

CHAPTER 604
Alcoholic Beverages

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CROSS REFERENCES

Intoxicating liquors generally - see M.C.L.A. Secs. 436.1 et seq.

Sales on Sundays and municipal election days - see M.C.L.A.
Sec. 436.19e

Alcoholic beverages at open house parties - see GEN. OFF. 658.02

604.01 SELLING TO OR SERVING UNDERAGE PERSONS.

No person, either directly or indirectly, by himself or herself, or by his or her clerk, agent, servant or employee, shall, at any time, sell, furnish, give or deliver any alcoholic liquor, beer or wine to any person unless such person has attained the age of twenty-one years. No person under the age of twenty-one years purchasing or offering to purchase beer, wine or other alcoholic beverage shall falsely represent himself or herself to be over the age of twenty-one or make false statements or give false information regarding his or her age to any police officer or to any person or employee in charge of any place where beer, wine and other alcoholic beverages are sold. No person shall make false representations in order to procure the sale or furnishing of beer, wine or other alcoholic beverage to a person under the age of twenty-one.

(Ord. 119. Passed 7-29-68.)

604.02 PURCHASE, CONSUMPTION OR POSSESSION BY UNDERAGE PERSONS; APPEARANCE TICKETS.

(a) No person under the age of twenty-one years shall 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 and M.C.L.A. 436.33a(1).

(b) This section does not prohibit a person less than twenty-one years of age from possessing alcoholic liquor during regular working hours and in the course of his or her employment, if employed by a person licensed by the Michigan Liquor Control Commission, or by an agent of the Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(c) This section shall not be construed to limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent or employee for a violation of this section.

(d) The consumption of alcoholic liquor by a person less than twenty-one years of age 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 necessary ingredient of the course.

(e) The consumption by a person less than twenty-one years of age of sacramental wine in connection with religious services at a church, synagogue or temple is not prohibited by this section.

(f) Subsection (a) hereof shall not apply to a person less than twenty-one years of age who participates in either or both of the following:

- (1) An undercover operation in which the person less than twenty-one years of age purchases or receives 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.
- (2) An undercover operation in which the person less than twenty-one years of age purchases or receives alcoholic liquor under the direction of the State Police, the Michigan Liquor Control Commission or a local police agency as part of an enforcement action, provided that any initial or contemporaneous purchase or receipt of alcoholic liquor by the person less than twenty-one years of age is under the direction of

the State Police, the Commission or the local police agency and is part of the undercover operation. The State Police, the Commission or a local police agency shall not recruit or attempt to recruit a person less than twenty-one years of age for participation in an undercover operation at the scene of a violation of subsection (a) hereof.

(g) An officer of the Village Police Department who witnesses a violation of subsection (a) hereof may stop and detain the person for purposes of obtaining satisfactory identification, seizing illegally possessed alcoholic liquor and issuing an appearance ticket.

(h) As used in this section, "appearance ticket" means a complaint or written notice, issued and subscribed by a law enforcement officer of the type described in subsection (g) hereof, directing a designated person to appear in a designated district or probate court at a designated time in connection with the alleged violation. The appearance ticket shall consist of the following parts:

- (1) The original, which shall be a complaint or notice to appear by the officer and shall be filed with the court;
- (2) The first copy, which shall be an abstract of the court record;
- (3) The second copy, which shall be delivered to the alleged violator; and
- (4) The third copy, which shall be retained by the law enforcement agency.

(i) A judge may accept a plea of guilty by the defendant of the allegations of an appearance ticket and the court shall then impose a fine, license suspension or other sanction as authorized by Section 604.99. If the defendant denies the allegations of the appearance ticket, the court shall then set a date for trial or hearing.

(Res. 96-76. Passed 6-27-96.)

604.025 FURNISHING AND USE OF FRAUDULENT IDENTIFICATION TO PURCHASE ALCOHOLIC LIQUOR.

No person shall furnish fraudulent identification to a person less than twenty-one years of age, and no person less than twenty-one years of age shall use fraudulent identification, for the purpose of purchasing alcoholic liquor.

(Res. 96-76. Passed 6-27-96.)

604.03 CONSUMPTION ON PUBLIC PROPERTY.

No alcoholic liquor shall be consumed on any City owned property, streets, sidewalks or parks without the approval from City Council.

(Ord. 119. Passed 7-29-68; Ord. 2016-08. Passed 12-12-16.)

604.04 PUBLIC INTOXICATION.

No person who is intoxicated in a public place shall either directly endanger the safety of another person or property or act in a manner that causes a public disturbance.

(Ord. 104B. Passed 10-10-78.)

604.05 OPEN CONTAINERS IN MOTOR VEHICLES.

No person shall transport or possess any alcoholic liquor in a container which is open or uncapped, or upon which the seal is broken, within the passenger compartment of a vehicle on the public streets of the Village.

If the vehicle does not have a trunk or compartment separate from the passenger compartment, a container which is open or uncapped, or upon which the seal is broken, shall be encased or enclosed.

This section shall not apply to any chartered passenger vehicle licensed by the Michigan Public Service Commission.

(Ord. 104B. Passed 10-10-78.)

604.06 MINORS ON LICENSED PREMISES. (REPEALED)

(EDITOR'S NOTE: This section was repealed by Ordinance 2005-02, passed March 14, 2005.)

604.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

(a) Whoever violates Section 604.02 is responsible for a civil infraction and shall be subject to the following civil fines and sanctions:

- (1) For a first violation, a fine of not more than one hundred dollars (\$100.00) and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d) hereof.

