

SENATE BILL No. 332

May 14, 2015, Introduced by Senators JONES, BIEDA, STAMAS and HORN 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 2012 PA 125.

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 **RESPONSIBLE FOR A STATE CIVIL**
6 **INFRACTION OR** guilty of a misdemeanor ~~punishable by the following~~
7 ~~finer and sanctions~~ **AS FOLLOWS** and is not subject to the penalties
8 prescribed in section 909:

9 (a) For the first violation, ~~by~~ **THE MINOR IS RESPONSIBLE FOR** a
10 ~~fine of~~ **STATE CIVIL INFRACTION AND SHALL BE FINED** not more than
11 \$100.00. A court may order a minor under this subdivision to

1 participate in substance ~~abuse prevention services or substance~~
2 ~~abuse treatment and rehabilitation~~ **USE DISORDER** services as defined
3 in section ~~6107-6230~~ of the public health code, 1978 PA 368, MCL
4 ~~333.6107, 333.6230~~, and designated by the administrator of the
5 office of substance abuse services, and may order ~~that~~ **THE** 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 (5).

9 (b) For a second violation of this subsection, section 33b(1)
10 of former 1933 (Ex Sess) PA 8, or a local ordinance substantially
11 corresponding to this subsection or section 33b(1) of former 1933
12 (Ex Sess) PA 8, ~~by imprisonment for not more than 30 days but only~~
13 ~~if the court finds that the minor violated an order of probation,~~
14 ~~failed to successfully complete any treatment, screening, or~~
15 ~~community service ordered by the court, or failed to pay any fine~~
16 ~~for that conviction or juvenile adjudication, by a fine of~~ **THE**
17 **MINOR IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND SHALL BE**
18 **FINED** not more than \$200.00. ~~, or both.~~ A court may order a minor
19 under this subdivision to participate in substance ~~abuse prevention~~
20 ~~services or substance abuse treatment and rehabilitation~~ **USE**
21 **DISORDER** services as defined in section ~~6107-6230~~ of the public
22 health code, 1978 PA 368, MCL ~~333.6107, 333.6230~~, and designated by
23 the administrator of the office of substance abuse services, to
24 perform community service, and to undergo substance abuse screening
25 and assessment at his or her own expense as described in subsection
26 (5).

27 (c) For a third or subsequent violation of this subsection,

1 section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance
 2 substantially corresponding to this subsection or section 33b(1) of
 3 former 1933 (Ex Sess) PA 8, **THE MINOR IS GUILTY OF A MISDEMEANOR. A**
 4 **MISDEMEANOR UNDER THIS SUBDIVISION IS PUNISHABLE** by imprisonment
 5 for not more than 60 days, ~~but only~~ if the court finds that the
 6 minor violated an order of probation, failed to successfully
 7 complete any treatment, screening, or community service ordered by
 8 the court, or failed to pay any fine for that conviction or
 9 juvenile adjudication, by a fine of not more than \$500.00, or both,
 10 **AS APPLICABLE.** A court may order a minor under this subdivision to
 11 participate in substance ~~abuse prevention services or substance~~
 12 ~~abuse treatment and rehabilitation~~ **USE DISORDER** services as defined
 13 in section ~~6107-6230~~ of the public health code, 1978 PA 368, MCL
 14 ~~333.6107,~~ **333.6230**, and designated by the administrator of the
 15 office of substance abuse services, to perform community service,
 16 and to undergo substance abuse screening and assessment at his or
 17 her own expense as described in subsection (5).

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

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

1 subsection (1), the court, without entering a judgment of guilt in
2 a criminal proceeding or a determination in a juvenile delinquency
3 proceeding that the juvenile has committed the offense and with the
4 consent of the accused, may defer further proceedings and place the
5 individual on probation. The terms and conditions of that probation
6 include, but are not limited to, the sanctions set forth in
7 subsection ~~(1)(a)~~, **(1)(C)**, payment of the costs including minimum
8 state cost as provided for in section 18m of chapter XIIA of the
9 probate code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of
10 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
11 769.1j, and the costs of probation as prescribed in section 3 of
12 chapter XI of the code of criminal procedure, 1927 PA 175, MCL
13 771.3. If a court finds that an individual violated a term or
14 condition of probation or that the individual is utilizing this
15 subsection in another court, the court may enter an adjudication of
16 guilt, or a determination in a juvenile delinquency proceeding that
17 the individual has committed the offense, and proceed as otherwise
18 provided by law. If an individual fulfills the terms and conditions
19 of probation, the court shall discharge the individual and dismiss
20 the proceedings. ~~Discharge~~ **A DISCHARGE** and dismissal under this
21 section ~~shall be~~ **IS** without adjudication of guilt or without a
22 determination in a juvenile delinquency proceeding that the
23 individual has committed the offense and is not a conviction or
24 juvenile adjudication for purposes of disqualifications or
25 disabilities imposed by law ~~upon~~ **ON** conviction of a crime. An
26 individual may obtain only 1 discharge and dismissal under this
27 subsection. The court shall maintain a nonpublic record of the

1 matter while proceedings are deferred and the individual is on
2 probation and if there is a discharge and dismissal under this
3 subsection. The secretary of state shall retain a nonpublic record
4 of a plea and of the discharge and dismissal under this subsection.
5 These records shall be furnished to any of the following:

6 (a) To a court, prosecutor, or police agency ~~upon~~**ON** request
7 for the purpose of determining if an individual has already
8 utilized this subsection.

