



HOUSE BILL No. 4231

February 11, 1993, Introduced by Reps. McManus, Kukuk, Hoffman, Goschka, Gnodtke, Jamian, London, Lowe, Hill, Hammerstrom, Weeks, Horton, Walberg, Rocca, Bobier, Galloway, Whyman, Bullard, Bodem, Gernaat, Jersevic, Dolan, Bender, Voorhees, McBryde, Nye, Dalman, Middaugh, Sikkema, Martin, Shugars, Gilmer, Brackenridge, Stille, Munsell, Fitzgerald and Middleton and referred to the Committee on Judiciary.

A bill to amend sections 33, 33b, and 33c of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act,"

section 33b as amended by Act No. 176 of the Public Acts of 1986 and section 33c as amended by Act No. 12 of the Public Acts of 1983, being sections 436.33, 436.33b, and 436.33c of the Michigan Compiled Laws; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 33, 33b, and 33c of Act No. 8 of the
2 Public Acts of the Extra Session of 1933, section 33b as amended
3 by Act No. 176 of the Public Acts of 1986 and section 33c as
4 amended by Act No. 12 of the Public Acts of 1983, being sections
5 436.33, 436.33b, and 436.33c of the Michigan Compiled Laws, are
6 amended to read as follows:

1 Sec. 33. (1) Alcoholic liquor shall not be sold or
2 furnished to a person unless the person has attained 21 years of
3 age. A person who knowingly sells or furnishes alcoholic liquor
4 to a person who is less than 21 years of age, or who fails to
5 make diligent inquiry as to whether the person is less than 21
6 years of age, is guilty of a misdemeanor. IN ADDITION TO THE
7 PENALTIES PROVIDED FOR IN SECTION 50, A PERSON WHO VIOLATES THIS
8 SUBSECTION SHALL BE FINED NOT LESS THAN \$250.00 OR MORE THAN
9 \$1,000.00. A suitable sign ~~which describes~~ DESCRIBING THE CON-
10 TENT OF this section and the penalties for ~~violating this~~
11 ~~section~~ ITS VIOLATION shall be posted in a conspicuous place in
12 each room where alcoholic ~~liquors are~~ LIQUOR IS sold. The
13 signs shall be approved and furnished by the ~~state liquor~~
14 ~~control~~ commission.

15 (2) In an action for the violation of this section, proof
16 that the defendant or the defendant's agent or employee demanded
17 and was shown, before furnishing alcoholic liquor to a person
18 ~~under~~ LESS THAN 21 years of age, a motor vehicle operator's OR
19 CHAUFFEUR'S license or a registration certificate issued by the
20 federal selective service, or other bona fide documentary evi-
21 dence of the age and identity of that person, shall be a defense
22 to an action BROUGHT under this section.

23 Sec. 33b. (1) A person less than 21 years of age shall not
24 purchase alcoholic liquor, consume alcoholic liquor, ~~in a~~
25 ~~licensed premises,~~ or possess alcoholic liquor, except as pro-
26 vided in ~~section 33a(1) of this act.~~ A THIS SECTION AND
27 SECTION 624B OF THE MICHIGAN VEHICLE CODE, BEING SECTION 257.624E

1 OF THE MICHIGAN COMPILED LAWS. NOTWITHSTANDING SECTION 50, A
2 person less than 21 years of age who violates this subsection is
3 RESPONSIBLE FOR A CIVIL INFRACTION AS DEFINED IN SECTION 113 OF
4 THE REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC
5 ACTS OF 1961, BEING SECTION 600.113 OF THE MICHIGAN COMPILED
6 LAWS, AND IS liable for the following civil fines AND SANCTIONS:
7 ~~and shall not be subject to the penalties prescribed in section~~
8 ~~50.~~

9 (A) ~~(i)~~ For the first violation a fine of not ~~more~~ LESS
10 than ~~\$25.00~~ \$50.00 OR MORE THAN \$200.00 AND MAY BE ORDERED TO
11 PARTICIPATE IN A SUBSTANCE ABUSE SCREENING AND ASSESSMENT PROGRAM
12 APPROVED BY THE ADMINISTRATOR OF THE OFFICE OF SUBSTANCE ABUSE
13 SERVICES, AT HIS OR HER OWN EXPENSE. BASED UPON THE FINDINGS AND
14 RECOMMENDATION OF THE PERSON CONDUCTING THE SCREENING AND ASSESS-
15 MENT, THE COURT MAY ORDER THAT THE PERSON ATTEND A SUBSTANCE
16 ABUSE EDUCATION AND TREATMENT PROGRAM APPROVED BY THE ADMINISTRA-
17 TOR OF THE OFFICE OF SUBSTANCE ABUSE SERVICES AT HIS OR HER OWN
18 EXPENSE.

