

# SENATE BILL No. 1140

April 1, 2004, Introduced by Senators SWITALSKI, LELAND and JACOBS 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, a~~ **The mere presence of alcohol within a minor's**  
6 **body does not constitute the possession or consumption of**  
7 **alcoholic liquor in violation of this section. A minor who**  
8 violates this subsection is guilty of a misdemeanor punishable by  
9 the following fines and sanctions, and is not subject to the  
10 penalties prescribed in section 909:

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1 (a) For the first violation a fine of not more than \$100.00,  
2 and may be ordered to participate in substance abuse prevention  
3 or substance abuse treatment and rehabilitation services as  
4 defined in section 6107 of the public health code, 1978 PA 368,  
5 MCL 333.6107, and designated by the administrator of substance  
6 abuse services, and may be ordered to perform community service  
7 and to undergo substance abuse screening and assessment at his or  
8 her own expense as described in subsection (3).

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

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

1 screening and assessment at his or her own expense as described  
2 in subsection (3).

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

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

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

19 (5) A peace officer who has reasonable cause to believe a  
20 minor has consumed alcoholic liquor may require the person to  
21 submit to a preliminary chemical breath analysis. A peace  
22 officer may arrest a person based in whole or in part upon the  
23 results of a preliminary chemical breath analysis. The results  
24 of a preliminary chemical breath analysis or other acceptable  
25 blood alcohol test are admissible in a criminal prosecution to  
26 determine whether the minor has consumed or possessed alcoholic  
27 liquor. A minor who refuses to submit to a preliminary chemical

1 breath test analysis as required in this subsection is  
2 responsible for a state civil infraction and may be ordered to  
3 pay a civil fine of not more than \$100.00.

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

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

1 consumption.

2 (8) This section does not limit the civil or criminal  
3 liability of the vendor or the vendor's clerk, servant, agent, or  
4 employee for a violation of this act.

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

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

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

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

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

1           (12) The state police, the commission, or a local police  
2 agency shall not recruit or attempt to recruit a minor for  
3 participation in an undercover operation at the scene of a  
4 violation of subsection (1), section 801(2), or section 701(1).