



HOUSE BILL No. 4011

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

A bill to amend sections 20 and 33 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," section 20 as amended by Act No. 176 of the Public Acts of 1986, being sections 436.20 and 436.33 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 20 and 33 of Act No. 8 of the Public
2 Acts of the Extra Session of 1933, section 20 as amended by Act
3 No. 176 of the Public Acts of 1986, being sections 436.20 and
4 436.33 of the Michigan Compiled Laws, are amended to read as
5 follows:

6 Sec. 20. (1) The commission, and any commissioner or duly
7 authorized agent of the commission designated by the chairperson
8 of the commission, upon due notice and proper hearing, may
9 suspend or revoke any license upon a violation of this act or any

1 of the rules promulgated by the commission under this act. The
2 commission, and any commissioner or duly authorized agent of the
3 commission designated by the chairperson of the commission, may
4 assess a penalty of not more than \$300.00 for each violation of
5 this act or rules promulgated under this act, or not more than
6 \$1,000.00 for each violation of section 22(3), in addition to or
7 in lieu of revocation or suspension of the license, which penalty
8 shall be paid to the commission and deposited with the state
9 treasurer and ~~shall be~~ credited to the general fund of the
10 state. The commission shall hold a hearing and order the suspen-
11 sion or revocation of a license if the licensee has been found
12 liable, within a 24-month period, for 3 or more separate viola-
13 tions of section 22(3) which ~~violations~~ occurred on different
14 occasions.

15 (2) NOTWITHSTANDING SUBSECTION (1), IF A RETAILER OR A
16 RETAILER'S CLERK, AGENT, OR EMPLOYEE VIOLATES THIS ACT OR A RULE
17 PROMULGATED UNDER THIS ACT BY SELLING OR FURNISHING ALCOHOLIC
18 LIQUOR TO A PERSON LESS THAN 21 YEARS OF AGE OR BY ALLOWING A
19 PERSON LESS THAN 21 YEARS OF AGE TO CONSUME OR POSSESS, OR
20 ATTEMPT TO CONSUME OR POSSESS, ALCOHOLIC LIQUOR FOR PERSONAL CON-
21 SUMPTION ON THE LICENSED PREMISES AND IF THE ENFORCING AGENCY
22 INVOLVED IN THE PROSECUTION OF THE VIOLATION IS THE STATE POLICE
23 OR A LOCAL POLICE AGENCY, THE COMMISSION SHALL NOT TAKE ANY
24 ACTION UNDER SUBSECTION (1) TO SUSPEND OR REVOKE THE LICENSEE'S
25 LICENSE OR ASSESS A PENALTY AGAINST THE LICENSEE UNLESS ENFORCE-
26 MENT ACTION IS TAKEN AGAINST THE FOLLOWING:

1 (A) THE PERSON LESS THAN 21 YEARS OF AGE WHO PURCHASED OR
2 WAS FURNISHED THE ALCOHOLIC LIQUOR FROM THE LICENSEE.

3 (B) IF APPLICABLE, A PERSON OVER 21 YEARS OF AGE WHO FUR-
4 NISHED THE ALCOHOLIC LIQUOR TO THAT PERSON WHO IS LESS THAN 21
5 YEARS OF AGE.

6 (3) SUBSECTION (2) DOES NOT APPLY IN THE FOLLOWING
7 CIRCUMSTANCES:

8 (A) THE PROSECUTION IS THE RESULT OF AN UNDERCOVER OPERATION
9 IN WHICH THE PERSON LESS THAN 21 YEARS OF AGE WHO PURCHASED OR
10 WAS FURNISHED THE ALCOHOLIC LIQUOR ACTED UNDER THE DIRECTION OF
11 THE STATE POLICE OR A LOCAL POLICE AGENCY AS PART OF THE ENFORCE-
12 MENT ACTION.

13 (B) THE PROSECUTION IS THE RESULT OF AN EMPLOYER-SPONSORED
14 INTERNAL ENFORCEMENT ACTION APPROVED BY THE LOCAL PROSECUTOR'S
15 OFFICE IN WHICH THE PERSON LESS THAN 21 YEARS OF AGE ACTED AT THE
16 DIRECTION OF THE LICENSEE AS PART OF THAT ACTION.

17 (4) ~~(2)~~ The commission shall provide the procedure by
18 which any licensee feeling aggrieved by any penalty imposed under
19 subsection (1) and any suspension or revocation of a license
20 ordered by the commission, a commissioner, or a duly authorized
21 agent of the commission, may request a hearing for the purpose of
22 presenting any facts or reasons to the commission why the penalty
23 or the suspension or revocation should be modified or rescinded.
24 Any such request shall be in writing and accompanied by a fee of
25 \$25.00. The commission after reviewing the record made before a
26 commissioner or a duly authorized agent of the commission may
27 allow or refuse to allow the hearing in accordance with ~~the~~

