

# HOUSE BILL NO. 4928

May 26, 2021, Introduced by Reps. Allor, Whiteford, Hammoud, Thanedar, Green, O'Malley, LaFave, Marino, Markkanen, Griffin, Meerman, Wozniak, Bezotte, Bellino, Howell, Aiyash, Camilleri and Puri and referred to the Committee on Health Policy.

A bill to amend 1998 PA 58, entitled  
"Michigan liquor control code of 1998,"  
by amending section 703 (MCL 436.1703), as amended by 2020 PA 377.

**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 alcoholic  
3 liquor, possess or attempt to possess alcoholic liquor, or have any  
4 bodily alcohol content, except as provided in this section. A minor  
5 who violates this subsection is responsible for a state civil

1    infraction or guilty of a misdemeanor as follows and is not subject  
2    to the penalties prescribed in section 909:

3           (a) For the first violation, the minor is responsible for a  
4    state civil infraction and must be fined not more than \$100.00. A  
5    court may order a minor under this subdivision to participate in  
6    substance use disorder services as defined in section 6230 of the  
7    public health code, 1978 PA 368, MCL 333.6230, and designated by  
8    the administrator of the office of substance abuse services, and  
9    may order the minor to perform community service and to undergo  
10   substance abuse screening and assessment at his or her own expense  
11   as described in subsection (5). A minor may be found responsible or  
12   admit responsibility only once under this subdivision.

13           (b) If a violation of this subsection occurs after 1 prior  
14   judgment, the minor is guilty of a misdemeanor. A misdemeanor under  
15   this subdivision is punishable by imprisonment for not more than 30  
16   days if the court finds that the minor violated an order of  
17   probation, failed to successfully complete any treatment,  
18   screening, or community service ordered by the court, or failed to  
19   pay any fine for that conviction or juvenile adjudication, or by a  
20   fine of not more than \$200.00, or both. A court may order a minor  
21   under this subdivision to participate in substance use disorder  
22   services as defined in section 6230 of the public health code, 1978  
23   PA 368, MCL 333.6230, and designated by the administrator of the  
24   office of substance abuse services, to perform community service,  
25   and to undergo substance abuse screening and assessment at his or  
26   her own expense as described in subsection (5).

27           (c) If a violation of this subsection occurs after 2 or more  
28   prior judgments, the minor is guilty of a misdemeanor. A  
29   misdemeanor under this subdivision is punishable by imprisonment

1 for not more than 60 days, if the court finds that the minor  
2 violated an order of probation, failed to successfully complete any  
3 treatment, screening, or community service ordered by the court, or  
4 failed to pay any fine for that conviction or juvenile  
5 adjudication, or by a fine of not more than \$500.00, or both, as  
6 applicable. A court may order a minor under this subdivision to  
7 participate in substance use disorder services as defined in  
8 section 6230 of the public health code, 1978 PA 368, MCL 333.6230,  
9 and designated by the administrator of the office of substance  
10 abuse services, to perform community service, and to undergo  
11 substance abuse screening and assessment at his or her own expense  
12 as described in subsection (5).

13 (2) An individual who furnishes fraudulent identification to a  
14 minor or, notwithstanding subsection (1), a minor who uses  
15 fraudulent identification to purchase alcoholic liquor, is guilty  
16 of a misdemeanor punishable by imprisonment for not more than 93  
17 days or a fine of not more than \$100.00, or both.

18 (3) If an individual who pleads guilty to a misdemeanor  
19 violation of subsection (1)(b) or offers a plea of admission in a  
20 juvenile delinquency proceeding for a misdemeanor violation of  
21 subsection (1)(b), the court, without entering a judgment of guilt  
22 in a criminal proceeding or a determination in a juvenile  
23 delinquency proceeding that the juvenile has committed the offense  
24 and with the consent of the accused, may defer further proceedings  
25 and place the individual on probation. The terms and conditions of  
26 that probation include, but are not limited to, the sanctions set  
27 forth in subsection (1)(c), payment of the costs including minimum  
28 state cost as provided for in section 18m of chapter XIIA of the  
29 probate code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of

