

SENATE BILL No. 1088

March 10, 2004, Introduced by Senators BRATER, BASHAM, JACOBS, GARCIA,
CLARK-COLEMAN and SCHAUER and referred to the Committee on Economic
Development, Small Business and Regulatory Reform.

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, except as provided in this section. ~~Notwithstanding~~
5 ~~section 909, a~~ A minor who violates this subsection is guilty of
6 a misdemeanor punishable by the following fines and sanctions —
7 and is not 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 **services** or substance abuse treatment and rehabilitation services

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

6 (b) For a violation of this subsection following a prior
7 conviction or juvenile adjudication for a violation of this
8 subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, **or a**
9 **local ordinance substantially corresponding to this subsection or**
10 **section 33b(1) of former 1933 (Ex Sess) PA 8**, a fine of not more
11 than \$200.00, 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).

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 **or a local ordinance substantially corresponding to this**
22 **subsection or section 33b(1) of former 1933 (Ex Sess) PA 8**, a
23 fine of not more than \$500.00, and may be ordered to participate
24 in substance abuse prevention **services** or substance abuse
25 treatment and rehabilitation services as defined in section 6107
26 of the public health code, 1978 PA 368, MCL 333.6107, and
27 designated by the administrator of substance abuse services, to

1 perform community service, and to undergo substance abuse
2 screening and assessment at his or her own expense as described
3 in subsection (3).

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

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

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

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

1 liquor. A minor who refuses to submit to a preliminary chemical
2 breath test analysis as required in this subsection is
3 responsible for a state civil infraction and may be ordered to
4 pay a civil fine of not more than \$100.00.

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

24 (7) A minor who has consumed alcoholic liquor and who
25 voluntarily presents himself or herself to a health facility or
26 agency for treatment or for observation, any other minor who
27 accompanies that minor, and any minor who contacts a peace

1 officer or emergency medical services personnel are not
2 considered in violation of subsection (1).

3 (8) ~~—(7)—~~ This section does not prohibit a minor from
4 possessing alcoholic liquor during regular working hours and in
5 the course of his or her employment if employed by a person
6 licensed by this act, by the commission, or by an agent of the
7 commission, if the alcoholic liquor is not possessed for his or
8 her personal consumption.

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

12 (10) ~~—(9)—~~ The consumption of alcoholic liquor by a minor who
13 is enrolled in a course offered by an accredited postsecondary
14 educational institution in an academic building of the
15 institution under the supervision of a faculty member is not
16 prohibited by this act if the purpose of the consumption is
17 solely educational and is a requirement of the course.

18 (11) ~~—(10)—~~ The consumption by a minor of sacramental wine in
19 connection with religious services at a church, synagogue, or
20 temple is not prohibited by this act.

21 (12) ~~—(11)—~~ Subsection (1) does not apply to a minor who
22 participates in either or both of the following:

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

1 (b) An undercover operation in which the minor purchases or
2 receives alcoholic liquor under the direction of the state
3 police, the commission, or a local police agency as part of an
4 enforcement action unless the initial or contemporaneous purchase
5 or receipt of alcoholic liquor by the minor was not under the
6 direction of the state police, the commission, or the local
7 police agency and was not part of the undercover operation.

8 **(13) —(12)—** The state police, the commission, or a local
9 police agency shall not recruit or attempt to recruit a minor for
10 participation in an undercover operation at the scene of a
11 violation of subsection (1), section 801(2), or section 701(1).

12 **(14) As used in this section:**

13 **(a) "Emergency medical services personnel" means that term as**
14 **defined in section 20904 of the public health code, 1978 PA 368,**
15 **MCL 333.20904.**

16 **(b) "Health facility or agency" means that term as defined in**
17 **section 20106 of the public health code, 1978 PA 368, MCL**
18 **333.20106.**

19 Enacting section 1. This amendatory act takes effect June
20 30, 2004.