

# SENATE BILL No. 65

February 12, 1991, Introduced by Senators GEAKE, WELBORN, EHLERS, DI NELLO, EMMONS, KELLY, CRUCE, CARL, ARTHURHULTZ and DE GROW and referred to the Committee on Judiciary.

A bill to amend sections 33a and 33b of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," section 33a as amended by Act No. 123 of the Public Acts of 1985 and section 33b as amended by Act No. 176 of the Public Acts of 1986, being sections 436.33a and 436.33b of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 33a and 33b of Act No. 8 of the Public  
2 Acts of the Extra Session of 1933, section 33a as amended by Act  
3 No. 123 of the Public Acts of 1985 and section 33b as amended by  
4 Act No. 176 of the Public Acts of 1986, being sections 436.33a  
5 and 436.33b of the Michigan Compiled Laws, are amended to read as  
6 follows:

1       Sec. 33a. (1) A person less than 21 years of age shall not  
2 knowingly transport or possess, in a motor vehicle, alcoholic  
3 liquor unless the person is employed by a licensee under this  
4 act, a common carrier designated by the commission, the liquor  
5 control commission, or an agent of the liquor control commission  
6 and is transporting or having the alcoholic liquor in a motor  
7 vehicle under the person's control during regular working hours  
8 and in the course of the person's employment. A person who vio-  
9 lates this subsection is guilty of a misdemeanor. IN ADDITION TO  
10 ANY CRIMINAL PENALTY FOR A VIOLATION OF THIS SUBSECTION, A PERSON  
11 WHO VIOLATES THIS SUBSECTION IS LIABLE FOR THE CIVIL FINES  
12 DESCRIBED IN SECTION 33B(1)(A), (B), OR (C).

13       (2) Within 30 days after the conviction of a person for the  
14 violation of subsection (1) ~~, which conviction~~ has become  
15 final, complaint may be made by the arresting officer or the  
16 officer's superior before the court from which the warrant was  
17 issued. ~~, which~~ THE complaint shall be under oath and shall  
18 contain a description of the motor vehicle in which alcoholic  
19 liquor was possessed or transported by the person less than 21  
20 years of age in committing the offense and praying that the motor  
21 vehicle be impounded as provided in this section. Upon the  
22 filing of the complaint the court shall issue an order to the  
23 owner of the motor vehicle to show cause why the motor vehicle  
24 shall not be impounded. The order to show cause shall have a  
25 date and time fixed in the order for a hearing. ~~, which~~ THE  
26 date shall not be less than 10 days after the issuance of the  
27 order. ~~and~~ THE ORDER shall be served by delivering a true copy

1 to the owner not less than 3 full days before the date of hearing  
2 or, if the owner cannot be located, by sending a true copy by  
3 certified mail to the last known address of the owner. If the  
4 owner is a nonresident of the state, service may be made upon the  
5 secretary of state as provided in section 403 of the Michigan  
6 vehicle code, Act No. 300 of the Public Acts of 1949, as amended,  
7 being section 257.403 of the Michigan Compiled Laws.

8       (3) If the court determines upon the hearing of the order to  
9 show cause, from competent and relevant evidence, that at the  
10 time of the commission of the offense the motor vehicle was being  
11 driven by the person less than 21 years of age with the express  
12 or implied consent or knowledge of the owner, and that the use of  
13 the motor vehicle is not needed by the owner in the direct pur-  
14 suit of the owner's employment or the actual operation of the  
15 owner's business, the court shall authorize the impounding of the  
16 vehicle for a period to be determined by the court, of not less  
17 than 15 days nor more than 30 days. The court's order authoriz-  
18 ing the impounding of the vehicle shall authorize a law enforce-  
19 ment officer to take possession without other process of the  
20 motor vehicle wherever THE VEHICLE IS located, and to store the  
21 vehicle in a public or private garage at the expense and risk of  
22 the owner of the vehicle. Appeal shall lie from the order to the  
23 circuit court of the county and the provisions governing the  
24 taking of appeals from judgments for damages shall be applicable  
25 to the appeal. This section ~~shall~~ DOES not prevent a bona fide  
26 lienholder from exercising rights under a lien.

1       (4) A person who knowingly transfers title to a motor  
2 vehicle for the purpose of avoiding this section is guilty of a  
3 misdemeanor.

4       (5) IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR A VIOLATION  
5 OF THIS SECTION, THE COURT SHALL ORDER THE SECRETARY OF STATE TO  
6 SUSPEND THE OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE OF A PERSON  
7 LESS THAN 18 YEARS OF AGE, OR SHALL ORDER THE SECRETARY OF STATE  
8 TO DENY ISSUANCE OF AN OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE  
9 TO THE PERSON, AS FOLLOWS:

10       (A) FOR A PERIOD OF 6 MONTHS, IF THAT PERSON HAS NOT PREVI-  
11 OUSLY BEEN CONVICTED OF, OR RECEIVED A PROBATE COURT ORDER OF  
12 DISPOSITION FOR, ANY OF THE FOLLOWING:

13       (i) A VIOLATION OF SUBSECTION (1) OR OF SECTION 33B.

