

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5847**

A bill to amend 1998 PA 58, entitled  
"Michigan liquor control code of 1998,"  
by amending sections 701 and 703 (MCL 436.1701 and 436.1703),  
section 701 as amended by 2020 PA 78 and section 703 as amended by  
2019 PA 131.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 701. (1) A person shall not sell or furnish alcoholic  
2       liquor to a minor. Except as otherwise provided in subsection (2)  
3       and subject to subsections (4), (5), and (6), a person who  
4       knowingly sells or furnishes alcoholic liquor to a minor, or who  
5       fails to make diligent inquiry as to whether the individual is a  
6       minor, is guilty of a misdemeanor. A retail licensee or a retail  
7       licensee's clerk, agent, or employee who violates this subsection



1 shall be punished in the manner provided for licensees in section  
2 909 except that if the violation is the result of an undercover  
3 operation in which the minor received alcoholic liquor under the  
4 direction of the state police, the commission, or a local police  
5 agency as part of an enforcement action, the retail licensee's  
6 clerk, agent, or employee is responsible for a state civil  
7 infraction and may be ordered to pay a civil fine of not more than  
8 \$100.00. Except as otherwise provided in subsection (2), an  
9 individual who is not a retail licensee or a retail licensee's  
10 clerk, agent, or employee and who violates this subsection is  
11 guilty of a misdemeanor punishable by a fine of not more than  
12 \$1,000.00 and imprisonment for not more than 60 days for a first  
13 offense, a fine of not more than \$2,500.00 and imprisonment for not  
14 more than 90 days for a second or subsequent offense, and may be  
15 ordered to perform community service. ~~For a second or subsequent~~  
16 ~~offense, the secretary of state shall suspend the operator's or~~  
17 ~~chauffeur's license of an individual who is not a retail licensee~~  
18 ~~or retail licensee's clerk, agent, or employee and who is convicted~~  
19 ~~of violating this subsection as provided in section 319 of the~~  
20 ~~Michigan vehicle code, 1949 PA 300, MCL 257.319.~~ A suitable sign  
21 describing the content of this section and the penalties for its  
22 violation must be posted in a conspicuous place in each room where  
23 alcoholic liquor is sold. The commission shall approve and furnish  
24 a sign under this section.

25 (2) An individual who is not a retail licensee or the retail  
26 licensee's clerk, agent, or employee and who violates subsection  
27 (1) is guilty of a felony, punishable by imprisonment for not more  
28 than 10 years or a fine of not more than \$5,000.00, or both, if the  
29 subsequent consumption of the alcoholic liquor by the minor is a



1 direct and substantial cause of the minor's death or an accidental  
2 injury that causes the minor's death.

3 (3) If a violation occurs in an establishment that is licensed  
4 by the commission for consumption of alcoholic liquor on the  
5 licensed premises, a person who is a licensee or the clerk, agent,  
6 or employee of a licensee must not be charged with a violation of  
7 subsection (1) or section 801(1) unless the licensee or the clerk,  
8 agent, or employee of the licensee knew or should have reasonably  
9 known with the exercise of due diligence that a minor possessed or  
10 consumed alcoholic liquor on the licensed premises and the licensee  
11 or clerk, agent, or employee of the licensee failed to take  
12 immediate corrective action.

13 (4) If the enforcing agency involved in the violation is the  
14 state police or a local police agency, a licensee must not be  
15 charged with a violation of subsection (1) or section 801(1) unless  
16 all of the following occur, if applicable:

17 (a) Enforcement action is taken against the minor who  
18 purchased or attempted to purchase, consumed or attempted to  
19 consume, or possessed or attempted to possess alcoholic liquor.

20 (b) Enforcement action is taken under this section against the  
21 individual 21 years of age or older who is not the retail licensee  
22 or the retail licensee's clerk, agent, or employee who sold or  
23 furnished the alcoholic liquor to the minor.

