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Sec. 6-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic liquor shall have the meaning given in the Michigan Liquor Control Code of 1998 (MCL 436.1101 et seq.).

License shall have the meaning given in the Michigan Liquor Control Code of 1998 (MCL 436.1101 et seq.).

Minor means a person under 21 years of age.

State Law reference— Similar provisions, MCL 436.1109(3).

Public place means a place to which the public or a substantial group of persons has access. Among places included are any:

- (1) Highway, street, road, alley, sidewalk, park, parking lot, river, public water, wharf, dock, waterfront, or publicly owned or controlled open ground.
- (2) Publicly owned or controlled building, excluding any interior portion thereof being used as a dwelling.
- (3) Place of business.
- (4) Place of amusement, entertainment, recreation or education open to the general public.
- (5) Place where services are rendered to the public or a substantial group of persons.
- (6) Transport facility.
- (7) Public conveyance.
- (8) Place of religious worship.
- (9) Place of manufacturing.
- (10) Railroad right-of-way.
- (11) Hospital.
- (12) Cemetery.
- (13) Common area of any hotel or apartment building.

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- (14) Private meeting place when a privately employed special-duty police officer, special-duty deputy sheriff or deputy sheriff is on duty there.
- (15) Grounds appurtenant to any of the places designated in this section.
- (16) Parking facility used in connection with any of the places designated in this section.

The enumeration in this definition shall be deemed partial and shall not operate to exclude other places which are within the general terms of this definition.

(Code 1989, § 9.131)

Cross reference— Definitions generally, § 1-2.

Sec. 6-2. Proceedings for nonrenewal or revocation of license.

- (a) Pursuant to the authority granted by section 501 of the Michigan Liquor Control Code of 1998 (MCL 436.1501), the city council may initiate proceedings for nonrenewal or revocation of licenses granted by the state liquor control commission to sell beer, wine, or spirits for consumption on the premises. Before objecting to renewal or requesting a revocation of a license, the city council shall hold a public hearing, after due notice to the licensee of the hearing and the reasons for the proposed action, at which hearing the licensee may present evidence and testimony and confront adverse witnesses. The licensee shall be provided with a written statement of the findings of the city council based upon the evidence presented.
- (b) Any objection to renewal or request for revocation to the liquor control commission by the city council pursuant to this section shall be based upon a finding that the licensee has engaged in, or has permitted to occur on or involving the licensed premises, any one or more of the following:
 - (1) The consumption of spirits, if licensed to sell only beer or wine, or both beer and wine.
 - (2) Dancing or live entertainment open to the public, with or without an admission charge, unless holding a valid dance or dance-entertainment permit.
 - (3) Any disorderly conduct or action which disturbs the peace and good order of the neighborhood.
 - (4) Any frequenting by thieves, prostitutes or other disorderly persons.
 - (5) Any gambling activity or the placing or using of any gambling apparatus or paraphernalia therein.
 - (6) Any possession, sale, or use of any illegal drug or controlled substance.
 - (7) Use of interior lighting which is insufficient to enable a person with average vision to clearly see all persons within the premises.
 - (8) Any violation of the state construction code.
 - (9) Any violation of the fire code of the city.
 - (10) Any violation of this chapter.
 - (11) Any violation of any other provision of this Code or state or federal law which is designed to protect the public health, safety or welfare or any rule or regulation adopted pursuant to any such provision of this Code or of such state or federal law.
 - (12) Serving alcoholic liquor to anyone at any time or in any manner which is prohibited by state law or any rule or regulation promulgated pursuant to law.
 - (13) Any failure to pay real or personal property taxes by March 1 of the year following the year in which such taxes were levied.

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(Code 1989, § 9.139)

Sec. 6-3. Sales to persons less than 21 years of age.

