



HOUSE BILL No. 5140

October 19, 1993, Introduced by Reps. Anthony, Pitoniak, Byrum, Wetters, Clack, Voorhees, Shugars, Wallace, Stallworth, DeMars, Parks, Gagliardi, Llewellyn, Jacobetti, Griffin and Shepich and referred to the Committee on Liquor Control.

A bill to amend sections 33b, 33c, and 50 of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," section 33b as amended by Act No. 176 of the Public Acts of 1986 and section 33c as amended by Act No. 12 of the Public Acts of 1983, being sections 436.33b, 436.33c, and 436.50 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 33b, 33c, and 50 of Act No. 8 of the
2 Public Acts of the Extra Session of 1933, section 33b as amended
3 by Act No. 176 of the Public Acts of 1986 and section 33c as
4 amended by Act No. 12 of the Public Acts of 1983, being sections
5 436.33b, 436.33c, and 436.50 of the Michigan Compiled Laws, are
6 amended to read as follows:

1 Sec. 33b. (1) A person less than 21 years of age shall not
 2 purchase alcoholic liquor, consume alcoholic liquor, ~~in a~~
 3 ~~licensed premises,~~ or possess alcoholic liquor, except as ^{pro-}
 4 vided in THIS SECTION AND section 33a(1). ~~of this act. A~~
 5 NOTWITHSTANDING SECTION 50 AND EXCEPT AS OTHERWISE PROVIDED IN
 6 THIS SECTION, A person less than 21 years of age who violate^s
 7 this subsection is liable for A CIVIL INFRACTION AS DEFINED IN
 8 SECTION 113 OF THE REVISED JUDICATURE ACT OF 1961, ACT NO. 2³⁶ OF
 9 THE PUBLIC ACTS OF 1961, BEING SECTION 600.113 OF THE MICHIGAN^{AN}
 10 COMPILED LAWS, AND SUBJECT TO the following: ~~civil fines and~~
 11 ~~shall not be subject to the penalties prescribed in section 50.~~

12 (A) ~~(1)~~ For the first violation a CIVIL fine of not more
 13 than \$25.00 OR THE COURT MAY ORDER THE PERSON TO PARTICIPATE IN
 14 COMMUNITY SERVICE. THE COURT MAY ORDER THAT THE PERSON'S PARENT,
 15 GUARDIAN, OR PERSON IN LOCO PARENTIS PAY THE FINE. IN THE CASE
 16 OF A PERSON UNDER 17 YEARS OF AGE, A LAW ENFORCEMENT OFFICER MAY,
 17 BUT IS NOT REQUIRED TO, ISSUE AN APPEARANCE TICKET OR MAY, BUT IS
 18 NOT REQUIRED TO, TRANSPORT OR ARRANGE FOR THE TRANSPORTATION OF
 19 THE PERSON TO HIS OR HER RESIDENCE EXCEPT THAT IF THE PARENTS OF
 20 THE PERSON ARE NOT PRESENT OR AVAILABLE TO RECEIVE THE PERSON
 21 BEING TRANSPORTED TO HIS OR HER PLACE OF RESIDENCE, THE LAW
 22 ENFORCEMENT OFFICER MAY PLACE THE PERSON IN A FOSTER HOME OR
 23 YOUTH DETENTION CENTER, WHICH PLACEMENT SHALL BE PAID BY THE
 24 PERSON'S, PARENT, GUARDIAN, OR PERSON IN LOCO PARENTIS. THE LAW
 25 ENFORCEMENT OFFICER SHALL ADVISE THE INDIVIDUAL OF THE POSSIBLE
 26 SANCTIONS IMPOSED UNDER THIS ACT FOR THE VIOLATION OF THIS
 27 SECTION.

1 (B) ~~(iii)~~ For a second violation a CIVIL fine of not more
2 than ~~\$50.00, or~~ \$150.00 AND participation in substance abuse
3 prevention services OR SUBSTANCE ABUSE TREATMENT AND REHABILITA-
4 TION SERVICES as defined in section 6107 of the public health
5 code, Act No. 368 of the Public Acts of 1978, being section
6 333.6107 of the Michigan Compiled Laws, and ~~designated~~ LICENSED
7 by the ~~administrator~~ OFFICE of substance abuse services. ~~, or~~
8 ~~both.~~ A COURT HEARING A MATTER INVOLVING A SECOND VIOLATION OF
9 THIS SECTION MAY ORDER A PARENT, GUARDIAN, OR PERSON IN LOCO PAR-
10 ENTIS TO PARTICIPATE IN ANY SUBSTANCE ABUSE SERVICES ORDERED.
11 THE COURT SHALL ADVISE THE INDIVIDUAL OF THE POSSIBLE SANCTIONS
12 IMPOSED UNDER THIS ACT FOR THE VIOLATION OF THIS SECTION.

