

HOUSE BILL No. 5955

June 18, 1998, Introduced by Rep. Callahan and referred to the Committee on Judiciary.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 703. (1) A minor shall not purchase or attempt to pur-
2 chase alcoholic liquor, consume or attempt to consume alcoholic
3 liquor, or possess or attempt to possess alcoholic liquor, except
4 as provided in this section. Notwithstanding section 909, a
5 minor who violates this subsection is guilty of a misdemeanor
6 punishable by the following fines and sanctions, and is not
7 subject to the penalties prescribed in section 909:

8 (a) For the first violation a fine of not more than \$100.00,
9 and may be ordered to participate in substance abuse prevention
10 or substance abuse treatment and rehabilitation services as
11 defined in section 6107 of the public health code, 1978 PA 368,

1 MCL 333.6107, and designated by the administrator of substance
2 abuse services, and may be ordered to perform community service
3 and to undergo substance abuse screening and assessment at his or
4 her own expense as described in subsection (3).

5 (b) For a ~~second~~ violation OF THIS SUBSECTION FOLLOWING A
6 PRIOR VIOLATION OF THIS SUBSECTION OR SECTION 33B(1) OF FORMER
7 1933 (EX SESS) PA 8, a fine of not more than \$200.00, and may be
8 ordered to participate in substance abuse prevention or substance
9 abuse treatment and rehabilitation services as defined in section
10 6107 of the public health code, 1978 PA 368, MCL 333.6107, and
11 designated by the administrator of substance abuse services, to
12 perform community service, and to undergo substance abuse screen-
13 ing and assessment at his or her own expense as described in sub-
14 section (3). ~~The person is also subject to sanctions against~~
15 ~~his or her operator's or chauffeur's license imposed in subsec-~~
16 ~~tion (4).~~

17 (c) For a ~~third or subsequent~~ violation OF THIS SUBSECTION
18 FOLLOWING 2 OR MORE PRIOR VIOLATIONS OF THIS SUBSECTION OR
19 SECTION 33B(1) OF FORMER 1933 (EX SESS) PA 8, a fine of not more
20 than \$500.00, and may be ordered to participate in substance
21 abuse prevention or substance abuse treatment and rehabilitation
22 services as defined in section 6107 of the public health code,
23 1978 PA 368, MCL 333.6107, and designated by the administrator of
24 substance abuse services, to perform community service, and to
25 undergo substance abuse screening and assessment at his or her
26 own expense as described in subsection (3). ~~The person is also~~

~~1 subject to sanctions against his or her operator's or chauffeur's
2 license imposed in subsection (4).~~

3 (2) A person who furnishes fraudulent identification to a
4 minor, or notwithstanding subsection (1) a minor who uses fraudu-
5 lent identification to purchase alcoholic liquor, is guilty of a
6 misdemeanor ~~— The court shall order the secretary of state to
7 suspend, pursuant to section 319(5) of the Michigan vehicle code,
8 1949 PA 300, MCL 257.319, for a period of 90 days, the operator's
9 or chauffeur's license of a person who is convicted of furnishing
10 or using fraudulent identification in violation of this subsec-
11 tion and the operator's or chauffeur's license of that person
12 shall be surrendered to the court. The court shall immediately
13 forward the surrendered license and an abstract of conviction to
14 the secretary of state. A suspension ordered under this subsec-
15 tion shall be in addition to any other suspension of the person's
16 operator's or chauffeur's license.~~ PUNISHABLE BY IMPRISONMENT
17 FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$100.00, OR
18 BOTH.

19 (3) The court may order the person ~~—found—~~ CONVICTED OF vio-
20 lating subsection (1) to undergo screening and assessment by a
21 person or agency as designated by the substance abuse coordinat-
22 ing agency as defined in section 6103 of the public health code,
23 1978 PA 368, MCL 333.6103, in order to determine whether the
24 person is likely to benefit from rehabilitative services, includ-
25 ing alcohol or drug education and alcohol or drug treatment
26 programs.

