

**SENATE BILL NO. 989**

March 3, 1998, Introduced by Senator VAN REGENMORTER and referred to the Committee on Judiciary.

A bill to amend 1933 (Ex Sess) PA 8, entitled "The Michigan liquor control act," by amending section 33b (MCL 436.33b), as amended by 1996 PA 492.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 33b. (1) ~~A person~~ AN INDIVIDUAL less than 21 years  
2 of age shall not purchase or attempt to purchase alcoholic  
3 liquor, consume or attempt to consume alcoholic liquor, or pos-  
4 sess or attempt to possess alcoholic liquor, except as provided  
5 in this section and section 33a(1). Notwithstanding section 50,  
6 ~~a person~~ AN INDIVIDUAL less than 21 years of age who violates  
7 this subsection is guilty of a misdemeanor punishable by the fol-  
8 lowing fines and sanctions, and is not subject to the penalties  
9 prescribed in section 50:

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, ~~Act No. 368~~  
5 ~~of the Public Acts of 1978, being section 333.6107 of the~~  
6 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.6107, and designated  
7 by the administrator of substance abuse services, and may be  
8 ordered to perform community service and to undergo substance  
9 abuse screening and assessment at his or her own expense as  
10 described in subsection (3).

11 (b) For a second violation a fine of not more than \$200.00,  
12 and may be ordered to participate in substance abuse prevention  
13 or substance abuse treatment and rehabilitation services as  
14 defined in section 6107 of ~~Act No. 368 of the Public Acts of~~  
15 ~~1978~~ THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.6107, and des-  
16 igned by the administrator of substance abuse services, to per-  
17 form community service, and to undergo substance abuse screening  
18 and assessment at his or her own expense as described in subsec-  
19 tion (3). ~~The person is also subject to sanctions against his~~  
20 ~~or her operator's or chauffeur's license imposed in subsection~~  
21 ~~(4).~~

22 (c) For a third or subsequent violation a fine of not more  
23 than \$500.00, and may be ordered to participate in substance  
24 abuse prevention or substance abuse treatment and rehabilitation  
25 services as defined in section 6107 of ~~Act No. 368 of the Public~~  
26 ~~Acts of 1978~~ THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.6107,  
27 and designated by the administrator of substance abuse services,

1 to perform community service, and to undergo substance abuse  
2 screening and assessment at his or her own expense as described  
3 in subsection (3). ~~The person is also subject to sanctions~~  
4 ~~against his or her operator's or chauffeur's license imposed in~~  
5 ~~subsection (4).~~

6 (2) A person who furnishes fraudulent identification to ~~a~~  
7 ~~person~~ AN INDIVIDUAL less than 21 years of age, or notwithstand-  
8 ing subsection (1) ~~a person~~ AN INDIVIDUAL less than 21 years of  
9 age who uses fraudulent identification to purchase alcoholic  
10 liquor, is guilty of a misdemeanor ~~. The court shall order the~~  
11 ~~secretary of state to suspend, pursuant to section 319(5) of Act~~  
12 ~~No. 300 of the Public Acts of 1949, being section 257.319 of the~~  
13 ~~Michigan Compiled Laws, for a period of 90 days, the operator or~~  
14 ~~chauffeur license of a person~~ PUNISHABLE BY IMPRISONMENT FOR NOT  
15 MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$100.00, OR BOTH.  
16 AN INDIVIDUAL who is convicted of furnishing or using fraudulent  
17 identification in violation of this subsection ~~and the operator~~  
18 ~~or chauffeur license of that person~~ shall ~~be surrendered~~  
19 SURRENDER HIS OR HER OPERATOR OR CHAUFFEUR LICENSE to the court.  
20 The court shall immediately forward the surrendered license and  
21 an abstract of conviction to the secretary of state. ~~A suspen-~~  
22 ~~sion ordered under this subsection shall be in addition to any~~  
23 ~~other suspension of the person's operator or chauffeur license.~~

24 (3) The court may order ~~the person found~~ AN INDIVIDUAL  
25 CONVICTED OF violating subsection (1) to undergo screening and  
26 assessment by a person or agency as designated by the substance  
27 abuse coordinating agency as defined in section 6103 of ~~Act~~

~~1 No. 368 of the Public Acts of 1978, being section 333.6103 of the  
2 Michigan Compiled Laws THE PUBLIC HEALTH CODE, 1978 PA 368, MCL  
3 333.6103, in order to determine whether the person INDIVIDUAL  
4 is likely to benefit from rehabilitative services, including  
5 alcohol or drug education and alcohol or drug treatment  
6 programs.~~

~~7 (4) Immediately upon the entry of a conviction or a probate  
8 court disposition for a violation of subsection (1), the court  
9 shall consider all prior convictions or probate court disposi-  
10 tions of subsection (1), or a local ordinance or law of another  
11 state substantially corresponding to subsection (1), and shall  
12 impose the following sanctions:~~