14       (ii) A VIOLATION OF SECTION 625(1) OR (2) OR 625B OF THE  
15 MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949,  
16 BEING SECTIONS 257.625 AND 257.625B OF THE MICHIGAN COMPILED  
17 LAWS, OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION  
18 625(1) OR (2) OR 625B OF THE MICHIGAN VEHICLE CODE, ACT NO. 300  
19 OF THE PUBLIC ACTS OF 1949.

20       (iii) A VIOLATION OF SECTION 7401, 7402, 7403, 7404, OR 7407  
21 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF  
22 1978, BEING SECTIONS 333.7401, 333.7402, 333.7403, 333.7404, AND  
23 333.7407 OF THE MICHIGAN COMPILED LAWS.

24       (B) UNTIL THAT PERSON ATTAINS 18 YEARS OF AGE OR GRADUATES  
25 FROM HIGH SCHOOL, WHICHEVER IS LATER, BUT NOT LATER THAN THE DATE  
26 THAT THE PERSON ATTAINS 21 YEARS OF AGE WITHOUT HAVING GRADUATED  
27 FROM HIGH SCHOOL IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF,

1 OR RECEIVED A PROBATE COURT ORDER OF DISPOSITION FOR, A VIOLATION  
2 DESCRIBED IN SUBDIVISION (A).

3 (6) THE COURT MAY MODIFY OR WITHDRAW AN ORDER SUSPENDING OR  
4 DENYING THE OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE OF A PERSON  
5 14 YEARS OF AGE OR OLDER BUT LESS THAN 18 YEARS OF AGE IN THE  
6 MANNER PROVIDED BY LAW, EXCEPT AS FOLLOWS:

7 (A) THE COURT SHALL NOT MODIFY OR WITHDRAW AN ORDER ISSUED  
8 UNDER SUBSECTION (5)(A), EXCEPT IN CASE OF ERROR, UNTIL THE EXPI-  
9 RATION OF 90 DAYS AFTER THE ORDER IS ISSUED.

10 (B) THE COURT SHALL NOT MODIFY OR WITHDRAW AN ORDER ISSUED  
11 UNDER SUBSECTION (5)(B), EXCEPT IN CASE OF ERROR, UNTIL THE EXPI-  
12 RATION OF 1 YEAR AFTER THE ORDER IS ISSUED.

13 (7) THE COURT SHALL ORDER A PERSON LESS THAN 18 YEARS OF AGE  
14 WHO VIOLATES THIS SECTION TO ATTEND A SUBSTANCE ABUSE EDUCATIONAL  
15 PROGRAM SELECTED BY THE COURT.

16 Sec. 33b. (1) A person less than 21 years of age shall not  
17 purchase alcoholic liquor, consume alcoholic liquor in a licensed  
18 premises, or possess alcoholic liquor, except as provided in sec-  
19 tion 33a(1) of this act. A person less than 21 years of age who  
20 violates this subsection is liable for the following civil fines  
21 and shall not be subject to the penalties prescribed in section  
22 50:

23 (A) ~~(i)~~ For the first violation a fine of not more than  
24 \$25.00.

25 (B) ~~(ii)~~ For a second violation a fine of not more than  
26 \$50.00, or participation in substance abuse prevention services  
27 as defined in section 6107 of the public health code, Act No. 368

1 of the Public Acts of 1978, being section 333.6107 of the  
2 Michigan Compiled Laws and designated by the administrator of  
3 substance abuse services, or both.

4 (C) ~~-(iii)-~~ For a third or subsequent violation a fine of  
5 not more than \$100.00, or participation in substance abuse pre-  
6 vention services as defined in section 6107 of the public health  
7 code, Act No. 368 of the Public Acts of 1978, and designated by  
8 the administrator of substance abuse services, or both.

9 (2) Fifty percent of the fines collected under subsection  
10 (1) shall be deposited with the state treasurer for deposit in  
11 the general fund to the credit of the department of public health  
12 for substance abuse treatment and rehabilitation services.