1 ~~-(4) Immediately upon the entry of a conviction or a probate~~
2 ~~court disposition for a violation of subsection (1), the court~~
3 ~~shall consider all prior convictions or probate court disposi-~~
4 ~~tions of subsection (1), or a local ordinance or law of another~~
5 ~~state substantially corresponding to subsection (1), and shall~~
6 ~~impose the following sanctions:~~

7 ~~(a) If the court finds that the person has 1 such prior con-~~
8 ~~viction or probate court disposition, the court shall order the~~
9 ~~secretary of state to suspend the operator's or chauffeur's~~
10 ~~license of the person for a period of not less than 90 days or~~
11 ~~more than 180 days. The court may order the secretary of state~~
12 ~~to issue to the person a restricted license after the first 30~~
13 ~~days of the period of suspension in the manner described in sub-~~
14 ~~section (5) and provided for in section 319 of the Michigan vehi-~~
15 ~~cle code, 1949 PA 300, MCL 257.319. In the case of a person who~~
16 ~~does not possess an operator's or chauffeur's license, the secre-~~
17 ~~tary of state shall deny the application for an operator's or~~
18 ~~chauffeur's license for the applicable suspension period.~~

19 ~~(b) If the court finds that the person has 2 or more such~~
20 ~~prior convictions or probate court dispositions, the court shall~~
21 ~~order the secretary of state to suspend the operator's or~~
22 ~~chauffeur's license of the person for a period of not less than~~
23 ~~180 days or more than 1 year. The court may order the secretary~~
24 ~~of state to issue to the person a restricted license after the~~
25 ~~first 60 days of the period of suspension in the manner described~~
26 ~~in subsection (5) and provided for in section 319 of the Michigan~~
27 ~~vehicle code, 1949 PA 300, MCL 257.319. In the case of a person~~

~~1 who does not possess an operator's or chauffeur's license, the
2 secretary of state shall deny the application for an operator's
3 or chauffeur's license for the applicable suspension period.~~

~~4 (5) In those cases in which a restricted license is allowed
5 under this section, the court shall not order the secretary of
6 state to issue a restricted license unless the person states
7 under oath, and the court finds based upon the record in open
8 court, that the person is unable to take public transportation to
9 and from his or her work location, place of alcohol or drug edu-
10 cation treatment, probation department, court-ordered community
11 service program, or educational institution, and does not have
12 any family members or others able to provide transportation. The
13 court order under subsection (4) and the restricted license shall
14 indicate the work location of the person to whom it is issued,
15 the approved route or routes and permitted times of travel, and
16 shall permit the person to whom it is issued only to do 1 or more
17 of the following:~~

~~18 (a) Drive to and from the person's residence and work
19 location.~~

~~20 (b) Drive in the course of the person's employment or
21 occupation.~~

~~22 (c) Drive to and from the person's residence and an alcohol
23 or drug education or treatment program as ordered by the court.~~

~~24 (d) Drive to and from the person's residence and the court
25 probation department, or a court-ordered community service pro-
26 gram, or both.~~

1 ~~(e) Drive to and from the person's residence and an~~
2 ~~educational institution at which the person is enrolled as a~~
3 ~~student.~~

4 ~~(6) If license sanctions are imposed, immediately upon the~~
5 ~~entry of a court-ordered sanction pursuant to subsection (4), the~~
6 ~~court shall order the person convicted for the violation to sur-~~
7 ~~render to the court his or her operator's or chauffeur's~~
8 ~~license. The court shall immediately forward a notice of~~
9 ~~court-ordered license sanctions to the secretary of state. If~~
10 ~~the license is not forwarded to the secretary of state, an expla-~~
11 ~~nation of the reason why the license is absent shall be~~
12 ~~attached. If the finding is appealed to the circuit court, the~~
13 ~~court may, ex parte, order the secretary of state to stay the~~
14 ~~suspension issued pursuant to this section pending the outcome of~~
15 ~~the appeal. Immediately following imposition of the sanction,~~
16 ~~the court shall forward a notice to the secretary of state indi-~~
17 ~~cating the sanction imposed.~~

18 (4) ~~-(7)-~~ A peace officer who has reasonable cause to
19 believe a minor has consumed alcoholic liquor may require the
20 person to submit to a preliminary chemical breath analysis. A
21 peace officer may arrest a person based in whole or in part upon
22 the results of a preliminary chemical breath analysis. The
23 results of a preliminary chemical breath analysis or other
24 acceptable blood alcohol test are admissible in a criminal prose-
25 cution to determine whether the minor has consumed or possessed
26 alcoholic liquor. A minor who refuses to submit to a preliminary
27 chemical breath test analysis as required in this subsection is

1 responsible for a state civil infraction and may be ordered to
2 pay a civil fine of not more than \$100.00.

