

# SENATE BILL No. 629

October 24, 1989, Introduced by Senators BARCIA, MILLER, FESSLER, CONROY, MACK, WELBORN, FAXON, J. HART, GEAKE, CROUSEY, BINSFELD, DINGELL, KELLY, FREDRICKS, ARTHURHULTZ, CARL, SHINKLE, IRWIN, GEO. HART, FAUST, DE GROW and O'BRIEN and referred to the Committee on Regulatory Affairs.

A bill to amend sections 33 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 33b as amended by Act No. 176 of the Public Acts of 1986, being sections 436.33 and 436.33b of the Michigan Compiled Laws; and to add sections 20a and 33d.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 33 and 33b of Act No. 8 of the Public  
2 Acts of the Extra Session of 1933, section 33b as amended by Act  
3 No. 176 of the Public Acts of 1986, being sections 436.33 and  
4 436.33b of the Michigan Compiled Laws, are amended and sections  
5 20a and 33d are added to read as follows:

6       SEC. 20A. NOTWITHSTANDING SECTION 20(1), THE COMMISSION  
7 SHALL NOT TAKE ACTION AGAINST A LICENSEE FOR A VIOLATION OF  
8 SECTIONS 22(3) OR 33B WHICH IS THE RESULT OF AN UNDERCOVER

1 OPERATION IN WHICH THE PERSON LESS THAN 21 YEARS OF AGE PURCHASED  
2 OR RECEIVED THE ALCOHOLIC LIQUOR UNDER THE DIRECTION OF THE  
3 LICENSEE WITH THE APPROVAL OF THE LOCAL PROSECUTOR'S OFFICE AS  
4 PART OF AN EMPLOYER-SPONSORED INTERNAL ENFORCEMENT ACTION.

5 Sec. 33. (1) Alcoholic liquor shall not be sold or fur-  
6 nished to a person unless the person has attained 21 years of  
7 age. A person who knowingly sells or furnishes alcoholic liquor  
8 to a person who is less than 21 years of age, or who fails to  
9 make diligent inquiry as to whether the person is less than 21  
10 years of age, is guilty of a misdemeanor. A suitable sign which  
11 describes THE CONTENT OF this section and the penalties for  
12 ~~violating this section~~ ITS VIOLATION shall be posted in a con-  
13 spicuous place in each room where alcoholic ~~liquors are~~ LIQUOR  
14 IS sold. The signs shall be approved and furnished by the ~~state~~  
15 ~~liquor control~~ commission.

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

24 (3) THE COMMISSION SHALL PROVIDE, ON AN ANNUAL BASIS, A  
25 WRITTEN REPORT TO THE DEPARTMENT OF STATE POLICE AS TO THE NUMBER  
26 OF ACTIONS HEARD BY THE COMMISSION INVOLVING VIOLATIONS OF THIS  
27 SECTION AND SECTIONS 22(3) AND 33B. THE REPORT SHALL INCLUDE THE

1 DISPOSITION OF EACH ACTION AND CONTAIN FIGURES REPRESENTING THE  
2 FOLLOWING CATEGORIES:

3 (A) DECOY OPERATIONS.

4 (B) OFF-PREMISES VIOLATIONS.

5 (C) ON-PREMISES VIOLATIONS.

6 (D) REPEAT OFFENSES.