13 (3) A person who furnishes fraudulent identification to a  
14 person less than 21 years of age, or a person less than 21 years  
15 of age who uses fraudulent identification to purchase alcoholic  
16 liquor, is guilty of a misdemeanor. The court shall order the  
17 secretary of state to suspend, for a period of 90 days, the oper-  
18 ator or chauffeur license of a person who is convicted of using  
19 fraudulent identification in violation of this subsection and the  
20 operator or chauffeur license of that person shall be surrendered  
21 to the court. The court shall immediately forward the surren-  
22 dered license and a certificate of conviction to the secretary of  
23 state. A suspension ordered under this subsection shall be in  
24 addition to any other suspension of the person's operator or  
25 chauffeur license.

26 (4) This section ~~shall~~ DOES not ~~be construed to~~ prohibit  
27 a person less than 21 years of age from possessing alcoholic

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

6 (5) This section ~~shall~~ DOES not ~~be construed to~~ limit  
7 the civil or criminal liability of the vendor or the vendor's  
8 clerk, servant, agent, or employee for a violation of this act.

9 (6) The consumption of alcoholic liquor by a person under 21  
10 years of age who is enrolled in a course offered by an accredited  
11 post secondary educational institution in an academic building of  
12 the institution under the supervision of a faculty member ~~shall~~  
13 IS not ~~be~~ prohibited by this act if the purpose is solely edu-  
14 cational and a necessary ~~ingredient~~ PART of the course.

15 (7) IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR A VIOLATION  
16 OF THIS SECTION, THE COURT SHALL ORDER THE SECRETARY OF STATE TO  
17 SUSPEND THE OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE OF A PERSON  
18 LESS THAN 18 YEARS OF AGE, OR SHALL ORDER THE SECRETARY OF STATE  
19 TO DENY ISSUANCE OF AN OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE  
20 TO THE PERSON, AS FOLLOWS:

21 (A) FOR A PERIOD OF 6 MONTHS, IF THAT PERSON HAS NOT PREVI-  
22 OUSLY BEEN CONVICTED OF, OR RECEIVED A PROBATE COURT ORDER OF  
23 DISPOSITION FOR, ANY OF THE FOLLOWING:

24 (i) A VIOLATION OF THIS SECTION OR OF SECTION 33A(1).

25 (ii) A VIOLATION OF SECTION 625(1) OR (2) OR 625B OF THE  
26 MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949,  
27 BEING SECTIONS 257.625 AND 257.625B OF THE MICHIGAN COMPILED

1 LAWS, OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION  
2 625(1) OR (2) OR 625B OF THE MICHIGAN VEHICLE CODE, ACT NO. 300  
3 OF THE PUBLIC ACTS OF 1949.

4 (iii) A VIOLATION OF SECTION 7401, 7402, 7403, 7404, OR 7407  
5 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF  
6 1978, BEING SECTIONS 333.7401, 333.7402, 333.7403, 333.7404, AND  
7 333.7407 OF THE MICHIGAN COMPILED LAWS.

8 (B) UNTIL THAT PERSON ATTAINS 18 YEARS OF AGE OR GRADUATES  
9 FROM HIGH SCHOOL, WHICHEVER IS LATER, BUT NOT LATER THAN THE DATE  
10 THAT THE PERSON ATTAINS 21 YEARS OF AGE WITHOUT HAVING GRADUATED  
11 FROM HIGH SCHOOL IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF,  
12 OR RECEIVED A PROBATE COURT ORDER OF DISPOSITION FOR, A VIOLATION  
13 DESCRIBED IN SUBDIVISION (A).

14 (8) THE COURT MAY MODIFY OR WITHDRAW AN ORDER SUSPENDING OR  
15 DENYING THE OPERATOR'S LICENSE OR CHAUFFEUR'S LICENSE OF A PERSON  
16 14 YEARS OF AGE OR OLDER BUT LESS THAN 18 YEARS OF AGE IN THE  
17 MANNER PROVIDED BY LAW, EXCEPT AS FOLLOWS:

18 (A) THE COURT SHALL NOT MODIFY OR WITHDRAW AN ORDER ISSUED  
19 UNDER SUBSECTION (7) (A), EXCEPT IN CASE OF ERROR, UNTIL THE EXPI-  
20 RATION OF 90 DAYS AFTER THE ORDER IS ISSUED.

21 (B) THE COURT SHALL NOT MODIFY OR WITHDRAW AN ORDER ISSUED  
22 UNDER SUBSECTION (7) (B), EXCEPT IN CASE OF ERROR, UNTIL THE EXPI-  
23 RATION OF 1 YEAR AFTER THE ORDER IS ISSUED.

24 (9) THE COURT SHALL ORDER A PERSON LESS THAN 18 YEARS OF AGE  
25 WHO VIOLATES THIS SECTION TO ATTEND A SUBSTANCE ABUSE EDUCATIONAL  
26 PROGRAM SELECTED BY THE COURT.



1       Section 2. This amendatory act shall not take effect unless  
2 Senate Bill No. 64.  
3       of the 86th Legislature is enacted into law.