~~13 (a) If the court finds that the person has 1 such prior con-  
14 viction or probate court disposition, the court shall order the  
15 secretary of state to suspend the operator's or chauffeur's  
16 license of the person for a period of not less than 90 days or  
17 more than 180 days. The court may order the secretary of state  
18 to issue to the person a restricted license after the first 30  
19 days of the period of suspension in the manner described in sub-  
20 section (5) and provided for in section 319 of Act No. 300 of the  
21 Public Acts of 1949, being section 257.319 of the Michigan  
22 Compiled Laws. In the case of a person who does not possess an  
23 operator's or chauffeur's license, the secretary of state shall  
24 deny the application for an operator's or chauffeur's license for  
25 the applicable suspension period.~~

~~26 (b) If the court finds that the person has 2 or more such  
27 prior convictions or probate court dispositions, the court shall~~

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

~~12 (5) In those cases in which a restricted license is allowed  
13 under this section, the court shall not order the secretary of  
14 state to issue a restricted license unless the person states  
15 under oath, and the court finds based upon the record in open  
16 court, that the person is unable to take public transportation to  
17 and from his or her work location, place of alcohol or drug edu-  
18 cation treatment, probation department, court-ordered community  
19 service program, or educational institution, and does not have  
20 any family members or others able to provide transportation. The  
21 court order under subsection (4) and the restricted license shall  
22 indicate the work location of the person to whom it is issued,  
23 the approved route or routes and permitted times of travel, and  
24 shall permit the person to whom it is issued only to do 1 or more  
25 of the following:~~

~~26 (a) Drive to and from the person's residence and work  
27 location.~~

1       ~~(b) Drive in the course of the person's employment or~~  
2 ~~occupation.~~

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

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

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

10       ~~(6) If license sanctions are imposed, immediately upon the~~  
11 ~~entry of a court-ordered sanction pursuant to subsection (4), the~~  
12 ~~court shall order the person convicted for the violation to sur-~~  
13 ~~render to the court his or her operator's or chauffeur's~~  
14 ~~license. The court shall immediately forward a notice of~~  
15 ~~court-ordered license sanctions to the secretary of state. If~~  
16 ~~the license is not forwarded to the secretary of state, an expla-~~  
17 ~~nation of the reason why the license is absent shall be~~  
18 ~~attached. If the finding is appealed to the circuit court, the~~  
19 ~~court may, ex parte, order the secretary of state to stay the~~  
20 ~~suspension issued pursuant to this section pending the outcome of~~  
21 ~~the appeal. Immediately following imposition of the sanction,~~  
22 ~~the court shall forward a notice to the secretary of state indi-~~  
23 ~~cating the sanction imposed.~~

24       (4) THE SECRETARY OF STATE SHALL SUSPEND THE OPERATOR'S OR  
25 CHAUFFEUR'S LICENSE OF AN INDIVIDUAL CONVICTED OF VIOLATING SUB-  
26 SECTION (1) OR (2) AS PROVIDED IN SECTION 319 OF THE MICHIGAN  
27 VEHICLE CODE, 1949 PA 300, MCL 257.319.

1           (5) ~~(7)~~ A peace officer who has reasonable cause to  
2 believe ~~a person~~ AN INDIVIDUAL less than 21 years of age has  
3 consumed alcoholic liquor may require the ~~person~~ INDIVIDUAL to  
4 submit to a preliminary chemical breath analysis. A peace offi-  
5 cer may arrest ~~a person~~ AN INDIVIDUAL based in whole or in part  
6 upon the results of a preliminary chemical breath analysis. The  
7 results of a preliminary chemical breath analysis or other  
8 acceptable blood alcohol test are admissible in a criminal prose-  
9 cution to determine whether the ~~person~~ INDIVIDUAL less than 21  
10 years of age has consumed or possessed alcoholic liquor. ~~A~~  
11 ~~person~~ AN INDIVIDUAL less than 21 years of age who refuses to  
12 submit to a preliminary chemical breath test analysis as required  
13 in this subsection is responsible for a state civil infraction  
14 and may be ordered to pay a civil fine of not more than \$100.00.

