIBED
25 IN SUBSECTION (5).

26 (2) ~~Fifty percent of the~~ THE fines collected under
27 subsection (1) shall be deposited with the state treasurer for

1 deposit in the general fund to the credit of the department of
2 public health for substance abuse PREVENTION, treatment, and
3 rehabilitation services.

4 (3) A person who furnishes fraudulent identification to a
5 person less than 21 years of age, or a person less than 21 years
6 of age who uses fraudulent identification to purchase alcoholic
7 liquor, is guilty of a misdemeanor. The court shall order the
8 secretary of state to suspend, PURSUANT TO SECTION 319(5) OF THE
9 MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949,
10 BEING SECTION 257.319 OF THE MICHIGAN COMPILED LAWS, for a period
11 of 90 days, the operator or chauffeur license of a person who is
12 convicted of using fraudulent identification in violation of this
13 subsection and the operator or chauffeur license of that person
14 shall be surrendered to the court. The court shall immediately
15 forward the surrendered license and ~~a certificate~~ AN ABSTRACT
16 of conviction to the secretary of state. A suspension ordered
17 under this subsection shall be in addition to any other suspen-
18 sion of the person's operator or chauffeur license.

19 (4) A LAW ENFORCEMENT AGENCY, UPON DETERMINING THAT A PERSON
20 LESS THAN 18 YEARS OF AGE ALLEGEDLY CONSUMED, POSSESSED, PUR-
21 CHASED, OR ATTEMPTED TO CONSUME, POSSESS, OR PURCHASE ALCOHOLIC
22 LIQUOR IN VIOLATION OF SUBSECTION (1) SHALL NOTIFY THE PARENT OR
23 PARENTS, CUSTODIAN, OR GUARDIAN OF THE PERSON AS TO THE NATURE OF
24 THE VIOLATION IF THE NAME OF A PARENT, GUARDIAN, OR CUSTODIAN IS
25 REASONABLY ASCERTAINABLE BY THE LAW ENFORCEMENT AGENCY. THE
26 NOTICE REQUIRED BY THIS SUBSECTION SHALL BE MADE NOT LATER THAN
27 48 HOURS AFTER THE LAW ENFORCEMENT AGENCY DETERMINES THAT THE

1 PERSON WHO ALLEGEDLY VIOLATED SUBSECTION (1) IS LESS THAN 18
2 YEARS OF AGE AND MAY BE MADE IN PERSON, BY TELEPHONE, OR BY FIRST
3 CLASS MAIL.

4 (5) THE COURT MAY ORDER THE PERSON FOUND VIOLATING SUBSEC-
5 TION (1) TO UNDERGO SCREENING AND ASSESSMENT BY A PERSON OR
6 AGENCY AS DESIGNATED BY THE SUBSTANCE ABUSE COORDINATING AGENCY
7 AS DEFINED IN SECTION 6103 OF ACT NO. 368 OF THE PUBLIC ACTS OF
8 1978, BEING SECTION 333.6103 OF THE MICHIGAN COMPILED LAWS, IN
9 ORDER TO DETERMINE WHETHER THE PERSON IS LIKELY TO BENEFIT FROM
10 REHABILITATIVE SERVICES, INCLUDING ALCOHOL OR DRUG EDUCATION AND
11 ALCOHOL OR DRUG TREATMENT PROGRAMS.

12 (6) IMMEDIATELY UPON THE ENTRY OF A CIVIL INFRACTION DETER-
13 MINATION, A PROBATE COURT ORDER OF DISPOSITION FOR A VIOLATION OF
14 SUBSECTION (1), OR THE ENTRY OF A DEFAULT JUDGMENT AND AFTER THE
15 COURT HAS MADE A FINDING ON THE RECORD THAT THE PERSON HAS A SUB-
16 STANCE ABUSE PROBLEM THAT IMPAIRS THE PERSON'S ABILITY TO OPERATE
17 A MOTOR VEHICLE, THE COURT SHALL CONSIDER ALL PRIOR CIVIL INFRAC-
18 TION DETERMINATIONS, CONVICTIONS, OR PROBATE COURT ORDERS OF DIS-
19 POSITION OF SUBSECTION (1), OR A LOCAL ORDINANCE OR LAW OF
20 ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO SUBSECTION (1), AND
21 MAY IMPOSE THE FOLLOWING SANCTIONS:

22 (A) IF THE COURT FINDS THAT THE PERSON HAS 1 SUCH PRIOR
23 CIVIL INFRACTION DETERMINATION, CONVICTION, OR PROBATE COURT
24 ORDER OF DISPOSITION, THE COURT MAY ORDER THE SECRETARY OF STATE
25 TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE PERSON
26 FOR A PERIOD OF NOT MORE THAN 180 DAYS. THE COURT MAY ORDER THE
27 SECRETARY OF STATE TO ISSUE TO THE PERSON A RESTRICTED LICENSE

1 DURING ALL OR A SPECIFIED PORTION OF THE PERIOD OF SUSPENSION IN
2 THE MANNER DESCRIBED IN SUBSECTION (8) AND PROVIDED FOR IN SEC-
3 TION 319 OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
4 SECTION 257.319 OF THE MICHIGAN COMPILED LAWS.