24 (c) Enforcement action under this section is taken against the  
25 clerk, agent, or employee who directly sold or furnished alcoholic  
26 liquor to the minor.

27 (5) If the enforcing agency is the commission and an  
28 appearance ticket or civil infraction citation has not been issued,  
29 then the commission shall recommend to a local law enforcement



1 agency that enforcement action be taken against a violator of this  
2 section or section 703 who is not a licensee. However, subsection  
3 (4) does not apply if the minor against whom enforcement action is  
4 taken under section 703, the clerk, agent, or employee of the  
5 licensee who directly sold or furnished alcoholic liquor to the  
6 minor, or the individual 21 years of age or older who sold or  
7 furnished alcoholic liquor to the minor is not alive or is not  
8 present in this state at the time the licensee is charged.

9 Subsection (4) (a) does not apply under either of the following  
10 circumstances:

11 (a) The violation of subsection (1) is the result of an  
12 undercover operation in which the minor purchased or received  
13 alcoholic liquor under the direction of the person's employer and  
14 with the prior approval of the local prosecutor's office as part of  
15 an employer-sponsored internal enforcement action.

16 (b) The violation of subsection (1) is the result of an  
17 undercover operation in which the minor purchased or received  
18 alcoholic liquor under the direction of the state police, the  
19 commission, or a local police agency as part of an enforcement  
20 action.

21 (6) Any initial or contemporaneous purchase or receipt of  
22 alcoholic liquor by the minor under subsection (5) (a) or (b) must  
23 have been under the direction of the state police, the commission,  
24 or the local police agency and must have been part of the  
25 undercover operation.

26 (7) If a minor participates in an undercover operation in  
27 which the minor is to purchase or receive alcoholic liquor under  
28 the supervision of a law enforcement agency, his or her parents or  
29 legal guardian shall consent to the participation if the minor is



1 less than 18 years of age.

2 (8) In an action for the violation of this section, proof that  
3 the defendant or the defendant's agent or employee demanded and was  
4 shown, before furnishing alcoholic liquor to a minor, a motor  
5 vehicle operator's or chauffeur's license, a military  
6 identification card, or other bona fide documentary evidence of the  
7 age and identity of that person, is a defense to an action brought  
8 under this section.

9 (9) The commission shall provide, on an annual basis, a  
10 written report to the department of state police as to the number  
11 of actions heard by the commission involving violations of this  
12 section and section 801(1). The commission shall include in the  
13 report the disposition of each action and figures representing all  
14 of the following categories:

15 (a) Decoy operations.

16 (b) Off-premises violations.

17 (c) On-premises violations.

18 (d) Repeat offenses within the 3 years preceding the date of  
19 the report.

20 (10) Subsection (11)(b)(ii) does not impose a duty or  
21 obligation on the secretary of state that is not otherwise required  
22 by law.

23 (11) As used in this section:

24 (a) "Corrective action" means action taken by a licensee or a  
25 clerk, agent, or employee of a licensee designed to prevent a minor  
26 from further possessing or consuming alcoholic liquor on the  
27 licensed premises. Corrective action includes, but is not limited  
28 to, contacting a law enforcement agency and ejecting the minor and  
29 any other person suspected of aiding and abetting the minor.



1 (b) "Diligent inquiry" means a diligent good-faith effort to  
2 determine the age of an individual, which includes at least 1 of  
3 the following:

4 (i) An examination of an official Michigan operator's or  
5 chauffeur's license, an official Michigan personal identification  
6 card, a military identification card, or any other bona fide  
7 picture identification that establishes the identity and age of the  
8 individual.

9 (ii) Use of a secure identity verification device if all of the  
10 following conditions are met:

11 (A) The electronic scan of a biometric of the individual is  
12 referenced against any form of picture identification described in  
13 subparagraph (i).

14 (B) The authenticity of the picture identification was  
15 previously verified by an electronic authentication process.

