

SUBSTITUTE FOR
HOUSE BILL NO. 4393

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 703 (MCL 436.1703), as amended by 2006 PA 443.

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

8 (a) For the first violation **BY** a fine of not more than
9 \$100.00. ~~7 and may be ordered~~ **A COURT MAY ORDER A MINOR UNDER THIS**

1 **SUBDIVISION** to participate in substance abuse prevention services
2 or substance abuse treatment and rehabilitation services as defined
3 in section 6107 of the public health code, 1978 PA 368, MCL
4 333.6107, and designated by the administrator of **THE OFFICE OF**
5 substance abuse services, and may ~~be ordered~~ **ORDER THAT MINOR** to
6 perform community service and to undergo substance abuse screening
7 and assessment at his or her own expense as described in subsection
8 ~~(4)-(5)~~.

9 (b) For a **SECOND** violation of this subsection, ~~following a~~
10 ~~prior conviction or juvenile adjudication for a violation of this~~
11 ~~subsection,~~ section 33b(1) of former 1933 (Ex Sess) PA 8, or a
12 local ordinance substantially corresponding to this subsection or
13 section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for
14 not more than 30 days but only if the ~~minor has been found by the~~
15 ~~court to have~~ **FINDS THAT THE MINOR** violated an order of probation,
16 failed to successfully complete any treatment, screening, or
17 community service ordered by the court, or failed to pay any fine
18 for that conviction or juvenile adjudication, **BY** a fine of not more
19 than \$200.00, or both. ~~, and may be ordered~~ **A COURT MAY ORDER A**
20 **MINOR UNDER THIS SUBDIVISION** to participate in substance abuse
21 prevention services or substance abuse treatment and rehabilitation
22 services as defined in section 6107 of the public health code, 1978
23 PA 368, MCL 333.6107, and designated by the administrator of **THE**
24 **OFFICE OF** substance abuse services, to perform community service,
25 and to undergo substance abuse screening and assessment at his or
26 her own expense as described in subsection ~~(4)-(5)~~.

27 (c) For a **THIRD OR SUBSEQUENT** violation of this subsection,

1 ~~following 2 or more prior convictions or juvenile adjudications for~~
2 ~~a violation of this subsection,~~ section 33b(1) of former 1933 (Ex
3 Sess) PA 8, or a local ordinance substantially corresponding to
4 this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, by
5 imprisonment for not more than 60 days but only if the ~~minor has~~
6 ~~been found by the court to have~~ **FINDS THAT THE MINOR** violated an
7 order of probation, failed to successfully complete any treatment,
8 screening, or community service ordered by the court, or failed to
9 pay any fine for that conviction or juvenile adjudication, **BY** a
10 fine of not more than \$500.00, or both. ~~, and may be ordered~~ **A**
11 **COURT MAY ORDER A MINOR UNDER THIS SUBDIVISION** to participate in
12 substance abuse prevention services or substance abuse treatment
13 and rehabilitation services as defined in section 6107 of the
14 public health code, 1978 PA 368, MCL 333.6107, and designated by
15 the administrator of **THE OFFICE OF** substance abuse services, to
16 perform community service, and to undergo substance abuse screening
17 and assessment at his or her own expense as described in subsection
18 ~~(4)-(5)~~.

19 (2) ~~A person~~ **AN INDIVIDUAL** who furnishes fraudulent
20 identification to a minor, or notwithstanding subsection (1) a
21 minor who uses fraudulent identification to purchase alcoholic
22 liquor, is guilty of a misdemeanor punishable by imprisonment for
23 not more than 93 days or a fine of not more than \$100.00, or both.

24 (3) When an individual who has not previously been convicted
25 of or received a juvenile adjudication for a violation of
26 subsection (1) pleads guilty to a violation of subsection (1) or
27 offers a plea of admission in a juvenile delinquency proceeding for

1 a violation of subsection (1), the court, without entering a
2 judgment of guilt in a criminal proceeding or a determination in a
3 juvenile delinquency proceeding that the juvenile has committed the
4 offense and with the consent of the accused, may defer further
5 proceedings and place the individual on probation. ~~upon~~ **THE** terms
6 and conditions **OF** that **PROBATION** include, but are not limited to,
7 the sanctions set forth in subsection (1)(a), payment of the costs
8 including minimum state cost as provided for in section 18m of
9 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
10 712A.18m, and section 1j of chapter IX of the code of criminal
11 procedure, 1927 PA 175, MCL 769.1j, and the costs of probation as
12 prescribed in section 3 of chapter XI of the code of criminal
13 procedure, 1927 PA 175, MCL 771.3. ~~Upon violation of~~ **IF A COURT**
14 **FINDS THAT AN INDIVIDUAL VIOLATED** a term or condition of probation
15 or ~~upon a finding that~~ the individual is utilizing this subsection
16 in another court, the court may enter an adjudication of guilt, or
17 a determination in a juvenile delinquency proceeding that the
18 individual has committed the offense, and proceed as otherwise
19 provided by law. ~~Upon fulfillment of~~ **IF AN INDIVIDUAL FULFILLS** the
20 terms and conditions of probation, the court shall discharge the
21 individual and dismiss the proceedings. Discharge and dismissal
22 under this section shall be without adjudication of guilt or
23 without a determination in a juvenile delinquency proceeding that
24 the individual has committed the offense and is not a conviction or
25 juvenile adjudication ~~for purposes of this section or for purposes~~
26 of disqualifications or disabilities imposed by law upon conviction
27 of a crime. ~~, including the additional penalties imposed for second~~