19 (B) ~~(ii)~~ For a second violation a fine of not ~~more than~~
20 ~~\$50.00, or participation in substance abuse prevention services~~
21 ~~as defined in section 6107 of the public health code, Act No. 368~~
22 ~~of the Public Acts of 1978, being section 333.6107 of the~~
23 ~~Michigan Compiled Laws and designated by the administrator of~~
24 ~~substance abuse services, or both~~ LESS THAN \$250.00 OR MORE THAN
25 \$500.00 AND SHALL BE ORDERED TO PARTICIPATE IN A SUBSTANCE ABUSE
26 SCREENING AND ASSESSMENT PROGRAM APPROVED BY THE ADMINISTRATOR OF
27 THE OFFICE OF SUBSTANCE ABUSE SERVICES, AT HIS OR HER OWN

1 EXPENSE. BASED UPON THE FINDINGS AND RECOMMENDATION OF THE PERSON
2 CONDUCTING THE SCREENING AND ASSESSMENT, THE COURT MAY ORDER THAT
3 THE PERSON ATTEND A SUBSTANCE ABUSE EDUCATION AND TREATMENT PRO-
4 GRAM APPROVED BY THE ADMINISTRATOR OF THE OFFICE OF SUBSTANCE
5 ABUSE SERVICES, AT HIS OR HER OWN EXPENSE.

6 ~~(iii) For a third or subsequent violation a fine of not~~
7 ~~more than \$100.00, or participation in substance abuse prevention~~
8 ~~services as defined in section 6107 of the public health code,~~
9 ~~Act No. 368 of the Public Acts of 1978, and designated by the~~
10 ~~administrator of substance abuse services, or both.~~

11 (2) ~~Fifty~~ SEVENTY-FIVE percent of the fines collected
12 under subsection (1) shall be deposited with the state treasurer
13 for deposit in the general fund to the credit of the department
14 of public health for substance abuse PREVENTION, treatment, and
15 rehabilitation services AND ALLOCATED TO THE COUNTY IN WHICH THE
16 OFFENSE OCCURRED FOR USE BY THE COUNTY HEALTH DEPARTMENT FOR THE
17 PROGRAMS DESCRIBED IN SUBSECTION (1).

18 (3) A person who furnishes fraudulent identification to a
19 person less than 21 years of age, or a person less than 21 years
20 of age who uses fraudulent identification to purchase alcoholic
21 liquor, is guilty of a misdemeanor. The court shall order the
22 secretary of state to suspend, PURSUANT TO SECTION 319(5) OF THE
23 MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949,
24 BEING SECTION 257.319 OF THE MICHIGAN COMPILED LAWS, for a period
25 of 90 days FOR A FIRST OFFENSE AND 180 DAYS FOR A SECOND OR SUB-
26 SEQUENT OFFENSE, the operator or chauffeur license of a person
27 who is convicted of using fraudulent identification in violation

1 of this subsection and the operator or chauffeur license of that
2 person shall be surrendered to the court. The court shall imme-
3 diately forward the surrendered license and ~~a certificate~~ AN
4 ABSTRACT of conviction to the secretary of state. A suspension
5 ordered under this subsection shall be in addition to any other
6 suspension of the person's operator or chauffeur license.

7 (4) A LEGAL PRESUMPTION THAT A PERSON LESS THAN 21 YEARS OF
8 AGE HAS CONSUMED OR POSSESSED ALCOHOLIC LIQUOR SHALL BE MADE BY
9 THE COURT IF A PRELIMINARY BREATH TEST OR OTHER ACCEPTABLE BLOOD
10 ALCOHOL TEST INDICATES A READING OF ANY ALCOHOL CONTENT OVER 0%.
11 THE ALLEGED VIOLATOR MAY PRODUCE EVIDENCE TO THE COURT TO OVER-
12 COME THIS PRESUMPTION.

13 (5) A LAW ENFORCEMENT AGENCY SHALL NOTIFY THE PARENT OR PAR-
14 ENTS, CUSTODIAN, OR GUARDIAN OF THE PERSON FOUND TO HAVE VIOLATED
15 SUBSECTION (1) IF THE PERSON IS LESS THAN 18 YEARS OF AGE. IF
16 THE PERSON IS ATTENDING ELEMENTARY OR SECONDARY SCHOOL, THE LAW
17 ENFORCEMENT AGENCY SHALL NOTIFY THE PRINCIPAL OF THE SCHOOL THAT
18 THE PERSON IS ATTENDING.