3 (5) ~~-(8)-~~ A law enforcement agency, upon determining that a
4 person less than 18 years of age who is not emancipated pursuant
5 to 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, pos-
6 sessed, purchased, or attempted to consume, possess, or purchase
7 alcoholic liquor in violation of subsection (1) shall notify the
8 parent or parents, custodian, or guardian of the person as to the
9 nature of the violation if the name of a parent, guardian, or
10 custodian is reasonably ascertainable by the law enforcement
11 agency. The notice required by this subsection shall be made not
12 later than 48 hours after the law enforcement agency determines
13 that the person who allegedly violated subsection (1) is less
14 than 18 years of age and not emancipated ~~pursuant to~~ UNDER 1968
15 PA 293, MCL 722.1 to 722.6. The notice may be made by any means
16 reasonably calculated to give prompt actual notice including, but
17 not limited to, notice in person, by telephone, or by first-class
18 mail. If ~~a person~~ AN INDIVIDUAL less than 17 years of age is
19 incarcerated for violating subsection (1), his or her parents or
20 legal guardian shall be notified immediately as provided in this
21 subsection.

22 (6) ~~-(9)-~~ This section does not prohibit a minor from pos-
23 sessed alcoholic liquor during regular working hours and in the
24 course of his or her employment if employed by a person licensed
25 by this act, by the commission, or by an agent of the commission,
26 if the alcoholic liquor is not possessed for his or her personal
27 consumption.

1 (7) ~~-(10)-~~ This section ~~shall not be construed to~~ DOES NOT
2 limit the civil or criminal liability of the vendor or the
3 vendor's clerk, servant, agent, or employee for a violation of
4 this act.

5 (8) ~~-(11)-~~ The consumption of alcoholic liquor by a minor
6 who is enrolled in a course offered by an accredited postsecond-
7 ary educational institution in an academic building of the insti-
8 tution under the supervision of a faculty member is not prohib-
9 ited by this act if the purpose of the consumption is solely edu-
10 cational and is a ~~necessary ingredient~~ REQUIREMENT of the
11 course.

12 (9) ~~-(12)-~~ The consumption by a minor of sacramental wine in
13 connection with religious services at a church, synagogue, or
14 temple is not prohibited by this act.

15 (10) ~~-(13)-~~ Subsection (1) does not apply to a minor who
16 participates in either or both of the following:

17 (a) An undercover operation in which the minor purchases or
18 receives alcoholic liquor under the direction of the person's
19 employer and with the prior approval of the local prosecutor's
20 office as part of an employer-sponsored internal enforcement
21 action.

22 (b) An undercover operation in which the minor purchases or
23 receives alcoholic liquor under the direction of the state
24 police, the commission, or a local police agency as part of an
25 enforcement action ~~except that any~~ UNLESS THE initial or con-
26 temporaneous purchase or receipt of alcoholic liquor by the minor
27 ~~is~~ WAS NOT under the direction of the state police, the

1 commission, or the local police agency and ~~is~~ WAS NOT part of
2 the undercover operation.

3 (11) The state police, the commission, or a local police
4 agency shall not recruit or attempt to recruit a minor for par-
5 ticipation in an undercover operation at the scene of a violation
6 of subsection (1), section 801(2), or section 701(1).

7 (12) ~~(14)~~ As used in this section:

8 (a) "Probate court disposition" means an order of disposi-
9 tion of the probate court or the family division of the circuit
10 court for a child found to be within the provisions of chapter
11 XIIIA of 1939 PA 288, MCL 712A.1 to 712A.32.

12 (b) "Work location" means, as applicable, either the spe-
13 cific place or places of employment, or the territory or territo-
14 ries regularly visited by the person in pursuance of the person's
15 occupation, or both.