1 ~~or subsequent convictions or juvenile adjudications under~~
2 ~~subsection (1) (b) and (c). There may be~~ **AN INDIVIDUAL MAY OBTAIN**
3 only 1 discharge and dismissal under this subsection. ~~as to an~~
4 ~~individual.~~ The court shall maintain a nonpublic record of the
5 matter while proceedings are deferred and the individual is on
6 probation and if there is a discharge and dismissal under this
7 subsection. The secretary of state shall retain a nonpublic record
8 of a plea and of the discharge and dismissal under this subsection.
9 These records shall be furnished to any of the following:

10 (a) To a court, prosecutor, or police agency upon request for
11 the purpose of determining if an individual has already utilized
12 this subsection.

13 (b) To the department of corrections, a prosecutor, or a law
14 enforcement agency, upon the department's, a prosecutor's, or a law
15 enforcement agency's request, subject to all of the following
16 conditions:

17 (i) At the time of the request, the individual is an employee
18 of the department of corrections, the prosecutor, or the law
19 enforcement agency, or an applicant for employment with the
20 department of corrections, the prosecutor, or the law enforcement
21 agency.

22 (ii) The record is used by the department of corrections, the
23 prosecutor, or the law enforcement agency only to determine whether
24 an employee has violated his or her conditions of employment or
25 whether an applicant meets criteria for employment.

26 **(4) A VIOLATION OF SUBSECTION (1) SUCCESSFULLY DEFERRED,**
27 **DISCHARGED, AND DISMISSED UNDER SUBSECTION (3) IS CONSIDERED A**

1 PRIOR VIOLATION FOR THE PURPOSES OF SUBSECTION (1) (B) AND (C) .

2 (5) ~~(4) The A~~ court may order ~~the person~~ **AN INDIVIDUAL**
3 convicted of violating subsection (1) to undergo screening and
4 assessment by a person or agency as designated by the substance
5 abuse coordinating agency as defined in section 6103 of the public
6 health code, 1978 PA 368, MCL 333.6103, in order to determine
7 whether the ~~person~~ **INDIVIDUAL** is likely to benefit from
8 rehabilitative services, including alcohol or drug education and
9 alcohol or drug treatment programs. ~~The A~~ court may order ~~a person~~
10 **AN INDIVIDUAL** subject to a conviction or juvenile adjudication of,
11 or placed on probation regarding, a violation of subsection (1) to
12 submit to a random or regular preliminary chemical breath analysis.
13 ~~In the case~~ **THE PARENT, GUARDIAN, OR CUSTODIAN** of a minor under 18
14 years of age not emancipated under 1968 PA 293, MCL 722.1 to 722.6,
15 ~~the parent, guardian, or custodian~~ may request a random or regular
16 preliminary chemical breath analysis as part of the probation.

17 (6) ~~(5)~~ The secretary of state shall suspend the operator's or
18 chauffeur's license of an individual convicted of violating
19 subsection (1) or (2) as provided in section 319 of the Michigan
20 vehicle code, 1949 PA 300, MCL 257.319.

21 (7) ~~(6)~~ A peace officer who has reasonable cause to believe a
22 minor has consumed alcoholic liquor or has any bodily alcohol
23 content may require ~~the person~~ **THAT INDIVIDUAL** to submit to a
24 preliminary chemical breath analysis. A peace officer may arrest a
25 ~~person~~ **AN INDIVIDUAL** based in whole or in part upon the results of
26 a preliminary chemical breath analysis. The results of a
27 preliminary chemical breath analysis or other acceptable blood

1 alcohol test are admissible in a criminal prosecution to determine
2 whether the minor has consumed or possessed alcoholic liquor or had
3 any bodily alcohol content. A minor who refuses to submit to a
4 preliminary chemical breath test analysis as required in this
5 subsection is responsible for a state civil infraction and may be
6 ordered to pay a civil fine of not more than \$100.00.

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

1 subsection.