16 (C) The identity of the individual was previously verified  
17 through a commercially available knowledge-based electronic  
18 authentication process.

19 (D) The authenticated picture identification was securely  
20 linked to biometrics contemporaneously collected from the  
21 individual.

22 (c) "Retail licensee" means a person licensed to sell  
23 alcoholic liquor at retail for consumption on or off the licensed  
24 premises.

25 (d) "Secure identity verification device" means a commercial  
26 device that instantly verifies the identity and age of an  
27 individual by an electronic scan of a biometric of the individual.

28 Sec. 703. (1) A minor shall not purchase or attempt to  
29 purchase alcoholic liquor, consume or attempt to consume alcoholic



1 liquor, possess or attempt to possess alcoholic liquor, or have any  
2 bodily alcohol content, except as provided in this section. A minor  
3 who violates this subsection is responsible for a state civil  
4 infraction or guilty of a misdemeanor as follows and is not subject  
5 to the penalties prescribed in section 909:

6 (a) For the first violation, the minor is responsible for a  
7 state civil infraction and must be fined not more than \$100.00. A  
8 court may order a minor under this subdivision to participate in  
9 substance use disorder services as defined in section 6230 of the  
10 public health code, 1978 PA 368, MCL 333.6230, and designated by  
11 the administrator of the office of substance abuse services, and  
12 may order the minor to perform community service and to undergo  
13 substance abuse screening and assessment at his or her own expense  
14 as described in subsection (5). A minor may be found responsible or  
15 admit responsibility only once under this subdivision.

16 (b) If a violation of this subsection occurs after 1 prior  
17 judgment, the minor is guilty of a misdemeanor. A misdemeanor under  
18 this subdivision is punishable by imprisonment for not more than 30  
19 days if the court finds that the minor violated an order of  
20 probation, failed to successfully complete any treatment,  
21 screening, or community service ordered by the court, or failed to  
22 pay any fine for that conviction or juvenile adjudication, or by a  
23 fine of not more than \$200.00, or both. A court may order a minor  
24 under this subdivision to participate in substance use disorder  
25 services as defined in section 6230 of the public health code, 1978  
26 PA 368, MCL 333.6230, and designated by the administrator of the  
27 office of substance abuse services, to perform community service,  
28 and to undergo substance abuse screening and assessment at his or  
29 her own expense as described in subsection (5).



(c) If a violation of this subsection occurs after 2 or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$500.00, or both, as applicable. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).

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

(3) If an individual who pleads guilty to a misdemeanor violation of subsection (1)(b) or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of subsection (1)(b), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set





1 forth in subsection (1)(c), payment of the costs including minimum  
2 state cost as provided for in section 18m of chapter XIIIA of the  
3 probate code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of  
4 chapter IX of the code of criminal procedure, 1927 PA 175, MCL  
5 769.1j, and the costs of probation as prescribed in section 3 of  
6 chapter XI of the code of criminal procedure, 1927 PA 175, MCL  
7 771.3. If a court finds that an individual violated a term or  
8 condition of probation or that the individual is utilizing this  
9 subsection in another court, the court may enter an adjudication of  
10 guilt, or a determination in a juvenile delinquency proceeding that  
11 the individual has committed the offense, and proceed as otherwise  
12 provided by law. If an individual fulfills the terms and conditions  
13 of probation, the court shall discharge the individual and dismiss  
14 the proceedings. A discharge and dismissal under this section is  
15 without adjudication of guilt or without a determination in a  
16 juvenile delinquency proceeding that the individual has committed  
17 the offense and is not a conviction or juvenile adjudication for  
18 purposes of disqualifications or disabilities imposed by law on  
19 conviction of a crime. An individual may obtain only 1 discharge  
20 and dismissal under this subsection. The court shall maintain a  
21 nonpublic record of the matter while proceedings are deferred and  
22 the individual is on probation and if there is a discharge and  
23 dismissal under this subsection. The secretary of state shall  
24 retain a nonpublic record of a plea and of the discharge and  
25 dismissal under this subsection. These records shall be furnished  
26 to any of the following:

27 (a) To a court, prosecutor, or police agency on request for  
28 the purpose of determining if an individual has already used this  
29 subsection.



