

HOUSE BILL No. 6050

September 18, 1990, Introduced by Rep. Fitzgerald and referred to the Committee on Judiciary.

A bill to amend sections 33a and 33b of Act No. 8 of the Public Acts of the Extra Session of 1933, entitled as amended "The Michigan liquor control act," section 33a as amended by Act No. 123 of the Public Acts of 1985 and section 33b as amended by Act No. 176 of the Public Acts of 1986, being sections 436.33a and 436.33b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 33a and 33b of Act No. 8 of the Public
2 Acts of the Extra Session of 1933, section 33a as amended by Act
3 No. 123 of the Public Acts of 1985 and section 33b as amended by
4 Act No. 176 of the Public Acts of 1986, being sections 436.33a
5 and 436.33b of the Michigan Compiled Laws, are amended to read as
6 follows:

1 Sec. 33a. (1) A person less than 21 years of age shall not
2 knowingly transport or possess, in a motor vehicle, alcoholic
3 liquor unless the person is employed by a licensee under this
4 act, a common carrier designated by the commission, the liquor
5 control commission, or an agent of the liquor control commission
6 and is transporting or having the alcoholic liquor in a motor
7 vehicle under the person's control during regular working hours
8 and in the course of the person's employment. A person who vio-
9 lates this subsection is guilty of a misdemeanor, AND UPON CON-
10 VICTION IS SUBJECT TO THE FINES AND PENALTIES PRESCRIBED IN
11 SECTION 33B.

12 (2) Within 30 days after the conviction of a person for the
13 violation of subsection (1) ~~, which conviction has become~~
14 BECOMES final, complaint may be made by the arresting officer or
15 the officer's superior before the court from which the warrant
16 was issued. ~~, which~~ THE complaint shall be under oath and
17 shall contain a description of the motor vehicle in which alco-
18 holic liquor was possessed or transported by the person less than
19 21 years of age in committing the offense and praying that the
20 motor vehicle be impounded as provided in this section. Upon the
21 filing of the complaint the court shall issue an order to the
22 owner of the motor vehicle to show cause why the motor vehicle
23 shall not be impounded. The order to show cause shall have a
24 date and time fixed in the order for a hearing, ~~which~~ AND THAT
25 date shall not be less than 10 days after the issuance of the
26 order and shall be served by delivering a true copy to the owner
27 not less than 3 full days before the date of hearing or, if the

1 owner cannot be located, by sending a true copy by certified mail
2 to the last known address of the owner. If the owner is a non-
3 resident of the state, service may be made upon the secretary of
4 state as provided in section 403 of the Michigan vehicle code,
5 Act No. 300 of the Public Acts of 1949, as amended, being section
6 257.403 of the Michigan Compiled Laws.

7 (3) If the court determines upon the hearing of the order to
8 show cause, from competent and relevant evidence, that at the
9 time of the commission of the offense the motor vehicle was being
10 driven by the person less than 21 years of age with the express
11 or implied consent or knowledge of the owner, and that the use of
12 the motor vehicle is not needed by the owner in the direct pur-
13 suit of the owner's employment or the actual operation of the
14 owner's business, the court shall authorize the impounding of the
15 vehicle for a period to be determined by the court, of not less
16 than 15 days ~~nor~~ OR more than 30 days. The court's order
17 authorizing the impounding of the vehicle shall authorize a law
18 enforcement officer to take possession OF THE MOTOR VEHICLE with-
19 out other process ~~of the motor vehicle~~ wherever located and to
20 store the vehicle in a public or private garage at the expense
21 and risk of the owner of the vehicle. Appeal shall lie from the
22 order to the circuit court of the county and the provisions gov-
23 erning the taking of appeals from judgments for damages shall be
24 applicable to the appeal.

25 (4) This section shall not prevent a bona fide lienholder
26 from exercising rights under a lien.

1 (5) ~~-(4)-~~ A person who knowingly transfers title to a motor
2 vehicle for the purpose of avoiding this section is guilty of a
3 misdemeanor.