1 ~~commission's~~ ITS rules. Such right, however, shall not be
2 interpreted by any court as curtailing, removing, or annulling
3 the right of the commission to suspend or revoke licenses as pro-
4 vided for in this act. A licensee ~~shall~~ DOES not have a right
5 of appeal from the final determination of the commission, except
6 by ~~writ of certiorari to~~ LEAVE OF the circuit court. Notice of
7 the order of suspension or revocation of a license or assessment
8 of a penalty, or both, shall be given in the manner prescribed by
9 the commission. The suspension or revocation of a license or
10 assessment of a penalty, or both, by the commission or a duly
11 authorized agent of the commission ~~shall~~ DOES not prohibit the
12 institution of a criminal prosecution for a violation of this
13 act. The institution of a criminal prosecution for a violation
14 of this act, or the acquittal or conviction of any person for a
15 violation of this act, ~~shall~~ DOES not prevent the suspension or
16 revocation of a license or assessment of a penalty, or both, by
17 the commission. In a hearing for the suspension or revocation of
18 a license issued pursuant to this act, proof that the defendant
19 licensee or an agent or employee of the licensee demanded and was
20 shown, before furnishing any alcoholic liquor to a person less
21 than 21 years of age, a motor vehicle operator or chauffeur
22 license, a registration certificate issued by the federal selec-
23 tive service, or other bona fide documentary evidence of majority
24 and identity of the person, may be offered as evidence in a
25 defense to ~~a~~ THE proceeding. ~~for the suspension or revocation~~
26 ~~of a license issued under this act.~~ A licensee who has reason to
27 believe that a person less than 21 years of age has used

1 fraudulent identification to purchase alcoholic liquor in
2 violation of section 33b shall file a police report concerning
3 the violation with a local law enforcement agency and shall also
4 present the alleged fraudulent identification to the local law
5 enforcement agency at the time of filing the report if the iden-
6 tification is in the possession of the licensee. The commission
7 may promulgate rules pursuant to the administrative procedures
8 act of 1969, Act No. 306 of the Public Acts of 1969, being sec-
9 tions 24.201 to 24.328 of the Michigan Compiled Laws, regarding
10 the utilization by licensees of equipment designed to detect
11 altered or forged driver licenses, state identification cards,
12 and other forms of identification.

13 (5) ~~(3)~~ In addition to the hearing commissioners provided
14 for in section 5, the chairperson of the commission may designate
15 not more than 2 duly authorized agents to hear violation cases.
16 A person appointed under this subsection shall be a member in
17 good standing of the state bar of Michigan.

18 (6) ~~(4)~~ A duly authorized agent who has been designated by
19 the chairperson pursuant to subsection ~~(3)~~ (5) shall have the
20 same authority and responsibility as does a hearing commissioner
21 under this act and the rules promulgated pursuant to this act ~~—~~
22 in the hearing of violation cases.

23 (7) ~~(5)~~ A duly authorized agent who has been designated by
24 the chairperson pursuant to subsection ~~(3)~~ ~~shall be~~ (5) IS
25 ineligible for appointment to the commission for a period of
26 1 year after the person ceases to serve as a duly authorized
27 agent.

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

12 (2) IF THE PERSON WHO VIOLATES SUBSECTION (1) IS A RETAILER
13 OR A RETAILER'S CLERK, AGENT, OR EMPLOYEE, THE PERSON SHALL NOT
14 BE PROSECUTED UNDER SUBSECTION (1) UNLESS ENFORCEMENT ACTION IS
15 TAKEN AGAINST THE FOLLOWING:

16 (A) THE PERSON LESS THAN 21 YEARS OF AGE WHO PURCHASED OR
17 WAS FURNISHED THE ALCOHOLIC LIQUOR FROM THE LICENSEE.

18 (B) IF APPLICABLE, A PERSON OVER 21 YEARS OF AGE WHO FUR-
19 NISHED THE ALCOHOLIC LIQUOR TO THAT PERSON WHO IS LESS THAN 21
20 YEARS OF AGE.

21 (3) SUBSECTION (2) DOES NOT APPLY IN THE FOLLOWING
22 CIRCUMSTANCES:

23 (A) THE PROSECUTION IS THE RESULT OF AN UNDERCOVER OPERATION
24 IN WHICH THE PERSON LESS THAN 21 YEARS OF AGE WHO PURCHASED OR
25 RECEIVED THE ALCOHOLIC LIQUOR ACTED UNDER THE DIRECTION OF THE
26 STATE POLICE OR A LOCAL POLICE AGENCY AS PART OF THE ENFORCEMENT
27 ACTION.

1 (B) THE PROSECUTION IS THE RESULT OF AN EMPLOYER-SPONSORED
2 INTERNAL ENFORCEMENT ACTION APPROVED BY THE LOCAL PROSECUTOR'S
3 OFFICE IN WHICH THE PERSON LESS THAN 21 YEARS OF AGE ACTED AT THE
4 DIRECTION OF THE LICENSEE AS PART OF THAT ACTION.

5 (4) ~~(2)~~ In an action for the violation of this section,
6 proof that the defendant or the defendant's agent or employee
7 demanded and was shown, before furnishing alcoholic liquor to a
8 person ~~under~~ LESS THAN 21 years of age, a motor vehicle
9 operator's OR CHAUFFEUR'S license or a registration certificate
10 issued by the federal selective service, or other bona fide docu-
11 mentary evidence of the age and identity of that person, shall be
12 a defense to an action BROUGHT under this section.