7 Sec. 33b. (1) A person less than 21 years of age shall not  
8 purchase OR ATTEMPT TO PURCHASE alcoholic liquor, consume OR  
9 ATTEMPT TO CONSUME alcoholic liquor in a licensed premises, or  
10 possess OR ATTEMPT TO POSSESS alcoholic liquor, except as pro-  
11 vided in SUBSECTION (12) AND section 33a(1). ~~of this act.~~ A  
12 person less than 21 years of age who violates this subsection is  
13 RESPONSIBLE FOR A CIVIL INFRACTION, IS liable for ~~the following~~  
14 A civil ~~finer and shall not be subject to the penalties pre-~~  
15 ~~scribed in section 50:~~ FINE OF NOT LESS THAN \$50.00 AND NOT MORE  
16 THAN \$500.00, SHALL UNDERGO SUBSTANCE ABUSE SCREENING AND ASSESS-  
17 MENT AS DESCRIBED IN SUBSECTION (5), AND MAY BE ORDERED TO PER-  
18 FORM COMMUNITY SERVICE OR PARTICIPATE IN SUBSTANCE ABUSE PREVEN-  
19 TION OR TREATMENT SERVICES AS DEFINED IN SECTION 6107 OF THE  
20 PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING  
21 SECTION 333.6107 OF THE MICHIGAN COMPILED LAWS, AND DESIGNATED BY  
22 THE ADMINISTRATOR OF SUBSTANCE ABUSE SERVICES. IN ADDITION, THE  
23 PERSON IS SUBJECT TO OPERATOR OR CHAUFFEUR LICENSE SANCTIONS  
24 DESCRIBED IN SUBSECTION (6).

25 ~~(i) For the first violation a fine of not more than~~  
26 ~~\$25.00.~~

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

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

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

(3) A person who furnishes fraudulent identification to a person less than 21 years of age, or a person less than 21 years of age who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor. The court shall order the secretary of state to suspend, PURSUANT TO SECTION 319(6) OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.319 OF THE MICHIGAN COMPILED LAWS, for a period of 90 days, the operator or chauffeur license of a person who is convicted of ~~using fraudulent identification in~~ A violation of this subsection and the operator or chauffeur license of that person shall be surrendered to the court. The court shall

1 immediately forward the surrendered license and a certificate of  
2 conviction to the secretary of state. A suspension ordered under  
3 this subsection shall be in addition to any other suspension of  
4 the person's operator or chauffeur license.

5 (4) A LAW ENFORCEMENT AGENCY, UPON DETERMINING THAT A PERSON  
6 LESS THAN 18 YEARS OF AGE ALLEGEDLY CONSUMED, POSSESSED, PUR-  
7 CHASED, OR ATTEMPTED TO CONSUME, POSSESS, OR PURCHASE ALCOHOLIC  
8 LIQUOR IN VIOLATION OF SUBSECTION (1), SHALL NOTIFY THE PARENT OR  
9 PARENTS, CUSTODIAN, OR GUARDIAN OF THE PERSON AS TO THE NATURE OF  
10 THE VIOLATION. THE NOTICE REQUIRED BY THIS SUBSECTION SHALL BE  
11 MADE NOT LATER THAN 48 HOURS AFTER THE LAW ENFORCEMENT AGENCY  
12 DETERMINES THAT THE PERSON WHO ALLEGEDLY VIOLATED SUBSECTION (1)  
13 IS LESS THAN 18 YEARS OF AGE AND MAY BE MADE IN PERSON, BY TELE-  
14 PHONE, OR BY FIRST CLASS MAIL.

15 (5) BEFORE IMPOSING A PENALTY FOR THE VIOLATION OF  
16 SUBSECTION (1), A COURT SHALL ORDER THE PERSON TO UNDERGO SCREEN-  
17 ING AND ASSESSMENT BY A PERSON OR AGENCY DESIGNATED BY THE OFFICE  
18 OF SUBSTANCE ABUSE SERVICES IN ORDER TO DETERMINE WHETHER THE  
19 PERSON IS LIKELY TO BENEFIT FROM REHABILITATIVE SERVICES, INCLUD-  
20 ING ALCOHOL OR DRUG EDUCATION AND ALCOHOL OR DRUG TREATMENT  
21 PROGRAMS.