4 Sec. 33b. (1) A person less than 21 years of age shall not
5 purchase alcoholic liquor, consume alcoholic liquor in a licensed
6 premises, or possess alcoholic liquor, except as provided in sec-
7 tion 33a(1). ~~of this act.~~ A person less than 21 years of age
8 who violates this subsection is liable for the following civil
9 fines and shall not be subject to the penalties prescribed in
10 section 50:

11 (A) ~~-(i)-~~ For the first violation a fine of not more than
12 \$25.00.

13 (B) ~~-(ii)-~~ For a second violation a fine of not more than
14 \$50.00, or participation in substance abuse prevention services
15 as defined in section 6107 of the public health code, Act No. 368
16 of the Public Acts of 1978, being section 333.6107 of the
17 Michigan Compiled Laws and designated by the administrator of
18 substance abuse services, or both.

19 (C) ~~-(iii)-~~ For a third or subsequent violation a fine of
20 not more than \$100.00, or participation in substance abuse pre-
21 vention services as defined in section 6107 of the public health
22 code, Act No. 368 of the Public Acts of 1978, and designated by
23 the administrator of substance abuse services, or both.

24 (2) Fifty percent of the fines collected under subsection
25 (1) shall be deposited with the state treasurer for deposit in
26 the general fund to the credit of the department of public health
27 for substance abuse treatment and rehabilitation services.

1 (3) A PERSON LESS THAN 16 YEARS OF AGE WHO VIOLATES
2 SUBSECTION (2) SHALL BE INELIGIBLE FOR AN OPERATOR'S LICENSE,
3 CHAUFFEUR'S LICENSE, OR PERMIT TO DRIVE UNTIL BOTH OF THE FOLLOW-
4 ING OCCUR:

5 (A) THE PERSON HAS ATTAINED THE AGE OF 16 YEARS AND 6
6 MONTHS.

7 (B) THE PERSON HAS PAID THE FINE OR COMPLETED PARTICIPATION
8 IN SUBSTANCE ABUSE PREVENTION SERVICES REQUIRED BY THE COURT AS A
9 RESULT OF THE VIOLATION.

10 (4) A PERSON LESS THAN 21 YEARS OF AGE FOUND BY THE COURT TO
11 VIOLATE SUBSECTION (2) SHALL SURRENDER TO THE COURT ANY OPERATOR
12 OR CHAUFFEUR LICENSE POSSESSED BY THAT PERSON. THE COURT SHALL
13 ORDER THE SECRETARY OF STATE TO SUSPEND THE SURRENDERED LICENSE
14 FOR A PERIOD OF 6 MONTHS, AND SHALL NOT PERMIT, DURING THE
15 6-MONTH SUSPENSION PERIOD, ISSUANCE OF A RESTRICTED LICENSE TO
16 THE PERSON WHO SURRENDERED THE LICENSE. THE SUSPENSION IS IN
17 ADDITION TO ANY FINE OR PENALTY IMPOSED UNDER THIS SUBSECTION.

18 (5) ~~-(3)-~~ A person who furnishes fraudulent identification
19 to a person less than 21 years of age, or a person less than 21
20 years of age who uses fraudulent identification to purchase alco-
21 holic liquor, is guilty of a misdemeanor. The court shall order
22 the secretary of state to suspend, for a period of 90 days, the
23 operator or chauffeur license of a person who is convicted of
24 using fraudulent identification in violation of this subsection
25 and the operator or chauffeur license of that person shall be
26 surrendered to the court. The court shall immediately forward
27 the surrendered license and a certificate of conviction to the

1 secretary of state. A suspension ordered under this subsection
2 shall be in addition to any other suspension of the person's
3 operator or chauffeur license.

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

11 (7) ~~-(5)-~~ This section shall not be construed to limit the
12 civil or criminal liability of the vendor or the vendor's clerk,
13 servant, agent, or employee for a violation of this act.

14 (8) ~~-(6)-~~ The consumption of alcoholic liquor by a person
15 under 21 years of age who is enrolled in a course offered by an
16 accredited post secondary educational institution in an academic
17 building of the institution under the supervision of a faculty
18 member shall not be prohibited by this act if the purpose is
19 solely educational and a necessary ingredient of the course.

20 Section 2. This amendatory act shall not take effect unless
21 Senate Bill No. ____ or House Bill No. 6062 (request
22 no. 04612'89 a) of the 85th Legislature is enacted into law.