13 (2) ~~(iii) For a~~ A third or subsequent violation ~~a fine of~~
14 ~~not more than \$100.00, or participation in substance abuse pre-~~
15 ~~vention services as defined in section 6107 of the public health~~
16 ~~code, Act No. 368 of the Public Acts of 1978, and designated by~~
17 ~~the administrator of substance abuse services, or both~~ OF SUB-
18 SECTION (1) IS A MISDEMEANOR PUNISHABLE IN THE MANNER PROVIDED
19 FOR IN SECTION 50 SUBJECT TO SANCTIONS AGAINST THE VIOLATOR'S
20 OPERATOR'S LICENSE IN THE MANNER PROVIDED FOR IN SUBSECTION (3).

21 (3) A LAW ENFORCEMENT AGENCY, UPON DETERMINING THAT A PERSON
22 LESS THAN 18 YEARS OF AGE ALLEGEDLY CONSUMED, POSSESSED, PUR-
23 CHASED, OR ATTEMPTED TO CONSUME, POSSESS, OR PURCHASE ALCOHOLIC
24 LIQUOR IN VIOLATION OF SUBSECTION (1) MAY NOTIFY THE PARENT OR
25 PARENTS, CUSTODIAN, OR GUARDIAN OF THE PERSON AS TO THE NATURE OF
26 THE VIOLATION IF THE NAME OF A PARENT, GUARDIAN, OR CUSTODIAN IS
27 REASONABLY ASCERTAINABLE BY THE LAW ENFORCEMENT AGENCY. THE

1 NOTICE REQUIRED BY THIS SUBSECTION SHALL BE MADE NOT LATER THAN
 2 96 HOURS AFTER THE LAW ENFORCEMENT AGENCY DETERMINES THAT THE
 3 PERSON WHO ALLEGEDLY VIOLATED SUBSECTION (1) IS LESS THAN 18
 4 YEARS OF AGE AND MAY BE MADE IN PERSON, BY TELEPHONE, OR BY
 5 FIRST-CLASS MAIL.

6 (4) FOR PURPOSES OF ADJUDICATING VIOLATIONS OF THIS SECTION,
 7 THE DISTRICT COURT SHALL HAVE JURISDICTION OVER MINORS BETWEEN 17
 8 AND 21 YEARS OF AGE. THE JUVENILE DIVISION OF THE PROBATE COURT
 9 SHALL HAVE JURISDICTION OVER MINORS UNDER 17 YEARS OF AGE.

10 (5) UPON THE ENTRY OF A DEFAULT JUDGMENT, THE COURT SHALL
 11 PROCEED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN
 12 SECTION 321A OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
 13 SECTION 257.321A OF THE MICHIGAN COMPILED LAWS.

14 (6) ~~(2)~~ Fifty percent of the fines collected under subsection
 15 tion (1) shall be deposited with the state treasurer for deposit
 16 in the general fund to the credit of the department of public
 17 health for substance abuse treatment and rehabilitation
 18 services.

19 (7) ~~(3)~~ A person who furnishes fraudulent identification
 20 to a person less than 21 years of age, or a person less than 21
 21 years of age who uses fraudulent identification to purchase alco-
 22 holic liquor, is guilty of a misdemeanor. The court shall order
 23 the secretary of state to suspend, PURSUANT TO SECTION 319(5) OF
 24 ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.319 OF
 25 THE MICHIGAN COMPILED LAWS, for a period of 90 days, the operator
 26 or chauffeur license of a person who is convicted of using
 27 fraudulent identification in violation of this subsection and the

1 operator or chauffeur license of that person shall be surrendered
2 to the court. The court shall immediately forward the surren-
3 dered license and a certificate of conviction to the secretary of
4 state. A suspension ordered under this subsection shall be in
5 addition to any other suspension of the person's operator or
6 chauffeur license.

7 (8) ~~-(4)-~~ This section shall not be construed to prohibit a
8 person less than 21 years of age from possessing alcoholic liquor
9 during regular working hours and in the course of his or her
10 employment if employed by a person licensed by this act, by the
11 ~~liquor control~~ commission, or by an agent of the ~~liquor~~
12 ~~control~~ commission, if the alcoholic liquor is not possessed for
13 his or her personal consumption.

14 (9) ~~-(5)-~~ This section shall not be construed to limit the
15 civil or criminal liability of the vendor or the vendor's clerk,
16 servant, agent, or employee for a violation of this act.