19 (6) IMMEDIATELY UPON THE ENTRY OF A CIVIL INFRACTION DETER-
20 MINATION FOR A VIOLATION OF SUBSECTION (1), A PROBATE COURT ORDER
21 OF DISPOSITION FOR A VIOLATION OF SUBSECTION (1), OR THE ENTRY OF
22 A DEFAULT JUDGMENT, THE COURT SHALL CONSIDER ALL PRIOR CIVIL
23 INFRACTION DETERMINATIONS OR PROBATE COURT ORDERS OF DISPOSITION
24 FOR VIOLATIONS OF SUBSECTION (1), OR A LOCAL ORDINANCE OR LAW OF
25 ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO SUBSECTION (1), AND
26 MAY IMPOSE THE FOLLOWING SANCTIONS:

1 (A) IF THE COURT FINDS THAT THE PERSON DOES NOT HAVE A PRIOR
2 CIVIL INFRACTION DETERMINATION, CONVICTION, OR PROBATE COURT
3 ORDER OF DISPOSITION, THE COURT SHALL ORDER THE SECRETARY OF
4 STATE TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE
5 PERSON FOR A PERIOD OF 90 DAYS. IN THE CASE OF A PERSON WHO DOES
6 NOT POSSESS AN OPERATOR OR CHAUFFEUR LICENSE, THE SECRETARY OF
7 STATE SHALL DENY THE APPLICATION FOR AN OPERATOR OR CHAUFFEUR
8 LICENSE FOR THE APPLICABLE SUSPENSION PERIOD. UPON THE SATISFAC-
9 TORY COMPLETION OF AN EDUCATION AND TREATMENT PROGRAM ORDERED
10 UNDER SUBSECTION (1), THE COURT SHALL ORDER THE SECRETARY OF
11 STATE TO REDUCE THE SUSPENSION TO 45 DAYS.

12 (B) IF THE COURT FINDS THAT THE PERSON HAS 1 PRIOR CIVIL
13 INFRACTION DETERMINATION OR PROBATE COURT ORDER OF DISPOSITION
14 FOR A VIOLATION OF SUBSECTION (1), THE COURT SHALL ORDER THE SEC-
15 RETARY OF STATE TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE
16 OF THE PERSON FOR A PERIOD OF NOT LESS THAN 180 DAYS. IN THE
17 CASE OF A PERSON WHO DOES NOT POSSESS AN OPERATOR'S OR
18 CHAUFFEUR'S LICENSE, THE SECRETARY OF STATE SHALL DENY THE APPLI-
19 CATION FOR AN OPERATOR'S OR CHAUFFEUR'S LICENSE FOR THE APPLICA-
20 BLE SUSPENSION PERIOD.

21 (7) UPON THE ENTRY OF A DEFAULT JUDGMENT, THE COURT SHALL
22 PROCEED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN
23 SECTION 321A OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
24 SECTION 257.321A OF THE MICHIGAN COMPILED LAWS. A PERSON WHO
25 FAILS TO ANSWER A CITATION OR A NOTICE TO APPEAR IN COURT FOR A
26 VIOLATION OF SUBSECTION (1), OR WHO FAILS TO COMPLY WITH A

1 JUDGMENT ISSUED UNDER SUBSECTION (1), IS GUILTY OF A
2 MISDEMEANOR.

3 (8) IMMEDIATELY UPON ENTRY OF A CIVIL INFRACTION DETERMINA-
4 TION, CONVICTION, OR A PROBATE COURT ORDER OF DISPOSITION FOR A
5 VIOLATION OF SUBSECTION (1) OR A LOCAL ORDINANCE SUBSTANTIALLY
6 CORRESPONDING TO SUBSECTION (1), THE PERSON SHALL SURRENDER TO
7 THE COURT HIS OR HER OPERATOR'S OR CHAUFFEUR'S LICENSE OR
8 PERMIT. THE COURT SHALL IMMEDIATELY DESTROY THE LICENSE OR
9 PERMIT AND FORWARD A DETERMINATION WITH COURT-ORDERED LICENSE
10 SANCTIONS TO THE SECRETARY OF STATE. UPON RECEIPT OF, AND PURSU-
11 ANT TO, THE DETERMINATION WITH COURT-ORDERED LICENSE SANCTIONS,
12 THE SECRETARY OF STATE SHALL SUSPEND OR REVOKE THE PERSON'S
13 LICENSE AND, IF ORDERED BY THE COURT AND THE PERSON IS OTHERWISE
14 ELIGIBLE FOR A LICENSE, ISSUE TO THE PERSON A RESTRICTED LICENSE
15 STATING THE LIMITED DRIVING PRIVILEGES INDICATED ON THE
16 DETERMINATION. IF THE JUDGMENT IS APPEALED TO CIRCUIT COURT, THE
17 COURT MAY, EX PARTE, ORDER THE SECRETARY OF STATE TO STAY THE
18 SUSPENSION, REVOCATION, OR RESTRICTED LICENSE ISSUED PURSUANT TO
19 THIS SECTION PENDING THE OUTCOME OF THE APPEAL.