1 (b) To the department of corrections, a prosecutor, or a law  
2 enforcement agency, on the department's, a prosecutor's, or a law  
3 enforcement agency's request, subject to all of the following  
4 conditions:

5 (i) At the time of the request, the individual is an employee  
6 of the department of corrections, the prosecutor, or the law  
7 enforcement agency, or an applicant for employment with the  
8 department of corrections, the prosecutor, or the law enforcement  
9 agency.

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

14 (4) A misdemeanor violation of subsection (1) successfully  
15 deferred, discharged, and dismissed under subsection (3) is  
16 considered a prior judgment for the purposes of subsection (1)(c).

17 (5) A court may order an individual found responsible for or  
18 convicted of violating subsection (1) to undergo screening and  
19 assessment by a person or agency as designated by the department-  
20 designated community mental health entity as defined in section  
21 100a of the mental health code, 1974 PA 258, MCL 330.1100a, to  
22 determine whether the individual is likely to benefit from  
23 rehabilitative services, including alcohol or drug education and  
24 alcohol or drug treatment programs. A court may order an individual  
25 subject to a misdemeanor conviction or juvenile adjudication of, or  
26 placed on probation regarding, a violation of subsection (1) to  
27 submit to a random or regular preliminary chemical breath analysis.  
28 The parent, guardian, or custodian of a minor who is less than 18  
29 years of age and not emancipated under 1968 PA 293, MCL 722.1 to



1 722.6, may request a random or regular preliminary chemical breath  
2 analysis as part of the probation.

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

8 (6) ~~(7)~~—A peace officer who has reasonable cause to believe a  
9 minor has consumed alcoholic liquor or has any bodily alcohol  
10 content may request that individual to submit to a preliminary  
11 chemical breath analysis. If a minor does not consent to a  
12 preliminary chemical breath analysis, the analysis must not be  
13 administered without a court order, but a peace officer may seek to  
14 obtain a court order. The results of a preliminary chemical breath  
15 analysis or other acceptable blood alcohol test are admissible in a  
16 state civil infraction proceeding or criminal prosecution to  
17 determine if the minor has consumed or possessed alcoholic liquor  
18 or had any bodily alcohol content.

19 (7) ~~(8)~~—A law enforcement agency, on determining that an  
20 individual who is less than 18 years of age and not emancipated  
21 under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed,  
22 possessed, or purchased alcoholic liquor, attempted to consume,  
23 possess, or purchase alcoholic liquor, or had any bodily alcohol  
24 content in violation of subsection (1) shall notify the parent or  
25 parents, custodian, or guardian of the individual as to the nature  
26 of the violation if the name of a parent, guardian, or custodian is  
27 reasonably ascertainable by the law enforcement agency. The law  
28 enforcement agency shall notify the parent, guardian, or custodian  
29 not later than 48 hours after the law enforcement agency determines



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

10 (8) ~~(9)~~—This section does not prohibit a minor from possessing  
 11 alcoholic liquor during regular working hours and in the course of  
 12 his or her employment if employed by a person licensed by this act,  
 13 by the commission, or by an agent of the commission, if the  
 14 alcoholic liquor is not possessed for his or her personal  
 15 consumption.

16 (9) ~~(10)~~—The following individuals are not considered to be in  
 17 violation of subsection (1):

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

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

27 (i) Has consumed alcoholic liquor.

28 (ii) Voluntarily presents himself or herself to a health  
 29 facility or agency for treatment or for observation including, but



1 not limited to, medical examination and treatment for any condition  
 2 arising from a violation of sections 520b to 520g of the Michigan  
 3 penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed  
 4 against a minor.

