

SUBSTITUTE FOR
SENATE BILL NO. 637

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
2 purchase alcoholic liquor, consume or attempt to consume
3 alcoholic liquor, ~~or~~ possess or attempt to possess alcoholic
4 liquor, **or have any bodily alcohol content**, except as provided in
5 this section. ~~Notwithstanding section 909, a~~ A minor who
6 violates this subsection is guilty of a misdemeanor punishable by
7 the following fines and sanctions ~~—~~ and is not subject to the
8 penalties 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

Senate Bill No. 637 as amended November 6, 2003

1 **services** or substance abuse treatment and rehabilitation services
 2 as defined in section 6107 of the public health code, 1978 PA
 3 368, MCL 333.6107, and designated by the administrator of
 4 substance abuse services, and may be ordered to perform community
 5 service and to undergo substance abuse screening and assessment
 6 at his or her own expense as described in subsection ~~—(3)—~~ (4).

7 (b) For a violation of this subsection following a prior
 8 conviction or juvenile adjudication for a violation of this
 9 subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, **by**
 10 **imprisonment for not more than 30 days <<but only if the minor has been**
 11 **found by the court to have violated an order of probation for that**
 12 **conviction or juvenile adjudication>>**, a fine of not more than
 13 \$200.00, **or both**, and may be ordered to participate in substance
 14 abuse prevention **services** or substance abuse treatment and
 15 rehabilitation services as defined in section 6107 of the public
 16 health code, 1978 PA 368, MCL 333.6107, and designated by the
 17 administrator of substance abuse services, to perform community
 18 service, and to undergo substance abuse screening and assessment
 19 at his or her own expense as described in subsection ~~—(3)—~~ (4).

18 (c) For a violation of this subsection following 2 or more
 19 prior convictions or juvenile adjudications for a violation of
 20 this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8,
 21 **by imprisonment for not more than <<60 days but only if the minor has**
 22 **been found by the court to have violated an order of probation for that**
 23 **conviction or juvenile adjudication>>**, a fine of not more
 24 than \$500.00, **or both**, and may be ordered to participate in
 25 substance abuse prevention **services** or substance abuse treatment
 26 and rehabilitation services as defined in section 6107 of the
 27 public health code, 1978 PA 368, MCL 333.6107, and designated by
 the administrator of substance abuse services, to perform
 community service, and to undergo substance abuse screening and

1 assessment at his or her own expense as described in subsection
2 ~~(3)~~ (4).

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

8 (3) When an individual who has not previously been convicted
9 of or received a juvenile adjudication for a violation of
10 subsection (1) pleads guilty to a violation of subsection (1),
11 the court, without entering a judgment of guilt and with the
12 consent of the accused, may defer further proceedings and place
13 the individual on probation upon terms and conditions that
14 include, but are not limited to, the sanctions set forth in
15 subsection (1)(a) and payment of a probation supervision fee as
16 prescribed in section 3c of chapter XI of the code of criminal
17 procedure, 1927 PA 175, MCL 771.3c. Upon violation of a term or
18 condition of probation, the court may enter an adjudication of
19 guilt and proceed as otherwise provided by law. Upon fulfillment
20 of the terms and conditions of probation, the court shall
21 discharge the individual and dismiss the proceedings. Discharge
22 and dismissal under this section shall be without adjudication of
23 guilt and is not a conviction for purposes of this section or for
24 purposes of disqualifications or disabilities imposed by law upon
25 conviction of a crime, including the additional penalties imposed
26 for second or subsequent convictions under subsection (1)(b) and
27 (c). There may be only 1 discharge or dismissal under this

1 subsection as to an individual. The records and identifications
2 division of the department of state police shall retain a
3 nonpublic record of an arrest and discharge or dismissal under
4 this subsection. This record shall be furnished to either or
5 both of the following:

6 (a) To a court, prosecutor, or police agency upon request for
7 the purpose of showing that a defendant in a criminal action
8 under subsection (1) has already once utilized this subsection.

9 (b) To the department of corrections, a prosecutor, or a law
10 enforcement agency, upon the department's, a prosecutor's, or a
11 law enforcement agency's request, subject to all of the following
12 conditions:

13 (i) At the time of the request, the individual is an employee
14 of the department, the prosecutor, or the law enforcement agency,
15 or an applicant for employment with the department, the
16 prosecutor, or the law enforcement agency.

17 (ii) The record is used by the department, the prosecutor, or
18 the law enforcement agency only to determine whether an employee
19 has violated his or her conditions of employment or whether an
20 applicant meets criteria for employment.

21 (4) ~~—(3)—~~ The court may order the person convicted of
22 violating subsection (1) to undergo screening and assessment by a
23 person or agency as designated by the substance abuse
24 coordinating agency as defined in section 6103 of the public
25 health code, 1978 PA 368, MCL 333.6103, in order to determine
26 whether the person is likely to benefit from rehabilitative
27 services, including alcohol or drug education and alcohol or drug

1 treatment programs.