1 chapter IX of the code of criminal procedure, 1927 PA 175, MCL  
2 769.1j, and the costs of probation as prescribed in section 3 of  
3 chapter XI of the code of criminal procedure, 1927 PA 175, MCL  
4 771.3. If a court finds that an individual violated a term or  
5 condition of probation or that the individual is utilizing this  
6 subsection in another court, the court may enter an adjudication of  
7 guilt, or a determination in a juvenile delinquency proceeding that  
8 the individual has committed the offense, and proceed as otherwise  
9 provided by law. If an individual fulfills the terms and conditions  
10 of probation, the court shall discharge the individual and dismiss  
11 the proceedings. A discharge and dismissal under this section is  
12 without adjudication of guilt or without a determination in a  
13 juvenile delinquency proceeding that the individual has committed  
14 the offense and is not a conviction or juvenile adjudication for  
15 purposes of disqualifications or disabilities imposed by law on  
16 conviction of a crime. An individual may obtain only 1 discharge  
17 and dismissal under this subsection. The court shall maintain a  
18 nonpublic record of the matter while proceedings are deferred and  
19 the individual is on probation and if there is a discharge and  
20 dismissal under this subsection. The secretary of state shall  
21 retain a nonpublic record of a plea and of the discharge and  
22 dismissal under this subsection. These records shall be furnished  
23 to any of the following:

24 (a) To a court, prosecutor, or police agency on request for  
25 the purpose of determining if an individual has already used this  
26 subsection.

27 (b) To the department of corrections, a prosecutor, or a law  
28 enforcement agency, on the department's, a prosecutor's, or a law  
29 enforcement agency's request, subject to all of the following

1 conditions:

2 (i) At the time of the request, the individual is an employee  
3 of the department of corrections, the prosecutor, or the law  
4 enforcement agency, or an applicant for employment with the  
5 department of corrections, the prosecutor, or the law enforcement  
6 agency.

7 (ii) The record is used by the department of corrections, the  
8 prosecutor, or the law enforcement agency only to determine whether  
9 an employee has violated his or her conditions of employment or  
10 whether an applicant meets criteria for employment.

11 (4) A misdemeanor violation of subsection (1) successfully  
12 deferred, discharged, and dismissed under subsection (3) is  
13 considered a prior judgment for the purposes of subsection (1)(c).

14 (5) A court may order an individual found responsible for or  
15 convicted of violating subsection (1) to undergo screening and  
16 assessment by a person or agency as designated by the ~~department-~~  
17 ~~designated community mental health entity~~ **administrative services**  
18 **organization** as defined in section 100a of the mental health code,  
19 1974 PA 258, MCL 330.1100a, to determine whether the individual is  
20 likely to benefit from rehabilitative services, including alcohol  
21 or drug education and alcohol or drug treatment programs. A court  
22 may order an individual subject to a misdemeanor conviction or  
23 juvenile adjudication of, or placed on probation regarding, a  
24 violation of subsection (1) to submit to a random or regular  
25 preliminary chemical breath analysis. The parent, guardian, or  
26 custodian of a minor who is less than 18 years of age and not  
27 emancipated under 1968 PA 293, MCL 722.1 to 722.6, may request a  
28 random or regular preliminary chemical breath analysis as part of  
29 the probation.

1           (6) A peace officer who has reasonable cause to believe a  
2 minor has consumed alcoholic liquor or has any bodily alcohol  
3 content may request that individual to submit to a preliminary  
4 chemical breath analysis. If a minor does not consent to a  
5 preliminary chemical breath analysis, the analysis must not be  
6 administered without a court order, but a peace officer may seek to  
7 obtain a court order. The results of a preliminary chemical breath  
8 analysis or other acceptable blood alcohol test are admissible in a  
9 state civil infraction proceeding or criminal prosecution to  
10 determine if the minor has consumed or possessed alcoholic liquor  
11 or had any bodily alcohol content.

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

1 his or her parents or legal guardian must be notified immediately  
2 as provided in this subsection.