5 (B) IF THE COURT FINDS THAT THE PERSON HAS 2 OR MORE SUCH
6 PRIOR CIVIL INFRACTION DETERMINATIONS, CONVICTIONS, OR PROBATE
7 COURT ORDERS OF DISPOSITION, THE COURT MAY ORDER THE SECRETARY OF
8 STATE TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE
9 PERSON FOR A PERIOD OF NOT MORE THAN 1 YEAR. THE COURT MAY ORDER
10 THE SECRETARY OF STATE TO ISSUE TO THE PERSON A RESTRICTED
11 LICENSE DURING ALL OR A SPECIFIED PORTION OF THE PERIOD OF SUS-
12 PENSION IN THE MANNER DESCRIBED IN SUBSECTION (8) AND PROVIDED
13 FOR IN SECTION 319 OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949,
14 BEING SECTION 257.319 OF THE MICHIGAN COMPILED LAWS.

15 (7) UPON THE ENTRY OF A DEFAULT JUDGMENT, THE COURT SHALL
16 PROCEED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN
17 SECTION 321A OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
18 SECTION 257.321A OF THE MICHIGAN COMPILED LAWS.

19 (8) IN THOSE CASES WHERE A RESTRICTED LICENSE IS ALLOWED
20 UNDER THIS SECTION, THE COURT SHALL NOT ORDER THE SECRETARY OF
21 STATE TO ISSUE A RESTRICTED LICENSE UNLESS THE PERSON STATES
22 UNDER OATH, AND THE COURT FINDS BASED UPON THE RECORD IN OPEN
23 COURT, THAT THE PERSON IS UNABLE TO TAKE PUBLIC TRANSPORTATION TO
24 AND FROM HIS OR HER WORK LOCATION, PLACE OF ALCOHOL OR DRUG EDU-
25 CATION TREATMENT, PROBATION DEPARTMENT, COURT-ORDERED COMMUNITY
26 SERVICE PROGRAM, OR EDUCATIONAL INSTITUTION, AND DOES NOT HAVE
27 ANY FAMILY MEMBERS OR OTHERS ABLE TO PROVIDE TRANSPORTATION. THE

1 COURT ORDER UNDER SUBSECTION (6) AND THE RESTRICTED LICENSE SHALL
2 INDICATE THE WORK LOCATION OF THE PERSON TO WHOM IT IS ISSUED,
3 THE APPROVED ROUTE OR ROUTES AND PERMITTED TIMES OF TRAVEL, AND
4 SHALL PERMIT THE PERSON TO WHOM IT IS ISSUED ONLY TO DO 1 OR MORE
5 OF THE FOLLOWING:

6 (A) DRIVE TO AND FROM THE PERSON'S RESIDENCE AND WORK
7 LOCATION.

8 (B) DRIVE IN THE COURSE OF THE PERSON'S EMPLOYMENT OR
9 OCCUPATION.

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

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

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

17 (9) IF IMPOSED, IMMEDIATELY UPON THE ENTRY OF A
18 COURT-ORDERED SANCTION PURSUANT TO SUBSECTION (6), THE COURT
19 SHALL ORDER THE PERSON FOUND RESPONSIBLE FOR THE VIOLATION TO
20 SURRENDER TO THE COURT HIS OR HER OPERATOR'S OR CHAUFFEUR'S
21 LICENSE. THE COURT SHALL IMMEDIATELY FORWARD A NOTICE OF
22 COURT-ORDERED LICENSE SANCTIONS TO THE SECRETARY OF STATE. IF
23 THE LICENSE IS NOT FORWARDED TO THE SECRETARY OF STATE, AN EXPLA-
24 NATION OF THE REASON WHY THE LICENSE IS ABSENT SHALL BE
25 ATTACHED. IF THE FINDING IS REVIEWED BY THE CIRCUIT COURT, THE
26 COURT MAY, EX PARTE, ORDER THE SECRETARY OF STATE TO RESCIND THE
27 SUSPENSION OR RESTRICTED LICENSE ISSUED PURSUANT TO THIS

1 SECTION. IMMEDIATELY FOLLOWING IMPOSITION OF THE SANCTION, THE
2 COURT SHALL FORWARD A NOTICE TO THE SECRETARY OF STATE INDICATING
3 THE SANCTION IMPOSED.

4 (10) ~~-(4)-~~ This section shall not be construed to prohibit a
5 person less than 21 years of age from possessing alcoholic liquor
6 during regular working hours and in the course of his or her
7 employment if employed by a person licensed by this act, by the
8 ~~liquor control~~ commission, or by an agent of the ~~liquor~~
9 ~~control~~ commission, if the alcoholic liquor is not possessed for
10 his or her personal consumption.

11 (11) ~~-(5)-~~ This section shall not be construed to limit the
12 civil or criminal liability of the vendor or the vendor's clerk,
13 servant, agent, or employee for a violation of this act.

