



# HOUSE BILL No. 5501

January 11, 1996, Introduced by Reps. Crissman, Middleton, Law, Voorhees, Hill, Rhead, Kukuk, Kaza, Hammerstrom, Bryant, Bodem, London, Horton, Green, Dalman, Bullard, Dolan, Rocca, Goschka, Willard, Brewer, Kilpatrick, Munsell, Galloway, Gnodtke, Randall and Llewellyn and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 33b of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," as amended by Act No. 122 of the Public Acts of 1995, being section 436.33b of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 33b of Act No. 8 of the Public Acts of  
2 the Extra Session of 1933, as amended by Act No. 122 of the  
3 Public Acts of 1995, being section 436.33b of the Michigan  
4 Compiled Laws, is amended to read as follows:

5 Sec. 33b. (1) A person less than 21 years of age shall not  
6 purchase or attempt to purchase alcoholic liquor, consume or  
7 attempt to consume alcoholic liquor, or possess or attempt to  
8 possess alcoholic liquor, except as provided in this section and  
9 section 33a(1). Notwithstanding section 50, a person less than

1 21 years of age who violates this subsection is guilty of a  
2 misdemeanor punishable by the following fines and sanctions, and  
3 is not subject to the penalties prescribed in section 50:

4 (a) For the first violation a fine of not more than \$100.00,  
5 AND MAY BE ORDERED TO PARTICIPATE IN SUBSTANCE ABUSE PREVENTION  
6 OR SUBSTANCE ABUSE TREATMENT AND REHABILITATION SERVICES AS  
7 DEFINED IN SECTION 6107 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF  
8 THE PUBLIC ACTS OF 1978, BEING SECTION 333.6107 OF THE MICHIGAN  
9 COMPILED LAWS, AND DESIGNATED BY THE ADMINISTRATOR OF SUBSTANCE  
10 ABUSE SERVICES, and may be ordered to perform community service  
11 and to undergo substance abuse screening and assessment at his or  
12 her own expense as described in subsection (4).

13 (b) For a second violation a fine of not more than \$200.00,  
14 and may be ordered to participate in substance abuse prevention  
15 or substance abuse treatment and rehabilitation services as  
16 defined in section 6107 of ~~the public health code,~~ Act No. 368  
17 of the Public Acts of 1978 ~~, being section 333.6107 of the~~  
18 ~~Michigan Compiled Laws,~~ and designated by the administrator of  
19 substance abuse services, to perform community service, and to  
20 undergo substance abuse screening and assessment at his or her  
21 own expense as described in subsection (4). The person is also  
22 subject to sanctions against his or her operator's or chauffeur's  
23 license imposed in subsection (5).

24 (c) For a third or subsequent violation a fine of not more  
25 than \$500.00, and may be ordered to participate in substance  
26 abuse prevention or substance abuse treatment and rehabilitation  
27 services as defined in section 6107 of Act No. 368 of the Public

1 Acts of 1978, and designated by the administrator of substance  
2 abuse services, to perform community service, and to undergo sub-  
3 stance abuse screening and assessment at his or her own expense  
4 as described in subsection (4). The person is also subject to  
5 sanctions against his or her operator's or chauffeur's license  
6 imposed in subsection (5).

7 (2) Fifty percent of the fines collected under subsection  
8 (1) shall be deposited with the state treasurer for deposit in  
9 the general fund to the credit of the department of public health  
10 for substance abuse prevention, treatment, and rehabilitation  
11 services.

12 (3) A person who furnishes fraudulent identification to a  
13 person less than 21 years of age, or notwithstanding subsection  
14 (1) a person less than 21 years of age who uses fraudulent iden-  
15 tification to purchase alcoholic liquor, is guilty of a  
16 misdemeanor. The court shall order the secretary of state to  
17 suspend, pursuant to section 319(5) of Act No. 300 of the Public  
18 Acts of 1949, being section 257.319 of the Michigan Compiled  
19 Laws, for a period of 90 days, the operator or chauffeur license  
20 of a person who is convicted of furnishing or using fraudulent  
21 identification in violation of this subsection and the operator  
22 or chauffeur license of that person shall be surrendered to the  
23 court. The court shall immediately forward the surrendered  
24 license and an abstract of conviction to the secretary of state.  
25 A suspension ordered under this subsection shall be in addition  
26 to any other suspension of the person's operator or chauffeur  
27 license.

