

# HOUSE BILL No. 5033

August 13, 2003, Introduced by Rep. Stakoe and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 703 (MCL 436.1703), as amended by 1999 PA 53.

**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  
3 alcoholic liquor, or possess or attempt to possess alcoholic  
4 liquor, except as provided in this section. ~~Notwithstanding~~  
5 ~~section 909, a~~ A minor who violates this subsection is guilty of  
6 a misdemeanor punishable by the following fines and sanctions —,  
7 and is not subject to the penalties prescribed in section 909:

8       (a) For the first violation, a fine of not more than \$100.00,  
9 and **the minor** may be ordered to participate in substance abuse  
10 prevention or substance abuse treatment and rehabilitation

1 services as defined in section 6107 of the public health code,  
2 1978 PA 368, MCL 333.6107, and designated by the administrator of  
3 substance abuse services, ~~and may be ordered~~ to perform  
4 community service, and to undergo substance abuse screening and  
5 assessment at his or her own expense as described in  
6 subsection (3). **The minor is also subject to imprisonment for**  
7 **not more than 90 days.**

8 (b) For a violation of this subsection following a prior  
9 conviction or juvenile adjudication for a violation of this  
10 subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, a  
11 fine of not more than \$200.00, and **the minor** may be ordered to  
12 participate in substance abuse prevention or substance abuse  
13 treatment and rehabilitation services as defined in section 6107  
14 of the public health code, 1978 PA 368, MCL 333.6107, and  
15 designated by the administrator of substance abuse services, to  
16 perform community service, and to undergo substance abuse  
17 screening and assessment at his or her own expense as described  
18 in subsection (3). **The minor is also subject to imprisonment for**  
19 **not more than 90 days.**

20 (c) For a violation of this subsection following 2 or more  
21 prior convictions or juvenile adjudications for a violation of  
22 this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8,  
23 a fine of not more than \$500.00, and **the minor** may be ordered to  
24 participate in substance abuse prevention or substance abuse  
25 treatment and rehabilitation services as defined in section 6107  
26 of the public health code, 1978 PA 368, MCL 333.6107, and  
27 designated by the administrator of substance abuse services, to

1 perform community service, and to undergo substance abuse  
2 screening and assessment at his or her own expense as described  
3 in subsection (3). **The minor is also subject to imprisonment for**  
4 **not more than 90 days.**

5 (2) A person who furnishes fraudulent identification to a  
6 minor ~~—~~ or, notwithstanding subsection (1), a minor who uses  
7 fraudulent identification to purchase alcoholic liquor ~~—~~ is  
8 guilty of a misdemeanor punishable by imprisonment for not more  
9 than 93 days or a fine of not more than \$100.00, or both.

10 (3) The court may order the person convicted of violating  
11 subsection (1) to undergo screening and assessment by a person or  
12 agency as designated by the substance abuse coordinating agency  
13 as defined in section 6103 of the public health code, 1978  
14 PA 368, MCL 333.6103, in order to determine whether the person is  
15 likely to benefit from rehabilitative services, including alcohol  
16 or drug education and alcohol or drug treatment programs.

17 (4) **The court shall not impose a term of imprisonment under**  
18 **subsection (1) for a first offense unless it determines on the**  
19 **record that the defendant has failed to successfully complete any**  
20 **treatment, screening, or community service ordered by the court**  
21 **or has failed to pay any fine.**

22 (5) ~~—(4)—~~ The secretary of state shall suspend the operator's  
23 or chauffeur's license of an individual convicted of violating  
24 subsection (1) or (2) as provided in section 319 of the Michigan  
25 vehicle code, 1949 PA 300, MCL 257.319.

26 (6) ~~—(5)—~~ A peace officer who has reasonable cause to believe  
27 a minor has consumed alcoholic liquor may require the person to

1 submit to a preliminary chemical breath analysis. A peace  
2 officer may arrest a person based in whole or in part upon the  
3 results of a preliminary chemical breath analysis. The results  
4 of a preliminary chemical breath analysis or other acceptable  
5 blood alcohol test are admissible in a criminal prosecution to  
6 determine whether the minor has consumed or possessed alcoholic  
7 liquor. A minor who refuses to submit to a preliminary chemical  
8 breath test analysis as required in this subsection is  
9 responsible for a state civil infraction and may be ordered to  
10 pay a civil fine of not more than \$100.00.

11 (7) ~~(6)~~ A law enforcement agency ~~— upon determining that~~  
12 **determines** that a person less than 18 years of age who is not  
13 emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly  
14 consumed, possessed, purchased, or attempted to consume, possess,  
15 or purchase alcoholic liquor in violation of subsection (1) shall  
16 notify the parent or parents, custodian, or guardian of the  
17 person as to the nature of the violation if the name of a parent,  
18 guardian, or custodian is reasonably ascertainable by the law  
19 enforcement agency. The notice required by this subsection shall  
20 be made not later than 48 hours after the law enforcement agency  
21 determines that the person who allegedly violated subsection (1)  
22 is less than 18 years of age and not emancipated under 1968  
23 PA 293, MCL 722.1 to 722.6. The notice may be made by any means  
24 reasonably calculated to give prompt actual notice, including,  
25 but not limited to, notice in person, by telephone, or by  
26 first-class mail. If an individual less than 17 years of age is  
27 incarcerated for violating subsection (1), his or her parents or

1 legal guardian shall be notified immediately as provided in this  
2 subsection.

3       (8) ~~-(7)-~~ This section does not prohibit a minor from  
4 possessing alcoholic liquor during regular working hours and in  
5 the course of his or her employment if employed by a person  
6 licensed by this act, by the commission, or by an agent of the  
7 commission, if the alcoholic liquor is not possessed for his or  
8 her personal consumption.

9       (9) ~~-(8)-~~ This section does not limit the civil or criminal  
10 liability of the vendor or the vendor's clerk, servant, agent, or  
11 employee for a violation of this act.

12       (10) ~~-(9)-~~ The consumption of alcoholic liquor by a minor who  
13 is enrolled in a course offered by an accredited postsecondary  
14 educational institution in an academic building of the  
15 institution under the supervision of a faculty member is not  
16 prohibited by this act if the purpose of the consumption is  
17 solely educational and is a requirement of the course.

18       (11) ~~-(10)-~~ 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       (12) ~~-(11)-~~ Subsection (1) does not apply to a minor who  
22 participates 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  
3 police, the commission, or a local police agency as part of an  
4 enforcement action unless the initial or contemporaneous purchase  
5 or receipt of alcoholic liquor by the minor was not under the  
6 direction of the state police, the commission, or the local  
7 police agency and was not part of the undercover operation.

8           **(13)** ~~—(12)—~~ The state police, the commission, or a local  
9 police 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 801(2), or section 701(1).

12           Enacting section 1. This amendatory act takes effect  
13 January 1, 2004.