14 (12) ~~-(6)-~~ The consumption of alcoholic liquor by a person
15 ~~under~~ LESS THAN 21 years of age who is enrolled in a course
16 offered by an accredited post secondary educational institution
17 in an academic building of the institution under the supervision
18 of a faculty member shall not be prohibited by this act if the
19 purpose OF THE CONSUMPTION is solely educational and IS a neces-
20 sary ingredient of the course.

21 (13) SUBSECTION (1) DOES NOT APPLY TO A PERSON LESS THAN 21
22 YEARS OF AGE WHO PARTICIPATES IN EITHER OR BOTH OF THE
23 FOLLOWING:

24 (A) AN UNDERCOVER OPERATION IN WHICH THE PERSON LESS THAN 21
25 YEARS OF AGE PURCHASED OR RECEIVED ALCOHOLIC LIQUOR UNDER THE
26 DIRECTION OF THE PERSON'S EMPLOYER AND WITH THE APPROVAL OF THE

1 LOCAL PROSECUTOR'S OFFICE AS PART OF AN EMPLOYER-SPONSORED
2 INTERNAL ENFORCEMENT ACTION.

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

7 (14) AS USED IN THIS SECTION:

8 (A) "PROBATE COURT ORDER OF DISPOSITION" MEANS A PROBATE
9 COURT ORDER OF DISPOSITION FOR A CHILD FOUND TO BE WITHIN THE
10 PROVISIONS OF CHAPTER XIIA OF ACT NO. 288 OF THE PUBLIC ACTS OF
11 1939, BEING SECTIONS 712A.1 TO 712A.28 OF THE MICHIGAN COMPILED
12 LAWS.

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

17 Sec. 33c. (1) A sheriff or deputy sheriff; village or town-
18 ship marshal; an officer or member of a village, township, or
19 city police department; an officer of the department of state
20 police; or an inspector of the commission who witnesses a viola-
21 tion of section 33b or a local ordinance corresponding to that
22 section, ~~for~~ which ~~violation~~ IS A CIVIL INFRACTION FOR WHICH
23 a civil fine, LICENSE SUSPENSION, OR OTHER SANCTION is pre-
24 scribed, may stop and detain the person for purposes of obtaining
25 satisfactory identification, seizing illegally possessed alco-
26 holic ~~beverages~~ LIQUOR, and issuing an appearance ticket.

1 (2) As used in this section, "appearance ticket" means a
2 complaint or written notice, issued and subscribed by a law
3 enforcement officer OF THE TYPE DESCRIBED IN SUBSECTION (1) or
4 inspector of the commission, directing a designated person to
5 appear in a ~~designed district or municipal~~ DESIGNATED court at
6 a designated time in connection with the alleged ~~violation~~
7 CIVIL INFRACTION for which a civil fine, LICENSE SUSPENSION, OR
8 OTHER SANCTION is prescribed. The appearance ticket shall con-
9 sist of the following parts:

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

12 (b) The first copy which shall be the abstract of court
13 record.

14 (c) The second copy which shall be delivered to the alleged
15 violator.

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

18 (3) A judge may accept an admission by the defendant of the
19 allegations of an appearance ticket and the judge shall then
20 ~~direct the~~ IMPOSE A civil ~~finer~~ FINE, LICENSE SUSPENSION, OR
21 OTHER SANCTION as ~~prescribed~~ FURTHER AUTHORIZED by section
22 33b. If the defendant denies the allegations of the appearance
23 ticket, the judge shall then set a date for trial OR HEARING. If
24 the defendant fails to appear on the date specified on the
25 appearance ticket, the judge shall enter a default judgment
26 against that defendant AND MAY IMPOSE A CIVIL FINE, LICENSE
27 SUSPENSION, OR OTHER SANCTION AUTHORIZED BY SECTION 33B.

1 (4) IF A LICENSEE IS CITED FOR A VIOLATION OF SECTION 33,
2 THEN THE PERSON LESS THAN 21 YEARS OF AGE WHO PURCHASED OR
3 ATTEMPTED TO PURCHASE ALCOHOLIC LIQUOR, CONSUMED OR ATTEMPTED TO
4 CONSUME ALCOHOLIC LIQUOR IN A LICENSED PREMISES, OR POSSESSED OR
5 ATTEMPTED TO POSSESS ALCOHOLIC LIQUOR MUST BE CITED FOR A CIVIL
6 INFRACTION IF THIS VIOLATION OF SECTION 33B BY A PERSON LESS THAN
7 21 YEARS OF AGE IS WITNESSED, UNLESS THE PERSON LESS THAN
8 21 YEARS OF AGE IS PARTICIPATING IN AN UNDERCOVER OPERATION.

9 (5) THE COURT SHALL IMMEDIATELY ENTER OR CAUSE TO BE ENTERED
10 INFORMATION REGARDING A FINDING OF A VIOLATION OF SECTION 33B(1)
11 INTO THE LAW ENFORCEMENT INFORMATION NETWORK.

12 Section 2. This amendatory act shall take effect April 1,
13 1994.

14 Section 3. This amendatory act shall not take effect unless
15 Senate Bill No. _____ or House Bill No. 4009 (request
16 no. 01780'93) of the 87th Legislature is enacted into law.