22 (6) IMMEDIATELY UPON THE ENTRY OF A CIVIL INFRACTION DETER-  
23 MINATION OR A PROBATE COURT ORDER OF DISPOSITION FOR A VIOLATION  
24 OF SUBSECTION (1), A COURT SHALL CONSIDER ALL PRIOR CIVIL INFRAC-  
25 TION DETERMINATIONS, CONVICTIONS, OR PROBATE COURT ORDERS OF DIS-  
26 POSITION OF SUBSECTION (1), OR A LOCAL ORDINANCE OR LAW OF

1 ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO SUBSECTION (1), AND  
2 MAY IMPOSE THE FOLLOWING SANCTIONS:

3 (A) IF THE COURT FINDS THAT THE PERSON HAS NO SUCH PRIOR  
4 CIVIL INFRACTION DETERMINATIONS, CONVICTIONS, OR PROBATE COURT  
5 ORDERS OF DISPOSITION, THE COURT SHALL ORDER THE SECRETARY OF  
6 STATE TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE  
7 PERSON FOR A PERIOD OF NOT MORE THAN 90 DAYS. THE COURT MAY  
8 ORDER THE SECRETARY OF STATE TO ISSUE TO THE PERSON A RESTRICTED  
9 LICENSE DURING ALL OR A SPECIFIED PORTION OF THE PERIOD OF SUS-  
10 PENSION IN THE MANNER PROVIDED FOR IN SECTION 319E OF ACT NO. 300  
11 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.319E OF THE  
12 MICHIGAN COMPILED LAWS.

13 (B) IF THE COURT FINDS THAT THE PERSON HAS 1 SUCH PRIOR  
14 CIVIL INFRACTION DETERMINATION, CONVICTION, OR PROBATE COURT  
15 ORDER OF DISPOSITION, THE COURT SHALL ORDER THE SECRETARY OF  
16 STATE TO SUSPEND THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE  
17 PERSON FOR A PERIOD OF NOT LESS THAN 90 DAYS OR MORE THAN 180  
18 DAYS. THE COURT MAY ORDER THE SECRETARY OF STATE TO ISSUE TO THE  
19 PERSON A RESTRICTED LICENSE DURING ALL OR ANY PORTION OF THE  
20 PERIOD OF SUSPENSION IN THE MANNER PROVIDED FOR IN SECTION 319E  
21 OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.319E  
22 OF THE MICHIGAN COMPILED LAWS.

23 (C) IF THE COURT FINDS THAT THE PERSON HAS 2 OR MORE SUCH  
24 PRIOR CIVIL INFRACTION DETERMINATIONS, CONVICTIONS, OR PROBATE  
25 COURT ORDERS OF DISPOSITION, THE COURT SHALL ORDER THE SECRETARY  
26 OF STATE TO REVOKE THE OPERATOR'S OR CHAUFFEUR'S LICENSE OF THE  
27 PERSON FOR A PERIOD OF NOT LESS THAN 180 DAYS OR MORE THAN 1 YEAR

1 AND SHALL NOT ORDER THE SECRETARY OF STATE TO ISSUE A RESTRICTED  
2 LICENSE TO THE PERSON.

3 (7) THE COURT SHALL NOT ORDER THE SECRETARY OF STATE TO  
4 ISSUE A RESTRICTED LICENSE UNLESS THE PERSON STATES UNDER OATH,  
5 AND THE COURT FINDS BASED UPON THE RECORD IN OPEN COURT, THAT THE  
6 PERSON IS UNABLE TO TAKE PUBLIC TRANSPORTATION TO AND FROM HIS OR  
7 HER WORK LOCATION, PLACE OF ALCOHOL OR DRUG EDUCATION TREATMENT,  
8 PROBATION DEPARTMENT, COURT-ORDERED COMMUNITY SERVICE PROGRAM, OR  
9 EDUCATIONAL INSTITUTION, AND DOES NOT HAVE ANY FAMILY MEMBERS OR  
10 OTHERS ABLE TO PROVIDE TRANSPORTATION. THE COURT ORDER UNDER  
11 SUBSECTION (6) AND THE RESTRICTED LICENSE SHALL INDICATE THE WORK  
12 LOCATION OF THE PERSON TO WHOM IT IS ISSUED AND THE APPROVED  
13 ROUTE OR ROUTES AND PERMITTED TIMES OF TRAVEL.

