

SENATE BILL No. 376

April 3, 2003, Introduced by Senators BASHAM and CHERRY and referred to the Committee on Judiciary.

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,~~ **Except as otherwise provided in subdivision (c),** a
6 minor who violates this subsection is guilty of a misdemeanor
7 punishable by the following fines and sanctions ~~—~~ and is not
8 subject to the penalties prescribed in section 909:

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

1 or substance abuse treatment and rehabilitation services as
2 defined in section 6107 of the public health code, 1978 PA 368,
3 MCL 333.6107, and designated by the administrator of substance
4 abuse services, and may be ordered to perform community service
5 and to undergo substance abuse screening and assessment at his or
6 her own expense as described in subsection (3).

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

17 (c) For a violation of this subsection following 2 or more
18 prior convictions or juvenile adjudications for a violation of
19 this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8,
20 a fine of not more than \$500.00, **imprisonment for not more than**
21 **90 days**, and may be ordered to participate in substance abuse
22 prevention or substance abuse treatment and rehabilitation
23 services as defined in section 6107 of the public health code,
24 1978 PA 368, MCL 333.6107, and designated by the administrator of
25 substance abuse services, to perform community service, and to
26 undergo substance abuse screening and assessment at his or her
27 own expense as described in subsection (3).

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

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

13 (4) The secretary of state shall suspend the operator's or
14 chauffeur's license of an individual convicted of violating
15 subsection (1) or (2) as provided in section 319 of the Michigan
16 vehicle code, 1949 PA 300, MCL 257.319.

17 (5) A peace officer who has reasonable cause to believe a
18 minor has consumed alcoholic liquor may require the person to
19 submit to a preliminary chemical breath analysis. A peace
20 officer may arrest a person based in whole or in part upon the
21 results of a preliminary chemical breath analysis. The results
22 of a preliminary chemical breath analysis or other acceptable
23 blood alcohol test are admissible in a criminal prosecution to
24 determine whether the minor has consumed or possessed alcoholic
25 liquor. A minor who refuses to submit to a preliminary chemical
26 breath test analysis as required in this subsection is
27 responsible for a state civil infraction and may be ordered to

1 pay a civil fine of not more than \$100.00.

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

21 (7) This section does not prohibit a minor from possessing
22 alcoholic liquor during regular working hours and in the course
23 of his or her employment if employed by a person licensed by this
24 act, by the commission, or by an agent of the commission, if the
25 alcoholic liquor is not possessed for his or her personal
26 consumption.

27 (8) This section does not limit the civil or criminal

1 liability of the vendor or the vendor's clerk, servant, agent, or
2 employee for a violation of this act.

3 (9) The consumption of alcoholic liquor by a minor who is
4 enrolled in a course offered by an accredited postsecondary
5 educational institution in an academic building of the
6 institution under the supervision of a faculty member is not
7 prohibited by this act if the purpose of the consumption is
8 solely educational and is a requirement of the course.

9 (10) The consumption by a minor of sacramental wine in
10 connection with religious services at a church, synagogue, or
11 temple is not prohibited by this act.

12 (11) Subsection (1) does not apply to a minor who
13 participates in either or both of the following:

14 (a) An undercover operation in which the minor purchases or
15 receives alcoholic liquor under the direction of the person's
16 employer and with the prior approval of the local prosecutor's
17 office as part of an employer-sponsored internal enforcement
18 action.

19 (b) An undercover operation in which the minor purchases or
20 receives alcoholic liquor under the direction of the state
21 police, the commission, or a local police agency as part of an
22 enforcement action unless the initial or contemporaneous purchase
23 or receipt of alcoholic liquor by the minor was not under the
24 direction of the state police, the commission, or the local
25 police agency and was not part of the undercover operation.

26 (12) The state police, the commission, or a local police
27 agency shall not recruit or attempt to recruit a minor for

1 participation in an undercover operation at the scene of a
2 violation of subsection (1), section 801(2), or section 701(1).