9 (b) To the department of corrections, a prosecutor, or a law
10 enforcement agency, ~~upon~~**ON** 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 of corrections, the prosecutor, or the law
15 enforcement agency, or an applicant for employment with the
16 department of corrections, the prosecutor, or the law enforcement
17 agency.

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

22 (4) A **MISDEMEANOR** violation of subsection (1) successfully
23 deferred, discharged, and dismissed under subsection (3) is
24 considered a prior violation for the purposes of subsection ~~(1)(b)~~
25 ~~and (c)~~. **(1) (C)** .

26 (5) A court may order an individual **FOUND RESPONSIBLE FOR OR**
27 convicted of violating subsection (1) to undergo screening and

assessment by a person or agency as designated by the ~~substance~~
~~abuse coordinating agency as defined in section 6103 of the public~~
~~health code, 1978 PA 368, MCL 333.6103, in order~~ **DEPARTMENT-**
DESIGNATED COMMUNITY MENTAL HEALTH ENTITY AS DEFINED IN SECTION
100A OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100A, to
determine whether the individual is likely to benefit from
rehabilitative services, including alcohol or drug education and
alcohol or drug treatment programs. A court may order an individual
subject to a **MISDEMEANOR** conviction or juvenile adjudication of, or
placed on probation regarding, a violation of subsection (1) to
submit to a random or regular preliminary chemical breath analysis.
The parent, guardian, or custodian of a minor ~~under~~ **WHO IS LESS**
THAN 18 years of age not emancipated under 1968 PA 293, MCL 722.1
to 722.6, may request a random or regular preliminary chemical
breath analysis as part of the probation.

(6) The secretary of state shall suspend the operator's or
chauffeur's license of an individual convicted of ~~violating~~ **A THIRD**
VIOLATION OF subsection (1) or (2) as provided in section 319 of
the Michigan vehicle code, 1949 PA 300, MCL 257.319.

(7) A peace officer who has reasonable cause to believe a
minor has consumed alcoholic liquor or has any bodily alcohol
content may ~~require~~ **REQUEST** that individual to submit to a
preliminary chemical breath analysis. ~~A peace officer may arrest an~~
~~individual based in whole or in part upon the results of a~~
~~preliminary chemical breath analysis.~~ The results of a preliminary
chemical breath analysis or other acceptable blood alcohol test are
admissible in a **STATE CIVIL INFRACTION PROCEEDING OR** criminal

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

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

27 (9) This section does not prohibit a minor from possessing

1 alcoholic liquor during regular working hours and in the course of
2 his or her employment if employed by a person licensed by this act,
3 by the commission, or by an agent of the commission, if the
4 alcoholic liquor is not possessed for his or her personal
5 consumption.

6 (10) The following individuals are not considered to be in
7 violation of subsection (1):

8 (a) A minor who has consumed alcoholic liquor and who
9 voluntarily presents himself or herself to a health facility or
10 agency for treatment or for observation including, but not limited
11 to, medical examination and treatment for any condition arising
12 from a violation of sections 520b to 520g of the Michigan penal
13 code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a
14 minor.

15 (b) A minor who accompanies an individual who meets both of
16 the following criteria:

17 (i) Has consumed alcoholic liquor.

18 (ii) Voluntarily presents himself or herself to a health
19 facility or agency for treatment or for observation including, but
20 not limited to, medical examination and treatment for any condition
21 arising from a violation of sections 520b to 520g of the Michigan
22 penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed
23 against a minor.

24 (c) A minor who initiates contact with a peace officer or
25 emergency medical services personnel for the purpose of obtaining
26 medical assistance for a legitimate health care concern.

27 (11) If a minor ~~under the age of~~ **WHO IS LESS THAN 18 YEARS OF**

1 **AGE AND** who is not emancipated under 1968 PA 293, MCL 722.1 to
2 722.6, voluntarily presents himself or herself to a health facility
3 or agency for treatment or for observation as provided under
4 subsection (10), the health facility or agency shall notify the
5 parent or parents, guardian, or custodian of the individual as to
6 the nature of the treatment or observation if the name of a parent,
7 guardian, or custodian is reasonably ascertainable by the health
8 facility or agency.

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

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

18 (14) 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 (15) Subsection (1) does not apply to a minor who participates
22 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 police,
3 the commission, or a local police agency as part of an enforcement
4 action unless the initial or contemporaneous purchase or receipt of
5 alcoholic liquor by the minor was not under the direction of the
6 state police, the commission, or the local police agency and was
7 not part of the undercover operation.

8 (16) The state police, the commission, or a local police
9 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 701(1), or section 801(2).

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

16 (18) As used in this section:

17 (a) "Any bodily alcohol content" means either of the
18 following:

19 (i) An alcohol content of 0.02 grams or more per 100
20 milliliters of blood, per 210 liters of breath, or per 67
21 milliliters of urine.

22 (ii) Any presence of alcohol within a person's body resulting
23 from the consumption of alcoholic liquor, other than consumption of
24 alcoholic liquor as a part of a generally recognized religious
25 service or ceremony.

26 (b) "Emergency medical services personnel" means that term as
27 defined in section 20904 of the public health code, 1978 PA 368,

1 MCL 333.20904.

2 (c) "Health facility or agency" means that term as defined in
3 section 20106 of the public health code, 1978 PA 368, MCL
4 333.20106.