2 (5) ~~—(4)—~~ The secretary of state shall suspend the operator's
3 or chauffeur's license of an individual convicted of violating
4 subsection (1) or (2) as provided in section 319 of the Michigan
5 vehicle code, 1949 PA 300, MCL 257.319.

6 (6) ~~—(5)—~~ A peace officer who has reasonable cause to believe
7 a minor has consumed alcoholic liquor **or has any bodily alcohol**
8 **content** may require the person to submit to a preliminary
9 chemical breath analysis. A peace officer may arrest a person
10 based in whole or in part upon the results of a preliminary
11 chemical breath analysis. The results of a preliminary chemical
12 breath analysis or other acceptable blood alcohol test are
13 admissible in a criminal prosecution to determine whether the
14 minor has consumed or possessed alcoholic liquor **or had any**
15 **bodily alcohol content**. A minor who refuses to submit to a
16 preliminary chemical breath test analysis as required in this
17 subsection is responsible for a state civil infraction and may be
18 ordered to pay a civil fine of not more than \$100.00.

19 (7) ~~—(6)—~~ A law enforcement agency, upon determining that a
20 person less than 18 years of age who is not emancipated under
21 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed,
22 purchased **alcoholic liquor**, ~~—or—~~ attempted to consume, possess,
23 or purchase alcoholic liquor, **or had any bodily alcohol content**
24 in violation of subsection (1) shall notify the parent or
25 parents, custodian, or guardian of the person as to the nature of
26 the violation if the name of a parent, guardian, or custodian is
27 reasonably ascertainable by the law enforcement agency. The

1 notice required by this subsection shall be made not later than
2 48 hours after the law enforcement agency determines that the
3 person who allegedly violated subsection (1) is less than 18
4 years of age and not emancipated under 1968 PA 293, MCL 722.1 to
5 722.6. The notice may be made by any means reasonably calculated
6 to give prompt actual notice including, but not limited to,
7 notice in person, by telephone, or by first-class mail. If an
8 individual less than 17 years of age is incarcerated for
9 violating subsection (1), his or her parents or legal guardian
10 shall be notified immediately as provided in this subsection.

11 (8) ~~—(7)—~~ This section does not prohibit a minor from
12 possessing alcoholic liquor during regular working hours and in
13 the course of his or her employment if employed by a person
14 licensed by this act, by the commission, or by an agent of the
15 commission, if the alcoholic liquor is not possessed for his or
16 her personal consumption.

17 (9) ~~—(8)—~~ This section does not limit the civil or criminal
18 liability of the vendor or the vendor's clerk, servant, agent, or
19 employee for a violation of this act.

20 (10) ~~—(9)—~~ The consumption of alcoholic liquor by a minor who
21 is enrolled in a course offered by an accredited postsecondary
22 educational institution in an academic building of the
23 institution under the supervision of a faculty member is not
24 prohibited by this act if the purpose of the consumption is
25 solely educational and is a requirement of the course.

26 (11) ~~—(10)—~~ The consumption by a minor of sacramental wine in
27 connection with religious services at a church, synagogue, or

1 temple is not prohibited by this act.

2 **(12)** ~~—(11)—~~ Subsection (1) does not apply to a minor who
3 participates in either or both of the following:

4 (a) An undercover operation in which the minor purchases or
5 receives alcoholic liquor under the direction of the person's
6 employer and with the prior approval of the local prosecutor's
7 office as part of an employer-sponsored internal enforcement
8 action.

9 (b) An undercover operation in which the minor purchases or
10 receives alcoholic liquor under the direction of the state
11 police, the commission, or a local police agency as part of an
12 enforcement action unless the initial or contemporaneous purchase
13 or receipt of alcoholic liquor by the minor was not under the
14 direction of the state police, the commission, or the local
15 police agency and was not part of the undercover operation.

16 **(13)** ~~—(12)—~~ The state police, the commission, or a local
17 police agency shall not recruit or attempt to recruit a minor for
18 participation in an undercover operation at the scene of a
19 violation of subsection (1), section 801(2), or section 701(1).

20 **(14)** As used in this section, "any bodily alcohol content"
21 means either of the following:

22 (a) An alcohol content of not less than 0.02 grams or more
23 per 100 milliliters of blood, per 210 liters of breath, or per 67
24 milliliters of urine.

25 (b) Any presence of alcohol within a person's body resulting
26 from the consumption of alcoholic liquor, other than consumption
27 of alcoholic liquor as a part of a generally recognized religious

1 **service or ceremony.**

2 Enacting section 1. This amendatory act takes effect

3 January 31, 2004.