15           (6) ~~(8)~~ A law enforcement agency, upon determining that ~~a~~  
16 ~~person~~ AN INDIVIDUAL less than 18 years of age who is not eman-  
17 cipated ~~pursuant to Act No. 293 of the Public Acts of 1968,~~  
18 ~~being sections 722.1 to 722.6 of the Michigan Compiled Laws~~  
19 UNDER 1968 PA 293, MCL 722.1 TO 722.6, allegedly consumed, pos-  
20 sessed, purchased, or attempted to consume, possess, or purchase  
21 alcoholic liquor in violation of subsection (1) shall notify the  
22 parent or parents, custodian, or guardian of the ~~person~~  
23 INDIVIDUAL as to the nature of the violation if the name of a  
24 parent, guardian, or custodian is reasonably ascertainable by the  
25 law enforcement agency. The notice required by this subsection  
26 shall be made not later than 48 hours after the law enforcement  
27 agency determines that the ~~person~~ INDIVIDUAL who allegedly

1 violated subsection (1) is less than 18 years of age and not  
2 emancipated ~~pursuant to Act No. 293 of the Public Acts of 1968~~  
3 UNDER 1968 PA 293, MCL 722.1 TO 722.6. The notice may be made by  
4 any means reasonably calculated to give prompt actual notice  
5 including, but not limited to, notice in person, by telephone, or  
6 by first-class mail. If ~~a person~~ AN INDIVIDUAL less than 17  
7 years of age is incarcerated for violating subsection (1), his or  
8 her parents or legal guardian shall be notified immediately as  
9 provided in this subsection.

10 (7) ~~(9)~~ This section does not prohibit ~~a person~~ AN  
11 INDIVIDUAL less than 21 years of age from possessing alcoholic  
12 liquor during regular working hours and in the course of his or  
13 her employment if employed by a person licensed by this act, by  
14 the commission, or by an agent of the commission, if the alco-  
15 holic liquor is not possessed for his or her personal  
16 consumption.

17 (8) ~~(10)~~ This section ~~shall not be construed to~~ DOES NOT  
18 limit the civil or criminal liability of the vendor or the  
19 vendor's clerk, servant, agent, or employee for a violation of  
20 this act.

21 (9) ~~(11)~~ The consumption of alcoholic liquor by ~~a person~~  
22 AN INDIVIDUAL less than 21 years of age who is enrolled in a  
23 course offered by an accredited post secondary educational insti-  
24 tution in an academic building of the institution under the  
25 supervision of a faculty member is not prohibited by this act if  
26 the purpose of the consumption is solely educational and is a  
27 ~~necessary ingredient~~ REQUIREMENT of the course.

1           (10) ~~(12)~~ The consumption by ~~a person~~ AN INDIVIDUAL less  
2 than 21 years of age of sacramental wine in connection with reli-  
3 gious services at a church, synagogue, or temple is not prohib-  
4 ited by this act.

5           (11) ~~(13)~~ Subsection (1) does not apply to ~~a person~~ AN  
6 INDIVIDUAL less than 21 years of age who participates in either  
7 or both of the following:

8           (a) An undercover operation in which the ~~person~~ INDIVIDUAL  
9 less than 21 years of age purchases or receives alcoholic liquor  
10 under the direction of the person's employer and with the prior  
11 approval of the local prosecutor's office as part of an  
12 employer-sponsored internal enforcement action.

13           (b) An undercover operation in which the ~~person~~ INDIVIDUAL  
14 less than 21 years of age purchases or receives alcoholic liquor  
15 under the direction of the state police, the commission, or a  
16 local police agency as part of an enforcement action ~~except that~~  
17 ~~any~~ UNLESS THE initial or contemporaneous purchase or receipt of  
18 alcoholic liquor by the person less than 21 years of age ~~is~~ WAS  
19 NOT under the direction of the state police, the commission, or  
20 the local police agency and ~~is~~ WAS NOT part of the undercover  
21 operation.

22           (12) The state police, the commission, or a local police  
23 agency shall not recruit or attempt to recruit ~~a person~~ AN  
24 INDIVIDUAL less than 21 years of age for participation in an  
25 undercover operation at the scene of a violation of  
26 subsection (1), section 22(3), or section 33(1).

1 (13) ~~(14)~~ As used in this section:

2 (a) "Probate court disposition" means an order of  
3 disposition of the probate court or the family division of the  
4 circuit court for a child found to be within the provisions of  
5 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~  
6 ~~sections 712A.1 to 712A.32 of the Michigan Compiled Laws 1939 PA~~  
7 288, MCL 712A.1 TO 712A.22.

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

12 Enacting section 1. This amendatory act takes effect May 1,  
13 1998.

14 Enacting section 2. This amendatory act does not take  
15 effect unless all of the following bills of the 89th Legislature  
16 are enacted into law:

17 (a) Senate Bill No. 268.

18 (b) Senate Bill No. 269.

19 (c) Senate Bill No. 271.

20 (d) Senate Bill No. 625.

21 (e) Senate Bill No. 626.

22 (f) Senate Bill No. 627.

23 (g) Senate Bill No. 870.

24 (h) Senate Bill No. 953.

25 (i) Senate Bill No. 990.

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1 (j) Senate Bill No. 991.

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