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

8 **(10)** ~~(11)~~—If a minor who is less than 18 years of age and who  
 9 is not emancipated under 1968 PA 293, MCL 722.1 to 722.6,  
 10 voluntarily presents himself or herself to a health facility or  
 11 agency for treatment or for observation as provided under  
 12 subsection ~~(10)~~, **(9)**, the health facility or agency shall notify  
 13 the parent or parents, guardian, or custodian of the individual as  
 14 to the nature of the treatment or observation if the name of a  
 15 parent, guardian, or custodian is reasonably ascertainable by the  
 16 health facility or agency.

17 **(11)** ~~(12)~~—This section does not limit the civil or criminal  
 18 liability of a vendor or the vendor's clerk, servant, agent, or  
 19 employee for a violation of this act.

20 **(12)** ~~(13)~~—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 institution  
 23 under the supervision of a faculty member is not prohibited by this  
 24 act if the purpose of the consumption is solely educational and is  
 25 a requirement of the course.

26 **(13)** ~~(14)~~—The consumption by a minor of sacramental wine in  
 27 connection with religious services at a church, synagogue, or  
 28 temple is not prohibited by this act.

29 **(14)** ~~(15)~~—Subsection (1) does not apply to a minor who



1 participates in either or both of the following:

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

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

14 (15) ~~(16)~~—The state police, the commission, or a local police  
15 agency shall not recruit or attempt to recruit a minor for  
16 participation in an undercover operation at the scene of a  
17 violation of subsection (1), section 701(1), or section 801(1).

18 (16) ~~(17)~~—In a prosecution for the violation of subsection (1)  
19 concerning a minor having any bodily alcohol content, it is an  
20 affirmative defense that the minor consumed the alcoholic liquor in  
21 a venue or location where that consumption is legal.

22 (17) ~~(18)~~—As used in this section:

23 (a) "Any bodily alcohol content" means either of the  
24 following:

25 (i) An alcohol content of 0.02 grams or more per 100  
26 milliliters of blood, per 210 liters of breath, or per 67  
27 milliliters of urine.

28 (ii) Any presence of alcohol within a person's body resulting  
29 from the consumption of alcoholic liquor, other than consumption of



1 alcoholic liquor as a part of a generally recognized religious  
2 service or ceremony.

3 (b) "Emergency medical services personnel" means that term as  
4 defined in section 20904 of the public health code, 1978 PA 368,  
5 MCL 333.20904.

6 (c) "Health facility or agency" means that term as defined in  
7 section 20106 of the public health code, 1978 PA 368, MCL  
8 333.20106.

9 (d) "Prior judgment" means a conviction, juvenile  
10 adjudication, finding of responsibility, or admission of  
11 responsibility for any of the following, whether under a law of  
12 this state, a local ordinance substantially corresponding to a law  
13 of this state, a law of the United States **that** substantially  
14 ~~corresponding~~**corresponds** to a law of this state, or a law of  
15 another state **that** substantially ~~corresponding~~**corresponds** to a law  
16 of this state:

17 (i) This section or section 701 or 707.

18 (ii) Section 624a, 624b, or 625 of the Michigan vehicle code,  
19 1949 PA 300, MCL 257.624a, 257.624b, and 257.625.

20 (iii) Section 80176, 81134, or 82127 of the natural resources  
21 and environmental protection act, 1994 PA 451, MCL 324.80176,  
22 324.81134, and 324.82127.

23 (iv) Section 167a or 237 of the Michigan penal code, ~~1939~~**1931**  
24 PA 328, MCL 750.167a and 750.237.

25 Enacting section 1. This amendatory act takes effect October  
26 1, 2021.

27 Enacting section 2. This amendatory act does not take effect  
28 unless House Bill No. 5846 of the 100th Legislature is enacted into  
29 law.