1       (4) The court may order the person found violating  
2 subsection (1) to undergo screening and assessment by a person or  
3 agency as designated by the substance abuse coordinating agency  
4 as defined in section 6103 of Act No. 368 of the Public Acts of  
5 1978, being section 333.6103 of the Michigan Compiled Laws, in  
6 order to determine whether the person is likely to benefit from  
7 rehabilitative services, including alcohol or drug education and  
8 alcohol or drug treatment programs.

9       (5) Immediately upon the entry of a conviction or a probate  
10 court disposition for a violation of subsection (1), the court  
11 shall consider all prior convictions or probate court disposi-  
12 tions of subsection (1), or a local ordinance or law of another  
13 state substantially corresponding to subsection (1), and shall  
14 impose the following sanctions:

15       (a) If the court finds that the person has 1 such prior con-  
16 viction or probate court disposition, the court shall order the  
17 secretary of state to suspend the operator's or chauffeur's  
18 license of the person for a period of not less than 90 days or  
19 more than 180 days. The court may order the secretary of state  
20 to issue to the person a restricted license after the first 30  
21 days of the period of suspension in the manner described in  
22 subsection (6) and provided for in section 319 of Act No. 300 of  
23 the Public Acts of 1949, being section 257.319 of the Michigan  
24 Compiled Laws. In the case of a person who does not possess an  
25 operator's or chauffeur's license, the secretary of state shall  
26 deny the application for an operator's or chauffeur's license for  
27 the applicable suspension period.

1 (b) If the court finds that the person has 2 or more such  
2 prior convictions or probate court dispositions, the court shall  
3 order the secretary of state to suspend the operator's or  
4 chauffeur's license of the person for a period of not less than  
5 180 days or more than 1 year. The court may order the secretary  
6 of state to issue to the person a restricted license after the  
7 first 60 days of the period of suspension in the manner described  
8 in subsection (6) and provided for in section 319 of Act No. 300  
9 of the Public Acts of 1949, being section 257.319 of the Michigan  
10 Compiled Laws. In the case of a person who does not possess an  
11 operator's or chauffeur's license, the secretary of state shall  
12 deny the application for an operator's or chauffeur's license for  
13 the applicable suspension period.

14 (6) In those cases in which a restricted license is allowed  
15 under this section, the court shall not order the secretary of  
16 state to issue a restricted license unless the person states  
17 under oath, and the court finds based upon the record in open  
18 court, that the person is unable to take public transportation to  
19 and from his or her work location, place of alcohol or drug edu-  
20 cation treatment, probation department, court-ordered community  
21 service program, or educational institution, and does not have  
22 any family members or others able to provide transportation. The  
23 court order under subsection (5) and the restricted license shall  
24 indicate the work location of the person to whom it is issued,  
25 the approved route or routes and permitted times of travel, and  
26 shall permit the person to whom it is issued only to do 1 or more  
27 of the following:

1 (a) Drive to and from the person's residence and work  
2 location.

3 (b) Drive in the course of the person's employment or  
4 occupation.

5 (c) Drive to and from the person's residence and an alcohol  
6 or drug education or treatment program as ordered by the court.

7 (d) Drive to and from the person's residence and the court  
8 probation department, or a court-ordered community service pro-  
9 gram, or both.

10 (e) Drive to and from the person's residence and an educa-  
11 tional institution at which the person is enrolled as a student.