2 (9) ~~(8)~~—This section does not prohibit a minor from possessing
3 alcoholic liquor during regular working hours and in the course of
4 his or her employment if employed by a person licensed by this act,
5 by the commission, or by an agent of the commission, if the
6 alcoholic liquor is not possessed for his or her personal
7 consumption.

8 (10) THE FOLLOWING INDIVIDUALS ARE NOT CONSIDERED TO BE IN
9 VIOLATION OF SUBSECTION (1):

10 (A) A MINOR WHO HAS CONSUMED ALCOHOLIC LIQUOR AND WHO
11 VOLUNTARILY PRESENTS HIMSELF OR HERSELF TO A HEALTH FACILITY OR
12 AGENCY FOR TREATMENT OR FOR OBSERVATION.

13 (B) A MINOR WHO ACCOMPANIES AN INDIVIDUAL WHO MEETS BOTH OF
14 THE FOLLOWING CRITERIA:

15 (i) HAS CONSUMED ALCOHOLIC LIQUOR.

16 (ii) VOLUNTARILY PRESENTS HIMSELF OR HERSELF TO A HEALTH
17 FACILITY OR AGENCY FOR TREATMENT OR FOR OBSERVATION.

18 (C) A MINOR WHO INITIATES CONTACT WITH A PEACE OFFICER OR
19 EMERGENCY MEDICAL SERVICES PERSONNEL FOR THE PURPOSE OF OBTAINING
20 MEDICAL ASSISTANCE FOR A LEGITIMATE HEALTH CARE CONCERN.

21 (11) IF A MINOR UNDER THE AGE OF 18 WHO IS NOT EMANCIPATED
22 UNDER 1968 PA 293, MCL 722.1 TO 722.6, VOLUNTARILY PRESENTS HIMSELF
23 OR HERSELF TO A HEALTH FACILITY OR AGENCY FOR TREATMENT OR FOR
24 OBSERVATION AS PROVIDED UNDER SUBSECTION (10), THE HEALTH FACILITY
25 OR AGENCY SHALL NOTIFY THE PARENT OR PARENTS, GUARDIAN, OR
26 CUSTODIAN OF THE INDIVIDUAL AS TO THE NATURE OF THE TREATMENT OR
27 OBSERVATION IF THE NAME OF A PARENT, GUARDIAN, OR CUSTODIAN IS

1 **REASONABLY ASCERTAINABLE BY THE HEALTH FACILITY OR AGENCY.**

2 (12) ~~(9)~~—This section does not limit the civil or criminal
3 liability of ~~the~~**A** vendor or the vendor's clerk, servant, agent, or
4 employee for a violation of this act.

5 (13) ~~(10)~~—The consumption of alcoholic liquor by a minor who
6 is enrolled in a course offered by an accredited postsecondary
7 educational institution in an academic building of the institution
8 under the supervision of a faculty member is not prohibited by this
9 act if the purpose of the consumption is solely educational and is
10 a requirement of the course.

11 (14) ~~(11)~~—The consumption by a minor of sacramental wine in
12 connection with religious services at a church, synagogue, or
13 temple is not prohibited by this act.

14 (15) ~~(12)~~—Subsection (1) does not apply to a minor who
15 participates in either or both of the following:

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

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

1 (16) ~~(13)~~ The state police, the commission, or a local police
2 agency shall not recruit or attempt to recruit a minor for
3 participation in an undercover operation at the scene of a
4 violation of subsection (1), **SECTION 701(1), OR** section 801(2). ~~7~~
5 ~~or section 701(1).~~

6 (17) ~~(14)~~ In a criminal prosecution for the violation of
7 subsection (1) concerning a minor having any bodily alcohol
8 content, it is an affirmative defense that the minor consumed the
9 alcoholic liquor in a venue or location where that consumption is
10 legal.

11 (18) ~~(15)~~ As used in this section: ~~7~~ "any

12 (A) "ANY bodily alcohol content" means either of the
13 following:

14 (i) ~~(a)~~ An alcohol content of 0.02 grams or more per 100
15 milliliters of blood, per 210 liters of breath, or per 67
16 milliliters of urine.

17 (ii) ~~(b)~~ Any presence of alcohol within a person's body
18 resulting from the consumption of alcoholic liquor, other than
19 consumption of alcoholic liquor as a part of a generally recognized
20 religious service or ceremony.

21 (B) "EMERGENCY MEDICAL SERVICES PERSONNEL" MEANS THAT TERM AS
22 DEFINED IN SECTION 20904 OF THE PUBLIC HEALTH CODE, 1978 PA 368,
23 MCL 333.20904.

24 (C) "HEALTH FACILITY OR AGENCY" MEANS THAT TERM AS DEFINED IN
25 SECTION 20106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
26 333.20106.