14 (8) IMMEDIATELY UPON THE ENTRY OF A CIVIL INFRACTION DETER-  
15 MINATION OR A PROBATE COURT ORDER OF DISPOSITION FOR A VIOLATION  
16 OF SUBSECTION (1), THE COURT MAY ORDER THE PERSON FOUND RESPONSIB-  
17 BLE FOR THE VIOLATION TO SURRENDER TO THE COURT HIS OR HER  
18 OPERATOR'S OR CHAUFFEUR'S LICENSE. THE COURT SHALL IMMEDIATELY  
19 FORWARD A NOTICE OF COURT-ORDERED LICENSE SANCTIONS TO THE SECRE-  
20 TARY OF STATE. IF THE FINDING IS REVIEWED BY THE CIRCUIT COURT,  
21 THE COURT MAY, EX PARTE, ORDER THE SECRETARY OF STATE TO RESCIND  
22 THE SUSPENSION, REVOCATION, OR RESTRICTED LICENSE ISSUED PURSUANT  
23 TO THIS SECTION. IMMEDIATELY FOLLOWING IMPOSITION OF THE PENAL-  
24 TY, THE COURT SHALL FORWARD A NOTICE TO THE SECRETARY OF STATE  
25 INDICATING THE PENALTY IMPOSED.

26 (9) ~~-(4)-~~ This section shall not be construed to prohibit a  
27 person less than 21 years of age from possessing alcoholic liquor

1 during regular working hours and in the course of his or her  
2 employment if employed by a person licensed by this act, by the  
3 ~~liquor control~~ commission, or by an agent of the ~~liquor~~  
4 ~~control~~ commission, if the alcoholic liquor is not possessed for  
5 his or her personal consumption.

6 (10) ~~—(5)—~~ This section shall not be construed to limit the  
7 civil or criminal liability of the vendor or the vendor's clerk,  
8 servant, agent, or employee for a violation of this act.

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

16 (12) SUBSECTION (1) DOES NOT APPLY TO A PERSON LESS THAN 21  
17 YEARS OF AGE WHO PARTICIPATES IN EITHER OR BOTH OF THE  
18 FOLLOWING:

19 (A) AN UNDERCOVER OPERATION IN WHICH THE PERSON LESS THAN 21  
20 YEARS OF AGE PURCHASED OR RECEIVED ALCOHOLIC LIQUOR UNDER THE  
21 DIRECTION OF THE PERSON'S EMPLOYER AND WITH THE APPROVAL OF THE  
22 LOCAL PROSECUTOR'S OFFICER AS PART OF AN EMPLOYER-SPONSORED  
23 INTERNAL ENFORCEMENT ACTION.

24 (B) AN UNDERCOVER OPERATION IN WHICH THE PERSON LESS THAN 21  
25 YEARS OF AGE PURCHASED OR RECEIVED ALCOHOLIC LIQUOR UNDER THE  
26 DIRECTION OF THE STATE POLICE OR A LOCAL POLICE AGENCY AS PART OF  
27 AN ENFORCEMENT ACTION.



1        SEC. 33D. (1) A PERSON 21 YEARS OF AGE OR OLDER SHALL NOT  
2 FURNISH ALCOHOLIC LIQUOR TO A PERSON LESS THAN 21 YEARS OF AGE.

3        (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A MIS-  
4 DEMEANOR AND SHALL BE FINED \$500.00. IN ADDITION, THE PERSON MAY  
5 BE SENTENCED TO IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR MAY BE  
6 ORDERED TO PERFORM COMMUNITY SERVICE.

7        Section 2. This amendatory act shall take effect upon the  
8 expiration of 60 days after the date of its enactment.

9        Section 3. This amendatory act shall not take effect unless  
10 Senate Bill No. 630  
11                      of the 85th Legislature is enacted into law.