

(10) For the purposes of this section, a certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this section is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's state board approval.

(11) For any hearing under subsection (1), if the superintendent of public instruction does not make a final decision and order within 120 working days after receiving the request for the hearing, as required under subsection (1), the superintendent of public instruction shall submit a report detailing the reasons for the delay to the standing committees and appropriations subcommittees of the senate and house of representatives that have jurisdiction over education and education appropriations. The failure of the superintendent of public instruction to make a final decision and order within this 120 working day time limit, or the failure of any other official or agency to meet a time limit prescribed in this section, does not affect the validity of an action taken under this section affecting a person's state board approval.

(12) Beginning July 1, 2004, the superintendent of public instruction shall submit to the legislature a quarterly report of all final actions he or she has taken under this section affecting a person's state board approval during the preceding quarter. The report shall contain at least all of the following with respect to each person whose state board approval has been affected:

- (a) The person's name, as it appears on the state board approval.
- (b) The school district, intermediate school district, public school academy, or nonpublic school in which the person was employed at the time of the conviction, if any.
- (c) The offense for which the person was convicted and the date of the offense and date of the conviction.
- (d) Whether the action taken by the superintendent of public instruction was a summary suspension, suspension due to failure to request a hearing, suspension, revocation, or reinstatement of the state board approval.

(13) This section does not do any of the following:

- (a) Prohibit a person who holds state board approval from seeking monetary compensation from a school board or intermediate school board if that right is available under a collective bargaining agreement or another statute.
- (b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds state board approval.
- (c) Exempt a person who holds state board approval from the operation of section 1535a if the person holds a certificate subject to that section.
- (d) Limit the ability of a state licensing body to take action against a person's license or registration for the same conviction.

(14) The superintendent of public instruction may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(15) The department of information technology shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of individuals holding a teaching certificate or state board approval, and of any other list maintained by the department of individuals employed or regularly and continuously working under contract in a school, with the conviction information received by the department of state police. This comparison shall only include individuals

who are actually school employees at the time of the comparison or who are regularly and continuously working under contract at the time of the comparison. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. The department of state police shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before transmitting the information under this subsection to the department. The department shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before notifying a school district, intermediate school district, public school academy, or nonpublic school of a conviction. If a comparison discloses that a person on the department's list of individuals holding a teaching certificate or state board approval has been convicted of a crime, or if the department is otherwise notified by the department of state police that such a person has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(16) As used in this section:

(a) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(c) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(d) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(e) "Regularly and continuously work under contract" means that term as defined in section 1230d.

(f) "State board approval" means a license, certificate, approval not requiring a teaching certificate, or other evidence of qualifications to hold a particular position in a school district or intermediate school district or in a nonpublic school, other than a teacher's certificate subject to section 1535a, that is issued to a person by the state board or the superintendent of public instruction under this act or a rule promulgated under this act.

This act is ordered to take immediate effect.

Approved January 8, 2007.

Filed with Secretary of State January 10, 2007.

[No. 681]

(HB 6209)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection

of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 7o (MCL 211.7o), as amended by 2004 PA 576.

The People of the State of Michigan enact:

211.7o Nonprofit charitable institution; exemption; definitions.

Sec. 7o. (1) Real or personal property owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which that nonprofit charitable institution was incorporated is exempt from the collection of taxes under this act.

(2) Real or personal property owned and occupied by a charitable trust while occupied by that charitable trust solely for the charitable purposes for which that charitable trust was established is exempt from the collection of taxes under this act.

(3) Real or personal property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to another nonprofit charitable institution or charitable trust or to a nonprofit hospital or a nonprofit educational institution that is occupied by that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution solely for the purposes for which that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution was organized or established and that would be exempt from taxes collected under this act if the real or personal property were occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established is exempt from the collection of taxes under this act.

(4) For taxes levied after December 31, 1997, real or personal property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to a governmental entity is exempt from the collection of taxes under this act if all of the following conditions are satisfied:

(a) The real or personal property would be exempt from the collection of taxes under this act under section 7m if the real or personal property were owned or were being acquired pursuant to an installment purchase agreement by the lessee governmental entity.

(b) The real or personal property would be exempt from the collection of taxes under this act if occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established.

(5) Real property owned by a qualified conservation organization that is held for conservation purposes and that is open to all residents of this state for educational or recreational use, including, but not limited to, low-impact, nondestructive activities such as hiking, bird watching, cross-country skiing, or snowshoeing is exempt from the collection of taxes under

this act. As used in this subsection, “qualified conservation organization” means a nonprofit charitable institution or a charitable trust that meets all of the following conditions:

(a) Is organized or established, as reflected in its articles of incorporation or trust documents, for the purpose of acquiring, maintaining, and protecting nature sanctuaries, nature preserves, and natural areas in this state, that predominantly contain natural habitat for fish, wildlife, and plants.

