

# SENATE BILL No. 637

July 16, 2003, Introduced by Senators GEORGE, KUIPERS, PATTERSON, GARCIA, BIRKHOLZ, CROPSEY, McMANUS, JELINEK and SCHAUER 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), 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

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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**, a fine of not more than  
11 \$200.00, **or both**, and may be ordered to participate in substance  
12 abuse prevention **services** or substance abuse treatment and  
13 rehabilitation 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)~~ **(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 93 days**, a fine of not more  
22 than \$500.00, **or both**, and may be ordered to participate in  
23 substance abuse prevention **services** or substance abuse treatment  
24 and rehabilitation services as defined in section 6107 of the  
25 public health code, 1978 PA 368, MCL 333.6107, and designated by  
26 the administrator of substance abuse services, to perform  
27 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 or police agency upon request for the purpose  
7 of showing that a defendant in a criminal action under subsection  
8 (1) has already once utilized this subsection.

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

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

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

20 (4) ~~(3)~~ The court may order the person convicted of  
21 violating subsection (1) to undergo screening and assessment by a  
22 person or agency as designated by the substance abuse  
23 coordinating agency as defined in section 6103 of the public  
24 health code, 1978 PA 368, MCL 333.6103, in order to determine  
25 whether the person is likely to benefit from rehabilitative  
26 services, including alcohol or drug education and alcohol or drug  
27 treatment programs.

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

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

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

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

10 (8) ~~-(7)-~~ This section does not prohibit a minor from  
11 possessing alcoholic liquor during regular working hours and in  
12 the course of his or her employment if employed by a person  
13 licensed by this act, by the commission, or by an agent of the  
14 commission, if the alcoholic liquor is not possessed for his or  
15 her personal consumption.

16 (9) ~~-(8)-~~ This section does not limit the civil or criminal  
17 liability of the vendor or the vendor's clerk, servant, agent, or  
18 employee for a violation of this act.

19 (10) ~~-(9)-~~ The consumption of alcoholic liquor by a minor who  
20 is enrolled in a course offered by an accredited postsecondary  
21 educational institution in an academic building of the  
22 institution under the supervision of a faculty member is not  
23 prohibited by this act if the purpose of the consumption is  
24 solely educational and is a requirement of the course.

25 (11) ~~-(10)-~~ The consumption by a minor of sacramental wine in  
26 connection with religious services at a church, synagogue, or  
27 temple is not prohibited by this act.

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

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

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

15           **(13)** ~~—(12)—~~ The state police, the commission, or a local  
16 police agency shall not recruit or attempt to recruit a minor for  
17 participation in an undercover operation at the scene of a  
18 violation of subsection (1), section 801(2), or section 701(1).

19           **(14) As used in this section, "any bodily alcohol content"**  
20 **means that term as defined in section 625(6) of the Michigan**  
21 **vehicle code, 1949 PA 300, MCL 257.625.**