12 (7) If license sanctions are imposed, immediately upon the  
13 entry of a court-ordered sanction pursuant to subsection (5), the  
14 court shall order the person convicted for the violation to sur-  
15 render to the court his or her operator's or chauffeur's  
16 license. The court shall immediately forward a notice of  
17 court-ordered license sanctions to the secretary of state. If  
18 the license is not forwarded to the secretary of state, an expla-  
19 nation of the reason why the license is absent shall be  
20 attached. If the finding is reviewed by the circuit court, the  
21 court may, ex parte, order the secretary of state to rescind the  
22 suspension or restricted license issued pursuant to this  
23 section. Immediately following imposition of the sanction, the  
24 court shall forward a notice to the secretary of state indicating  
25 the sanction imposed.

26 (8) A peace officer who has reasonable cause to believe a  
27 person less than 21 years of age has consumed alcoholic liquor

1 may require the person to submit to a preliminary chemical breath  
2 analysis. A legal presumption shall be made by the court that  
3 the person less than 21 years of age has consumed or possessed  
4 alcoholic liquor if a preliminary chemical breath analysis or  
5 other acceptable blood alcohol test indicates the person's blood  
6 contained .02% or more by weight of alcohol. A person less than  
7 21 years of age who refuses to submit to a preliminary chemical  
8 breath test analysis as required in this subsection is responsi-  
9 ble for a state civil infraction.

10 (9) A law enforcement agency, upon determining that a person  
11 less than 18 years of age who is not emancipated pursuant to Act  
12 No. 293 of the Public Acts of 1968, being sections ~~772.1 to~~  
13 ~~772.6~~ 722.1 TO 722.6 of the Michigan Compiled Laws, 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 pursuant to Act  
23 No. 293 of the Public Acts of 1968. The notice may be made by  
24 any means reasonably calculated to give prompt actual notice  
25 including, but not limited to, notice in person, by telephone, or  
26 by first-class mail. If a person less than 17 years of age is  
27 incarcerated for violating subsection (1), then his or her

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

3 (10) This section does not prohibit a person less than 21  
4 years of age from possessing alcoholic liquor during regular  
5 working hours and in the course of his or her employment if  
6 employed by a person licensed by this act, by the commission, or  
7 by an agent of the commission, if the alcoholic liquor is not  
8 possessed for his or her personal consumption.

9 (11) This section shall not be construed to limit the civil  
10 or criminal liability of the vendor or the vendor's clerk, ser-  
11 vant, agent, or employee for a violation of this act.

12 (12) The consumption of alcoholic liquor by a person less  
13 than 21 years of age who is enrolled in a course offered by an  
14 accredited post secondary educational institution in an academic  
15 building of the institution under the supervision of a faculty  
16 member is not prohibited by this act if the purpose of the con-  
17 sumption is solely educational and is a necessary ingredient of  
18 the course.

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

22 (14) Subsection (1) does not apply to a person less than 21  
23 years of age who participates in either or both of the  
24 following:

25 (a) An undercover operation in which the person less than 21  
26 years of age purchases or receives alcoholic liquor under the  
27 direction of the person's employer and with the prior approval of



1 the local prosecutor's office as part of an employer-sponsored  
2 internal enforcement action.

3 (b) An undercover operation in which the person less than 21  
4 years of age purchases or receives alcoholic liquor under the  
5 direction of the state police, the commission, or a local police  
6 agency as part of an enforcement action except that any initial  
7 or contemporaneous purchase or receipt of alcoholic liquor by the  
8 person less than 21 years of age is under the direction of the  
9 state police, the commission, or the local police agency and is  
10 part of the undercover operation. The state police, the commis-  
11 sion, or a local police agency shall not recruit or attempt to  
12 recruit a person less than 21 years of age for participation in  
13 an undercover operation at the scene of a violation of  
14 subsection (1), section 22(3), or section 33(1).

15 (15) As used in this section:

16 (a) "Probate court disposition" means a probate court order  
17 of disposition for a child found to be within the provisions of  
18 chapter XIIIA of Act No. 288 of the Public Acts of 1939, being  
19 sections 712A.1 to 712A.31 of the Michigan Compiled Laws.

20 (b) "Work location" means, as applicable, either the spe-  
21 cific place or places of employment, or the territory or territo-  
22 ries regularly visited by the person in pursuance of the person's  
23 occupation, or both.