(b) Is required under its articles of incorporation, bylaws, or trust documents to hold in perpetuity property acquired for the purposes described in subdivision (a) unless both of the following conditions are satisfied:

(i) That property is no longer suitable for the purposes described in subdivision (a).

(ii) The sale of the property is approved by a majority vote of the members or trustees.

(c) Its articles of incorporation, bylaws, or trust documents prohibit any officer, shareholder, board member, employee, or trustee or the family member of an officer, shareholder, board member, employee, or trustee from benefiting from the sale of property acquired for the purposes described in subdivision (a).

(6) If authorized by a resolution of the local tax collecting unit in which the real or personal property is located, real or personal property owned by a nonprofit charitable institution that is occupied and used by the nonprofit charitable institution’s chief executive officer as his or her principal residence as a condition of his or her employment and that is contiguous to real property that contains the nonprofit charitable institution’s principal place of business is exempt from the collection of taxes under this act.

(7) A charitable home of a fraternal or secret society, or a nonprofit corporation whose stock is wholly owned by a religious or fraternal society that owns and operates facilities for the aged and chronically ill and in which the net income from the operation of the corporation does not inure to the benefit of any person other than the residents, is exempt from the collection of taxes under this act.

(8) Real and personal property owned and occupied by a nonprofit corporation that meets all of the following conditions is exempt from the collection of taxes under this act:

(a) The nonprofit corporation is exempt from taxation under section 501(c)(3) of the internal revenue code, 26 USC 501.

(b) The nonprofit corporation meets 1 of the following conditions:

(i) Is a skilled nursing facility or home for the aged, licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, or is an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737. As used in this subparagraph:

(A) “Adult foster care facility” means that term as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(B) “Home for the aged” means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(C) “Skilled nursing facility” means that term as defined in section 20109 of the public health code, 1978 PA 368, MCL 333.20109.

(ii) Provides housing, rehabilitation services, diagnostic services, medical services, or therapeutic services to 1 or more disabled persons. As used in this subparagraph, “disabled person” means that term as defined in section 7d.

(c) The nonprofit corporation meets either of the following conditions:

(i) The real and personal property of the nonprofit corporation was being treated as exempt from the collection of all taxes under this act on the effective date of the amendatory act that added this subsection.

(ii) The real and personal property of the nonprofit corporation had been treated as exempt from the collection of all taxes under this act on December 31, 2004 and there has been no transfer of ownership of that property during the period of time beginning the last day the property was treated as exempt until the effective date of the amendatory act that added this subsection. As used in this sub-subparagraph, “transfer of ownership” means that term as defined in section 27a.

(9) If real or personal property owned and occupied by a nonprofit corporation is not eligible for an exemption under subsection (8), that nonprofit corporation is not precluded from applying for exemption under subsection (1).

(10) As used in this section:

(a) “Charitable trust” means a charitable trust registered under the supervision of trustees for charitable purposes act, 1961 PA 101, MCL 14.251 to 14.266.

(b) “Governmental entity” means 1 or more of the following:

(i) The federal government or an agency, department, division, bureau, board, commission, council, or authority of the federal government.

(ii) This state or an agency, department, division, bureau, board, commission, council, or authority of this state.

(iii) A county, city, township, village, local or intermediate school district, or municipal corporation.

(iv) A public educational institution, including, but not limited to, a local or intermediate school district, a public school academy, a community college or junior college established pursuant to section 7 of article VIII of the state constitution of 1963, or a state 4-year institution of higher education located in this state.

(v) Any other authority or public body created under state law.

(c) “Public school academy” means a public school academy organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

This act is ordered to take immediate effect.

Approved January 8, 2007.

Filed with Secretary of State January 10, 2007.

[No. 682]

(HB 6395)

AN ACT to amend 1998 PA 58, entitled “An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses,

and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts,” by amending section 701 (MCL 436.1701), as amended by 2002 PA 725.

The People of the State of Michigan enact:

436.1701 Selling or furnishing alcoholic liquor to person less than 21 years of age; failure to make diligent inquiry; misdemeanor; signs; consumption of alcoholic liquor as cause of death or injury; felony; enforcement against licensee; consent of parent or guardian in undercover operation; defense in action for violation; report; definitions.

