

HOUSE BILL No. 5820

April 9, 2002, Introduced by Reprs. Schauer, Lipsey, Richardville, Anderson, Woodward, Spade, Mans, Gosselin, Vander Veen and Voorhees and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 141a (MCL 750.141a), as added by 1994 PA 31.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 141a. (1) As used in this section:

2 (a) "Alcoholic beverage" means an alcoholic liquor as
3 defined in section ~~2 of the Michigan liquor control act, Act~~
4 ~~No. 8 of the Public Acts of the Extra Session of 1933, being sec-~~
5 ~~tion 436.2 of the Michigan Compiled Laws~~ 105 OF THE MICHIGAN
6 LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL 436.1105.

7 (b) "Allow" means to give permission for, or approval of,
8 possession or consumption of an alcoholic beverage or a con-
9 trolled substance, by any of the following means:

10 (i) In writing.

1 (ii) By 1 or more oral statements.

2 (iii) By any form of conduct, including a failure to take
3 corrective action, that would cause a reasonable person to
4 believe that permission or approval has been given.

5 (c) "Control over any premises, residence, or other real
6 property" means the authority to regulate, direct, restrain,
7 superintend, control, or govern the conduct of other individuals
8 on or within that premises, residence, or other real property,
9 and includes, but is not limited to, a possessory right.

10 (d) "Controlled substance" means that term as defined in
11 section 7104 of the public health code, ~~Act No. 368 of the~~
12 ~~Public Acts of 1978, being section 333.7104 of the Michigan~~
13 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7104.

14 (e) "Corrective action" means any of the following:

15 (i) Making a prompt demand that the minor or other individ-
16 ual depart from the premises, residence, or other real property,
17 or refrain from the unlawful possession or consumption of the
18 alcoholic beverage or controlled substance on or within that
19 premises, residence, or other real property, and taking addi-
20 tional action described in subparagraph (ii) or (iii) if the
21 minor or other individual does not comply with the request.

22 (ii) Making a prompt report of the unlawful possession or
23 consumption of alcoholic liquor or a controlled substance to a
24 law enforcement agency having jurisdiction over the violation.

25 (iii) Making a prompt report of the unlawful possession or
26 consumption of alcoholic liquor or a controlled substance to
27 another person having a greater degree of authority or control

1 over the conduct of persons on or within the premises, residence,
2 or other real property.

3 (f) "Minor" means an individual less than 21 years of age.

4 (g) "Premises" means a permanent or temporary place of
5 assembly, other than a residence, including, but not limited to,
6 any of the following:

7 (i) A meeting hall, meeting room, or conference room.

8 (ii) A public or private park.

9 (h) "Residence" means a permanent or temporary place of
10 dwelling, including, but not limited to, any of the following:

11 (i) A house, apartment, condominium, or mobile home.

12 (ii) A cottage, cabin, trailer, or tent.

13 (iii) A motel unit, hotel unit, or bed and breakfast unit.

14 (i) "Social gathering" means an assembly of 2 or more indi-
15 viduals for any purpose, unless all of the individuals attending
16 the assembly are members of the same household or immediate
17 family.

18 (2) Except as otherwise provided in subsection (3), an
19 owner, tenant, or other person having control over any premises,
20 residence, or other real property shall not do either of the
21 following:

22 (a) Knowingly allow a minor to consume or possess an alco-
23 holic beverage at a social gathering on or within that premises,
24 residence, or other real property.

25 (b) Knowingly allow any individual to consume or possess a
26 controlled substance at a social gathering on or within that
27 premises, residence, or other real property.

1 (3) This section does not apply to the use, consumption, or
2 possession of a controlled substance by an individual pursuant
3 to a lawful prescription, or to the use, consumption, or posses-
4 sion of an alcoholic beverage by a minor for religious purposes.

5 (4) Except as provided in ~~subsection~~ SUBSECTIONS (5) AND
6 (6), a person who violates subsection (2) is guilty of a misde-
7 meanor ~~punishable~~ AND MAY BE PUNISHED by imprisonment for not
8 more than ~~30~~ 180 days ~~or by a fine of not more than~~ AND SHALL
9 BE FINED \$1,000.00. ~~, or both.~~

10 (5) ~~For~~ EXCEPT AS PROVIDED IN SUBSECTION (6), FOR a second
11 or subsequent violation of subsection (2), the person is guilty
12 of a misdemeanor ~~punishable~~ AND SHALL BE PUNISHED by imprison-
13 ment for not LESS THAN 1 DAY OR more than ~~90 days or by~~ 1 YEAR
14 AND a fine of ~~not more than~~ \$1,000.00. ~~, or both.~~

15 (6) IF THE PERSON VIOLATES SUBSECTION (2) AND FOLLOWING THE
16 VIOLATION THE MINOR OPERATES A MOTOR VEHICLE IN VIOLATION OF
17 SECTION 625 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,
18 MCL 257.625, AS A RESULT OF CONSUMING AN ALCOHOLIC BEVERAGE OR A
19 CONTROLLED SUBSTANCE ON THE PREMISES, RESIDENCE, OR REAL PROPER-
20 TY, THE PERSON IS GUILTY OF A CRIME AS FOLLOWS:

21 (A) IF THE MINOR OPERATES A VEHICLE IN VIOLATION OF
22 SECTION 625(1), (3), OR (6) OF THE MICHIGAN VEHICLE CODE, 1949
23 PA 300, MCL 257.625, THE PERSON IS GUILTY OF A MISDEMEANOR PUN-
24 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT
25 MORE THAN \$500.00, OR BOTH.

26 (B) IF THE MINOR OPERATES A VEHICLE IN VIOLATION OF
27 SECTION 625(4) OR (5) OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,

1 MCL 257.625, THE PERSON IS GUILTY OF A FELONY AND SHALL BE
2 PUNISHED BY IMPRISONMENT FOR NOT LESS THAN 1 YEAR OR MORE THAN
3 5 YEARS AND SHALL BE FINED NOT MORE THAN \$2,000.00, OR BOTH.
4 THIS SUBDIVISION DOES NOT PROHIBIT THE PERSON FROM BEING CHARGED
5 WITH, CONVICTED OF, OR SENTENCED FOR ANY OTHER VIOLATION OF LAW
6 ARISING OUT OF THE SAME TRANSACTION AS THE VIOLATION OF THIS
7 SECTION. THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR
8 A VIOLATION OF THIS SUBDIVISION TO BE SERVED CONSECUTIVELY TO ANY
9 OTHER VIOLATION OF LAW ARISING OUT OF THE SAME TRANSACTION AS THE
10 VIOLATION OF THIS SECTION.

11 (7) ~~-(6)-~~ Evidence of all of the following gives rise to a
12 rebuttable presumption that the defendant allowed the consumption
13 or possession of an alcoholic beverage or a controlled substance
14 on or within a premises, residence, or other real property, in
15 violation of this section:

16 (a) The defendant had control over the premises, residence,
17 or other real property.

18 (b) The defendant knew that a minor was consuming or in pos-
19 session of an alcoholic beverage or knew that an individual was
20 consuming or in possession of a controlled substance at a social
21 gathering on or within that premises, residence, or other real
22 property.

23 (c) The defendant failed to take corrective action.

24 (8) ~~-(7)-~~ This section does not authorize selling or fur-
25 nishing an alcoholic beverage to a minor.

1 (9) ~~-(8)-~~ A criminal penalty provided for under this section
2 may be imposed in addition to any penalty that may be imposed for
3 any other criminal offense arising from the same conduct.