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

9 (9) The following individuals are not considered to be in  
10 violation of subsection (1):

11 (a) A minor who has consumed alcoholic liquor and who  
12 voluntarily presents himself or herself to a health facility or  
13 agency for treatment or for observation including, but not limited  
14 to, medical examination and treatment for any condition arising  
15 from a violation of sections 520b to 520g of the Michigan penal  
16 code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a  
17 minor.

18 (b) A minor who accompanies an individual who meets both of  
19 the following criteria:

20 (i) Has consumed alcoholic liquor.

21 (ii) Voluntarily presents himself or herself to a health  
22 facility or agency for treatment or for observation including, but  
23 not limited to, medical examination and treatment for any condition  
24 arising from a violation of sections 520b to 520g of the Michigan  
25 penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed  
26 against a minor.

27 (c) A minor who initiates contact with a peace officer or  
28 emergency medical services personnel for the purpose of obtaining  
29 medical assistance for a legitimate health care concern.

1           (10) If a minor who is less than 18 years of age and who is  
2 not emancipated under 1968 PA 293, MCL 722.1 to 722.6, voluntarily  
3 presents himself or herself to a health facility or agency for  
4 treatment or for observation as provided under subsection (9), the  
5 health facility or agency shall notify the parent or parents,  
6 guardian, or custodian of the individual as to the nature of the  
7 treatment or observation if the name of a parent, guardian, or  
8 custodian is reasonably ascertainable by the health facility or  
9 agency.

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

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

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

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

24           (a) An undercover operation in which the minor purchases or  
25 receives alcoholic liquor under the direction of the person's  
26 employer and with the prior approval of the local prosecutor's  
27 office as part of an employer-sponsored internal enforcement  
28 action.

29           (b) An undercover operation in which the minor purchases or



1 receives alcoholic liquor under the direction of the state police,  
2 the commission, or a local police agency as part of an enforcement  
3 action unless the initial or contemporaneous purchase or receipt of  
4 alcoholic liquor by the minor was not under the direction of the  
5 state police, the commission, or the local police agency and was  
6 not part of the undercover operation.

7 (15) The state police, the commission, or a local police  
8 agency shall not recruit or attempt to recruit a minor for  
9 participation in an undercover operation at the scene of a  
10 violation of subsection (1), section 701(1), or section 801(1).

11 (16) In a prosecution for the violation of subsection (1)  
12 concerning a minor having any bodily alcohol content, it is an  
13 affirmative defense that the minor consumed the alcoholic liquor in  
14 a venue or location where that consumption is legal.

15 (17) As used in this section:

16 (a) "Any bodily alcohol content" means either of the  
17 following:

18 (i) An alcohol content of 0.02 grams or more per 100  
19 milliliters of blood, per 210 liters of breath, or per 67  
20 milliliters of urine.

21 (ii) Any presence of alcohol within a person's body resulting  
22 from the consumption of alcoholic liquor, other than consumption of  
23 alcoholic liquor as a part of a generally recognized religious  
24 service or ceremony.

25 (b) "Emergency medical services personnel" means that term as  
26 defined in section 20904 of the public health code, 1978 PA 368,  
27 MCL 333.20904.

28 (c) "Health facility or agency" means that term as defined in  
29 section 20106 of the public health code, 1978 PA 368, MCL

1 333.20106.

2 (d) "Prior judgment" means a conviction, juvenile  
3 adjudication, finding of responsibility, or admission of  
4 responsibility for any of the following, whether under a law of  
5 this state, a local ordinance substantially corresponding to a law  
6 of this state, a law of the United States that substantially  
7 corresponds to a law of this state, or a law of another state that  
8 substantially corresponds to a law of this state:

9 (i) This section or section 701 or 707.

10 (ii) Section 624a, 624b, or 625 of the Michigan vehicle code,  
11 1949 PA 300, MCL 257.624a, 257.624b, and 257.625.

12 (iii) Section 80176, 81134, or 82127 of the natural resources  
13 and environmental protection act, 1994 PA 451, MCL 324.80176,  
14 324.81134, and 324.82127.

15 (iv) Section 167a or 237 of the Michigan penal code, 1931 PA  
16 328, MCL 750.167a and 750.237.