- (2) For a second violation, a fine of not more than two hundred dollars (\$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, Act 368 of the Public Acts of 1978, being M.C.L.A. 333.6107, and designated by the administrator of substance abuse services, to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d) hereof. The person is also subject to sanctions against his or her operator's or chauffeur's license imposed in subsection (e) hereof.
- (3) For a third or subsequent violation, a fine of not more than five hundred dollars (\$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 Act 368 of the Public Acts of 1978, and designated by the administrator of substance abuse services, to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d) hereof. The person is also subject to sanctions against his or her operator's or chauffeur's license imposed in subsection (e) hereof.

(b) Fifty percent of the fines collected under subsection (a) hereof 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.

(c) Whoever violates Section 604.025 is guilty of a misdemeanor. The court shall order the Secretary of State to suspend, pursuant to Section 319(5) of Act 300 of the Public Acts of 1949, being M.C.L.A. 257.319, for a period of ninety days, the operator's or chauffeur's license of a person who is convicted of furnishing or using fraudulent identification in violation of Section 604.025, and the operator's or chauffeur's license of that person shall be surrendered to the court. The court shall immediately forward the surrendered license and an abstract of conviction to the Secretary of State. A suspension ordered under this subsection shall be in addition to any other suspension of the person's operator's or chauffeur's license.

(d) The court may order a person found violating Section 604.02 to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency, as defined in Section 6103 of Act 368 of the Public Acts of 1978, being M.C.L.A. 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.

(e) Immediately upon the entry of a conviction or a probate court disposition for a violation of Section 604.02, the court shall consider all prior convictions or probate court dispositions of Section 604.02, or a local ordinance or law of another state substantially corresponding to Section 604.02, and shall impose the following sanctions:

- (1) If the court finds that the person has one such prior conviction or probate court disposition, the court shall order the Secretary of State to suspend the operator's or chauffeur's license of the person for a period of not less than ninety days nor more than 180 days. The court may order the Secretary of State to issue the person a restricted license after the first thirty days of the period of suspension in the manner described in subsection (f) hereof and provided for in Section 319 of Act 300 of the Public Acts of 1949, being M.C.L.A. 257.319. In the case of a person who does not possess an operator's or chauffeur's license, the Secretary of State shall deny the application for an operator's or chauffeur's license for the applicable suspension period.
- (2) If the court finds that the person has two or more such prior convictions or probate court dispositions, the court shall order the Secretary of State to suspend the operator's or chauffeur's license of the person for a period of not less than 180 days nor more than one year. The court may order the Secretary of State to issue the person a restricted license after the first sixty days of the period of suspension in the manner described in subsection (f) hereof and provided for in Section 319 of Act 300 of the Public Acts of 1949, being M.C.L.A. 257.319. In the case of a person who does not possess an operator's or chauffeur's license, the Secretary of State shall deny the application for an operator's or chauffeur's license for the applicable suspension period.

(f) In those cases where a restricted license is allowed under this section, the court shall not order the Secretary of State to issue a restricted license unless the person states under oath, and the court finds, based upon the record in open court, that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education or treatment, probation department, court-ordered community service program or educational institution, and does not have any family members or others able to provide transportation. The court order under subsection (e) hereof and the restricted license shall indicate the work location of the person to whom it is issued, and the approved route or routes and permitted times of travel, and shall permit the person to whom it is issued only one or more of the following:

- (1) To drive to and from the person's residence and work location;
- (2) To drive in the course of the person's employment or occupation;
- (3) To drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court;
- (4) To drive to and from the person's residence and the court probation department or a court-ordered community service program, or both; and
- (5) To drive to and from the person's residence and an educational institution at which the person is enrolled as a student.

(g) If license sanctions are imposed, immediately upon the entry of a court-ordered sanction pursuant to subsection (e) hereof, the court shall order the person convicted of the violation to surrender to the court his or her operator's or chauffeur's license. The court shall immediately forward a notice of court-ordered license sanctions to the Secretary of State. If the license is not forwarded to the Secretary of State, an explanation of the reason why the license is absent shall be attached. If the finding is reviewed by the circuit court, the court may, ex parte, order the Secretary of State to rescind the suspension or restricted license issued pursuant to this section. Immediately following imposition of the sanction, the court shall forward a notice to the Secretary of State indicating the sanction imposed.

(h) A peace officer who has reasonable cause to believe a person less than twenty-one years of age has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A legal presumption shall be made by the court that the person less than twenty-one years of age has consumed or possessed alcoholic liquor if a preliminary chemical breath analysis or other acceptable blood alcohol test indicates that the person's blood contained .02 percent or more by weight of alcohol. A person less than twenty-one years of age who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a civil infraction.

(i) A law enforcement agency, upon determining that a person less than eighteen years of age who is not emancipated pursuant to Act 293 of the Public Acts of 1968, being M.C.L.A. 772.1 to 772.6, allegedly consumed, possessed or purchased, or attempted to consume, possess or purchase, alcoholic liquor in violation of Section 604.02 shall notify the parent or parents, custodian or guardian of the person as to the nature of the violation if the name of the parent, guardian or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than forty-eight hours after the law enforcement

agency determines that the person who allegedly violated Section 604.02 is less than eighteen years of age and not emancipated pursuant to Act 293 of the Public Acts of 1968. 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 a person less than seventeen years of age is incarcerated for violating Section 604.02, then his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(j) As used in this section:

- (1) "Probate court disposition" means a probate court order of disposition for a child found to be within the provisions of Chapter XIII A of Act 288 of the Public Acts of 1939, being M.C.L.A. 712A.1 to 712A.31; and
- (2) "Work location" means, as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.
(Res. 96-76. Passed 6-27-96.)