- (a) Alcoholic liquor shall not be sold or furnished to a minor. Subject to subsection (c) of this section, 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 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 state liquor control commission.
- (b) If a violation occurs in an establishment that is licensed by the state liquor control 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 (a) of this section 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.
- (c) 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 (a) of this section unless enforcement action under section 6-4 is taken against the minor who purchased or attempted to purchase, consumed or attempted to consume, or possessed or attempted to possess alcoholic liquor and, if applicable, enforcement action is taken under this section against the person 21 years of age or older who sold or furnished the alcoholic liquor to the minor. This subsection does not apply under any of the following circumstances:
 - (1) 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.
 - (2) The violation of subsection (a) of this section 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 city attorney's office as part of an employer-sponsored internal enforcement action.
 - (3) The violation of subsection (a) of this section is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the state police, the state liquor control commission, or a local police agency as part of an enforcement action. However, any initial or contemporaneous purchase or receipt of alcoholic liquor by the minor shall have been under the direction of the state police, the commission, or the local police agency and shall have been part of the undercover operation.
- (d) 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 parents or legal guardian shall consent to the participation if that person is less than 18 years of age.
- (e) 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 or a registration certificate issued by the federal selective service, 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.
- (f) As used in this section:

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

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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.

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, or any other bona fide picture identification which establishes the identity and age of the person.

(Code 1989, § 9.133)

State Law reference— Similar provisions, MCL 436.1701.

Sec. 6-4. Purchase, consumption or possession by person less than 21 years of age.

- (a) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section. A minor who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions:
 - (1) For the first violation, a fine of not more than \$100.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the Public Health Code (MCL 333.6107), and designated by the state administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his own expense as described in subsection (c) of this section.
 - (2) For a violation of this subsection following a prior conviction or juvenile adjudication for a violation of this subsection or section 33b(1) of former Public Act No. 8 of 1933 (Ex. Sess.), a fine of not more than \$200.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the Public Health Code (MCL 333.6107), and designated by the state administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his own expense as described in subsection (c) of this section.
 - (3) For a violation of this subsection following two or more prior convictions or juvenile adjudications for a violation of this subsection or section 33b(1) of former Public Act No. 8 of 1933 (Ex. Sess.), a fine of not more than \$500.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the Public Health Code (MCL 333.6107), and designated by the state administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his own expense as described in subsection (c) of this section.
- (b) A person who furnishes fraudulent identification to a minor, or, notwithstanding subsection (a) of this section, a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.
- (c) The court may order the person convicted of violating subsection (a) of this section to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the Public Health Code (MCL 333.6103), in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.
- (d) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of violating subsection (a) or (b) of this section as provided in section 319 of the Michigan Vehicle Code (MCL 257.319).

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- (e) A police officer who has reasonable cause to believe a minor has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A police officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor. A minor who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than \$100.00.
- (f) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq.) allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of subsection (a) of this section, shall notify the parent, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (a) of this section is less than 18 years of age and not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq.). The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first class mail. If an individual less than 17 years of age is incarcerated for violating subsection (a) of this section, his parents or legal guardian shall be notified immediately as provided in this subsection.
- (g) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his employment if employed by a person licensed by the Michigan Liquor Control Code of 1998 (MCL 436.1101 et seq.), by the state liquor control commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his personal consumption.
- (h) This section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of the Michigan Liquor Control Code of 1998 (MCL 436.1101 et seq.).
- (i) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited post-secondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this section if the purpose of the consumption is solely educational and is a requirement of the course.
- (j) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this section.
- (k) Subsection (a) of this section does not apply to a minor who participates in either or both of the following:
 - (1) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the city attorney's office as part of an employer-sponsored internal enforcement action.
 - (2) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the state liquor control commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.
- (l) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (a) of this section, section 801(2) of the Liquor Control Act of 1998 (MCL 436.1801(2)), or section 6-3(a).

(Code 1989, § 9.135)

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State Law reference— Similar provisions, MCL 436.1703.

Sec. 6-5. Consumption in public place.

Alcoholic liquor shall not be consumed on a public street or in a park or any other public place, including any store or establishment doing business with the public not licensed to sell alcoholic liquor for consumption of alcoholic liquor therein.

(Code 1989, § 9.137)

Cross reference— Streets, sidewalks and other public places, ch. 62.

Sec. 6-6. Possession of open container in public place.

A person who shall be found upon any public street, park, or other public place, having in his possession an open receptacle or container containing alcoholic liquor, shall be deemed guilty of an offense.

(Code 1989, § 9.138)

FOOTNOTE(S):

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Charter reference— General powers of city, § 1.01. [\(Back\)](#)

Cross reference— Businesses, ch. 22; public intoxication, § 46-136. [\(Back\)](#)

State Law reference— Michigan Liquor Control Code of 1998, MCL 436.1101 et seq. [\(Back\)](#)