



# HOUSE BILL No. 5191

December 9, 1999, Introduced by Reps. Kowall, Bishop, Rick Johnson, Spade, Gosselin and Kukuk and referred to the Committee on Criminal Law and Corrections.

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 pur-  
2 chase alcoholic liquor, consume or attempt to consume alcoholic  
3 liquor, or possess or attempt to possess alcoholic liquor, except  
4 as provided in this section. Notwithstanding section 909, a  
5 minor who violates this subsection is guilty of a misdemeanor  
6 punishable by IMPRISONMENT FOR NOT MORE THAN 90 DAYS AND the fol-  
7 lowing fines and sanctions — and is not subject to the penal-  
8 ties 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). THE MINOR IS  
7 ALSO SUBJECT TO IMPRISONMENT AS PROVIDED FOR IN THIS SUBSECTION.

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

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 may be ordered to partici-  
24 pate in substance abuse prevention or substance abuse treatment  
25 and rehabilitation services as defined in section 6107 of the  
26 public health code, 1978 PA 368, MCL 333.6107, and designated by  
27 the administrator of substance abuse services, to perform

1 community service, and to undergo substance abuse screening and  
2 assessment at his or her own expense as described in  
3 subsection (3). THE MINOR IS ALSO SUBJECT TO IMPRISONMENT AS  
4 PROVIDED FOR IN THIS SUBSECTION.

5 (2) A person who furnishes fraudulent identification to a  
6 minor, or notwithstanding subsection (1) a minor who uses fraudu-  
7 lent identification to purchase alcoholic liquor, is guilty of a  
8 misdemeanor punishable by imprisonment for not more than 93 days  
9 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 secretary of state shall suspend the operator's or  
18 chauffeur's license of an individual convicted of violating sub-  
19 section (1) or (2) as provided in section 319 of the Michigan  
20 vehicle code, 1949 PA 300, MCL 257.319.

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

1 determine whether the minor has consumed or possessed alcoholic  
2 liquor. A minor who refuses to submit to a preliminary chemical  
3 breath test analysis as required in this subsection is responsi-  
4 ble for a state civil infraction and may be ordered to pay a  
5 civil fine of not more than \$100.00.

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

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

1 alcoholic liquor is not possessed for his or her personal  
2 consumption.

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

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

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

15       (11) Subsection (1) does not apply to a minor who partici-  
16 pates in either or both of the following:

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

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

1 direction of the state police, the commission, or the local  
2 police agency and was not part of the undercover operation.

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