

HOUSE BILL No. 4200

February 13, 2001, Introduced by Reps. Kowall, Bishop, Raczkowski, Allen, Kooiman, Hager, Lipsey, Faunce, Richardville, Vear, Spade, Bernero, Ruth Johnson, Stewart, Julian, Vander Veen, Gosselin and Bovin and referred to the Committee on Criminal Justice.

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 703 (MCL 436.1703), as amended by 1999
PA 53.

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 IMPRISONMENT FOR NOT MORE THAN 90 DAYS AND the fol-
7 lowing fines and sanctions — and is not subject to the penal-
8 ties prescribed in section 909:
9 (a) For the first violation a fine of not more than \$100.00,
10 and may be ordered to participate in substance abuse prevention

1 or substance abuse treatment and rehabilitation services as
2 defined in section 6107 of the public health code, 1978 PA 368,
3 MCL 333.6107, and designated by the administrator of substance
4 abuse services, and may be ordered to perform community service
5 and to undergo substance abuse screening and assessment at his or
6 her own expense as described in subsection (3). THE MINOR IS
7 ALSO SUBJECT TO IMPRISONMENT AS PROVIDED FOR IN THIS SUBSECTION.

8 (b) For a violation of this subsection following a prior
9 conviction or juvenile adjudication for a violation of this sub-
10 section or section 33b(1) of former 1933 (Ex Sess) PA 8, a fine
11 of not more than \$200.00, and may be ordered to participate in
12 substance abuse prevention or substance abuse treatment and reha-
13 bilitation services as defined in section 6107 of the public
14 health code, 1978 PA 368, MCL 333.6107, and designated by the
15 administrator of substance abuse services, to perform community
16 service, and to undergo substance abuse screening and assessment
17 at his or her own expense as described in subsection (3). THE
18 MINOR IS ALSO SUBJECT TO IMPRISONMENT AS PROVIDED FOR IN THIS
19 SUBSECTION.

20 (c) For a violation of this subsection following 2 or more
21 prior convictions or juvenile adjudications for a violation of
22 this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8,
23 a fine of not more than \$500.00, and may be ordered to partici-
24 pate in substance abuse prevention or substance abuse treatment
25 and rehabilitation services as defined in section 6107 of the
26 public health code, 1978 PA 368, MCL 333.6107, and designated by
27 the administrator of substance abuse services, to perform

HB4200, As Passed House, May 23, 2001

HB 4200 as amended May 22, 2001

3

1 community service, and to undergo substance abuse screening and
2 assessment at his or her own expense as described in
3 subsection (3). THE MINOR IS ALSO SUBJECT TO IMPRISONMENT AS
4 PROVIDED FOR IN THIS SUBSECTION.

5 (2) A person who furnishes fraudulent identification to a
6 minor, or notwithstanding subsection (1) a minor who uses fraudu-
7 lent identification to purchase alcoholic liquor, is guilty of a
8 misdemeanor punishable by imprisonment for not more than 93 days
9 or a fine of not more than \$100.00, or both.

10 (3) The court may order the person convicted of violating
11 subsection (1) to undergo screening and assessment by a person or
12 agency as designated by the substance abuse coordinating agency
13 as defined in section 6103 of the public health code, 1978
14 PA 368, MCL 333.6103, in order to determine whether the person is
15 likely to benefit from rehabilitative services, including alcohol
16 or drug education and alcohol or drug treatment programs.

[(4) THE COURT SHALL NOT IMPOSE A TERM OF IMPRISONMENT UNDER
SUBSECTION (1) FOR A FIRST OFFENSE UNLESS IT DETERMINES ON THE
RECORD THAT THE DEFENDANT HAS FAILED TO SUCCESSFULLY COMPLETE ANY
TREATMENT, SCREENING, OR COMMUNITY SERVICE ORDERED BY THE COURT OR
HAS FAILED TO PAY ANY FINE.]

17 [(5) ~~(4)~~] The secretary of state shall suspend the operator's
or
18 chauffeur's license of an individual convicted of violating sub-
19 section (1) or (2) as provided in section 319 of the Michigan
20 vehicle code, 1949 PA 300, MCL 257.319.

21 [(6) ~~(5)~~] A peace officer who has reasonable cause to believe a
22 minor has consumed alcoholic liquor may require the person to
23 submit to a preliminary chemical breath analysis. A peace offi-
24 cer may arrest a person based in whole or in part upon the
25 results of a preliminary chemical breath analysis. The results
26 of a preliminary chemical breath analysis or other acceptable
27 blood alcohol test are admissible in a criminal prosecution to

HB4200, As Passed House, May 23, 2001

HB 4200 as amended May 22, 2001

4

1 determine whether the minor has consumed or possessed alcoholic
2 liquor. A minor who refuses to submit to a preliminary chemical
3 breath test analysis as required in this subsection is responsi-
4 ble for a state civil infraction and may be ordered to pay a
5 civil fine of not more than \$100.00.

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

24 [(8) ~~(7)~~] This section does not prohibit a minor from possessing
25 alcoholic liquor during regular working hours and in the course
26 of his or her employment if employed by a person licensed by this
27 act, by the commission, or by an agent of the commission, if the

HB4200, As Passed House, May 23, 2001

HB 4200 as amended May 22, 2001

5

1 alcoholic liquor is not possessed for his or her personal
2 consumption.

3 [(9) ~~(8)~~] This section does not limit the civil or criminal
4 liability of the vendor or the vendor's clerk, servant, agent, or
5 employee for a violation of this act.

6 [(10) ~~(9)~~] The consumption of alcoholic liquor by a minor who
7 is enrolled in a course offered by an accredited postsecondary edu-
8 cational institution in an academic building of the institution
9 under the supervision of a faculty member is not prohibited by
10 this act if the purpose of the consumption is solely educational
11 and is a requirement of the course.

12 [(11) ~~(10)~~] The consumption by a minor of sacramental wine in
13 con-
14 nection with religious services at a church, synagogue, or temple
15 is not prohibited by this act.

16 [(12) ~~(11)~~] Subsection (1) does not apply to a minor who
17 partici-

18 pates in either or both of the following:

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

24 (b) An undercover operation in which the minor purchases or
25 receives alcoholic liquor under the direction of the state
26 police, the commission, or a local police agency as part of an
27 enforcement action unless the initial or contemporaneous purchase
28 or receipt of alcoholic liquor by the minor was not under the

HB4200, As Passed House, May 23, 2001

HB 4200 as amended May 22, 2001

6

1 direction of the state police, the commission, or the local
2 police agency and was not part of the undercover operation.

3 [(13) ~~(12)~~] 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).

 [Enacting section 1. This amendatory act takes effect January
1, 2002.]