17 (10) ~~-(6)-~~ The consumption of alcoholic liquor by a person
18 ~~under~~ LESS THAN 21 years of age who is enrolled in a course
19 offered by an accredited post secondary educational institution
20 in an academic building of the institution under the supervision
21 of a faculty member shall not be prohibited by this act if the
22 purpose OF THE CONSUMPTION is solely educational and IS a neces-
23 sary ingredient of the course.

24 Sec. 33c. (1) A sheriff or deputy sheriff; village or town-
25 ship marshal; an officer or member of a village, township, or
26 city police department; an officer of the department of state
27 police; or an inspector of the commission who witnesses a

1 violation of section 33b or a local ordinance corresponding to
 2 that section, for which violation a ~~civil~~ fine OR OTHER
 3 SANCTION is prescribed, may stop and detain the person for pur-
 4 poses of obtaining satisfactory identification, seizing illegally
 5 possessed alcoholic ~~beverages~~ LIQUOR, and issuing an appearance
 6 ticket.

7 (2) As used in this section, "appearance ticket" means a
 8 complaint or written notice, issued and subscribed by a law
 9 enforcement officer OF THE TYPE DESCRIBED IN SUBSECTION (1) or
 10 inspector of the commission, directing a designated person to
 11 appear in a ~~designated district or municipal~~ DESIGNATED court at
 12 a designated time in connection with the alleged violation for
 13 which a ~~civil~~ fine OR OTHER SANCTION is prescribed. The
 14 appearance ticket shall consist of the following parts:

15 (a) The original which shall be a complaint or notice to
 16 appear by the officer and filed with the court.

17 (b) The first copy which shall be the abstract of court
 18 record.

19 (c) The second copy which shall be delivered to the alleged
 20 violator.

21 (d) The third copy which shall be retained by the law
 22 enforcement agency.

23 (3) A judge may accept an admission by the defendant of the
 24 allegations of an appearance ticket and the judge shall then
 25 ~~direct the civil fines~~ IMPOSE A FINE OR OTHER SANCTION as
 26 ~~prescribed~~ FURTHER AUTHORIZED by section 33b. If the defendant
 27 denies the allegations of the appearance ticket, the judge shall

1 then set a date for trial OR HEARING. If the defendant fails to
 2 appear on the date specified on the appearance ticket, the judge
 3 shall enter a default judgment against that defendant AND IMPOSE
 4 A FINE OR OTHER SANCTION AUTHORIZED BY SECTION 33B.

5 Sec. 50. (1) ~~Penalties. Any~~ EXCEPT AS OTHERWISE PRO-
 6 VIDED IN THIS ACT, A person, other than ~~persons~~ A PERSON
 7 required to be licensed under this act, ~~who shall violate~~ FOUND
 8 GUILTY VIOLATING any of the provisions of this ~~act shall be~~ IS
 9 guilty of a misdemeanor.

10 (2) ~~Any~~ A licensee ~~who shall violate~~ FOUND GUILTY
 11 VIOLATING any of the provisions of this act, or any rule or regu-
 12 lation of the commission promulgated ~~hereunder~~ UNDER THIS ACT,
 13 ~~shall be~~ IS guilty of a misdemeanor, punishable by imprisonment
 14 ~~in the county jail~~ FOR not more than 6 months or by a fine of
 15 not more than \$500.00, ~~dollars,~~ or both. ~~, in the discretion~~
 16 ~~of the court.~~

17 (3) ~~Any~~ A person ~~, who shall do~~ PERFORMING any act OR
 18 ENGAGED IN ANY ACTIVITY for which a license is required under
 19 this act ~~, without first obtaining said~~ WHO DOES NOT FIRST
 20 OBTAIN A license or any person ~~who shall sell~~ SELLING any alco-
 21 holic liquor in any county which ~~shall have~~ HAS prohibited the
 22 sale of alcoholic liquor under the provisions of section 57
 23 ~~hereof, shall be~~ IS guilty of a felony, punishable by imprison-
 24 ment ~~in the state prison~~ FOR not more than 1 year or by a fine
 25 of not more than \$1,000.00, ~~dollars,~~ or both. ~~, in the discre-~~
 26 ~~tion of the court.~~

1 (4) It is the intent of the legislature that the court, ⁱⁿ
2 imposing punishment under the provisions of this section, should
3 discriminate between casual or slight violations and habitual
4 sales of alcoholic liquor or attempts to commercialize violations
5 of this act or any of the rules or regulations of the commission
6 promulgated ~~hereunder~~ UNDER THIS ACT.