20 (9) ~~(4)~~ This section shall not be construed to prohibit a
21 person less than 21 years of age from possessing alcoholic liquor
22 during regular working hours and in the course of his or her
23 employment if employed by a person licensed by this act, by the
24 ~~liquor control~~ commission, or by an agent of the ~~liquor~~
25 ~~control~~ commission, if the alcoholic liquor is not possessed for
26 his or her personal consumption.

1 (10) ~~(5)~~ This section shall not be construed to limit the
2 civil or criminal liability of the vendor or the vendor's clerk,
3 servant, agent, or employee for a violation of this act.

4 (11) ~~(6)~~ The consumption of alcoholic liquor by a person
5 ~~under~~ LESS THAN 21 years of age who is enrolled in a course
6 offered by an accredited post secondary educational institution
7 in an academic building of the institution under the supervision
8 of a faculty member shall not be prohibited by this act if the
9 purpose OF THE CONSUMPTION is solely educational and IS a neces-
10 sary ingredient of the course.

11 Sec. 33c. (1) A sheriff or deputy sheriff; village or town-
12 ship marshal; an officer or member of a village, township, or
13 city police department; an officer of the department of state
14 police; or an inspector of the commission who witnesses a viola-
15 tion of section 33b or a local ordinance corresponding to that
16 section, ~~for~~ which ~~violation~~ IS A CIVIL INFRACTION FOR WHICH
17 a civil fine, LICENSE SUSPENSION, OR OTHER SANCTION is pre-
18 scribed, may stop and detain the person for purposes of obtaining
19 satisfactory identification, seizing illegally possessed alco-
20 holic ~~beverages~~ LIQUOR, and issuing an appearance ticket.

21 (2) As used in this section, "appearance ticket" means a
22 complaint or written notice, issued and subscribed by a law
23 enforcement officer OF THE TYPE DESCRIBED IN SUBSECTION (1) or
24 inspector of the commission, directing a designated person to
25 appear in a ~~designed district or municipal~~ DESIGNATED court at
26 a designated time in connection with the alleged ~~violation~~
27 CIVIL INFRACTION for which a civil fine, LICENSE SUSPENSION, OR

1 OTHER SANCTION is prescribed. The appearance ticket shall
2 consist of the following parts:

3 (a) The original which shall be a complaint or notice to
4 appear by the officer and filed with the court.

5 (b) The first copy which shall be the abstract of court
6 record.

7 (c) The second copy which shall be delivered to the alleged
8 violator.

9 (d) The third copy which shall be retained by the law
10 enforcement agency.

11 (3) A judge may accept an admission by the defendant of the
12 allegations of an appearance ticket and the judge shall then
13 ~~direct the~~ IMPOSE A civil ~~finer~~ FINE, LICENSE SUSPENSION, OR
14 OTHER SANCTION as ~~prescribed~~ FURTHER AUTHORIZED by section
15 33b. If the defendant denies the allegations of the appearance
16 ticket, the judge shall then set a date for trial OR HEARING. If
17 the defendant fails to appear on the date specified on the
18 appearance ticket, the judge shall enter a default judgment
19 against that defendant AND MAY IMPOSE A CIVIL FINE, LICENSE SUS-
20 PENSION, OR OTHER SANCTION AUTHORIZED BY SECTION 33B.,

21 (4) THE COURT SHALL IMMEDIATELY ENTER OR CAUSE TO BE ENTERED
22 INFORMATION REGARDING A FINDING OF A VIOLATION OF SECTION 33B(1)
23 INTO THE LAW ENFORCEMENT INFORMATION NETWORK SYSTEM.

24 Section 2. Section 33a of Act No. 8 of the Public Acts of
25 the Extra Session of 1933, being section 436.33a of the Michigan
26 Compiled Laws, is repealed.

1 Section 3. This amendatory act shall not take effect unless
2 Senate Bill No. _____ or House Bill No. 4233 (request
3 no. 00597'93) of the 87th Legislature is enacted into law.