

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 543

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
by amending section 701 (MCL 436.1701), 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
8 shall be punished in the manner provided for licensees in section
9 909 except that if the violation is the result of an undercover



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

23 (2) ~~A person~~ **An individual** who is not a retail licensee or the
24 retail licensee's clerk, agent, or employee and who violates
25 subsection (1) is guilty of a felony, punishable by imprisonment
26 for not more than 10 years or a fine of not more than \$5,000.00, or
27 both, if the subsequent consumption of the alcoholic liquor by the
28 minor is a direct and substantial cause of the minor's death or an
29 accidental injury that causes the minor's death.



1 (3) If a violation occurs in an establishment that is licensed
 2 by the commission for consumption of alcoholic liquor on the
 3 licensed premises, a person who is a licensee or the clerk, agent,
 4 or employee of a licensee must not be charged with a violation of
 5 subsection (1) or section 801(1) unless the licensee or the clerk,
 6 agent, or employee of the licensee knew or should have reasonably
 7 known with the exercise of due diligence that a ~~person less than 21~~
 8 ~~years of age~~ **minor** possessed or consumed alcoholic liquor on the
 9 licensed premises and the licensee or clerk, agent, or employee of
 10 the licensee failed to take immediate corrective action.

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

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

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

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

25 (5) If the enforcing agency is the commission and an
 26 appearance ticket or civil infraction citation has not been issued,
 27 then the commission shall recommend to a local law enforcement
 28 agency that enforcement action be taken against a violator of this
 29 section or section 703 who is not a licensee. However, subsection



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

7 Subsection (4) (a) does not apply under either of the following
8 circumstances:

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

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

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

24 (7) If a minor participates in an undercover operation in
25 which the minor is to purchase or receive alcoholic liquor under
26 the supervision of a law enforcement agency, his or her parents or
27 legal guardian shall consent to the participation if the minor is
28 less than 18 years of age.

29 (8) In an action for the violation of this section, proof that



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

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

13 (a) Decoy operations.

14 (b) Off-premises violations.

15 (c) On-premises violations.

16 (d) Repeat offenses within the 3 years preceding the date of
 17 ~~that~~ **the** report.

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

21 **(11)** ~~(10)~~ As used in this section:

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

28 (b) "Diligent inquiry" means a diligent ~~good faith~~ **good-faith**
 29 effort to determine the age of an individual, which includes at



1 least ~~an~~ 1 of the following:

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

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

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

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

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

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

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

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