Sec. 701. (1) Alcoholic liquor shall not be sold or furnished to a minor. Except as otherwise provided in subsection (2) and subject to subsections (4), (5), and (6), a person who knowingly sells or furnishes alcoholic liquor to a minor, or who fails to make diligent inquiry as to whether the person is a minor, is guilty of a misdemeanor. A retail licensee or a retail licensee’s clerk, agent, or employee who violates this subsection shall be punished in the manner provided for licensees in section 909 except that if the violation is the result of an undercover operation in which the minor received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action, the retail licensee’s clerk, agent, or employee is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00. Except as otherwise provided in subsection (2), a person who is not a retail licensee or a retail licensee’s clerk, agent, or employee and who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 and imprisonment for not more than 60 days for a first offense, a fine of not more than \$2,500.00 and imprisonment for not more than 90 days for a second or subsequent offense, and may be ordered to perform community service. A suitable sign describing the content of this section and the penalties for its violation shall be posted in a conspicuous place in each room where alcoholic liquor is sold. The signs shall be approved and furnished by the commission.

(2) A person who is not a retail licensee or the retail licensee’s clerk, agent, or employee and who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both, if the subsequent consumption of the alcoholic liquor by the minor is a direct and substantial cause of that person’s death or an accidental injury that causes that person’s death.

(3) If a violation occurs in an establishment that is licensed by the commission for consumption of alcoholic liquor on the licensed premises, a person who is a licensee or the clerk, agent, or employee of a licensee shall not be charged with a violation of subsection (1) or section 801(2) unless the licensee or the clerk, agent, or employee of the licensee knew or should have reasonably known with the exercise of due diligence that a person less than 21 years of age possessed or consumed alcoholic liquor on the licensed premises and the licensee or clerk, agent, or employee of the licensee failed to take immediate corrective action.

(4) If the enforcing agency involved in the violation is the state police or a local police agency, a licensee shall not be charged with a violation of subsection (1) or section 801(2) unless all of the following occur, if applicable:

(a) Enforcement action is taken against the minor who purchased or attempted to purchase, consumed or attempted to consume, or possessed or attempted to possess alcoholic liquor.

(b) Enforcement action is taken under this section against the person 21 years of age or older who is not the retail licensee or the retail licensee's clerk, agent, or employee who sold or furnished the alcoholic liquor to the minor.

(c) Enforcement action under this section is taken against the clerk, agent, or employee who directly sold or furnished alcoholic liquor to the minor.

(5) If the enforcing agency is the commission and an appearance ticket or civil infraction citation has not been issued, then the commission shall recommend to a local law enforcement agency that enforcement action be taken against a violator of this section or section 703 who is not a licensee. However, subsection (4) does not apply if the minor against whom enforcement action is taken under section 703, the clerk, agent, or employee of the licensee who directly sold or furnished alcoholic liquor to the minor, or the person 21 years of age or older who sold or furnished alcoholic liquor to the minor is not alive or is not present in this state at the time the licensee is charged. Subsection (4)(a) does not apply under either of the following circumstances:

(a) The violation of subsection (1) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) The violation of subsection (1) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action.

(6) Any initial or contemporaneous purchase or receipt of alcoholic liquor by the minor under subsection (5)(a) or (b) must have been under the direction of the state police, the commission, or the local police agency and must have been part of the undercover operation.

(7) If a minor participates in an undercover operation in which the minor is to purchase or receive alcoholic liquor under the supervision of a law enforcement agency, his or her parents or legal guardian shall consent to the participation if that person is less than 18 years of age.

(8) In an action for the violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a minor, a motor vehicle operator's or chauffeur's license, a military identification card, or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action brought under this section.

(9) The commission shall provide, on an annual basis, a written report to the department of state police as to the number of actions heard by the commission involving violations of this section and section 801(2). The report shall include the disposition of each action and contain figures representing the following categories:

(a) Decoy operations.

(b) Off-premises violations.

(c) On-premises violations.

(d) Repeat offenses within the 3 years preceding the date of that report.

(10) As used in this section:

(a) "Corrective action" means action taken by a licensee or a clerk, agent, or employee of a licensee designed to prevent a minor from further possessing or consuming alcoholic liquor on the licensed premises. Corrective action includes, but is not limited to, contacting a law enforcement agency and ejecting the minor and any other person suspected of aiding and abetting the minor.

(b) “Diligent inquiry” means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator’s or chauffeur’s license, an official Michigan personal identification card, a military identification card, or any other bona fide picture identification which establishes the identity and age of the person.

This act is ordered to take immediate effect.

Approved January 8, 2007.

Filed with Secretary of State January 10, 2007.