

## Chapter 3

### ALCOHOLIC LIQUOR\*

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\* **Cross References:** Disorderly intoxication, § 19-109; possession and consumption of alcoholic liquor in parks, § 21-2.  
**State Law References:** Liquor control act, MCL 436.1 et seq., MSA 18.971 et seq.

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#### Sec. 3-1. Definitions.

The meaning of "alcoholic liquor" and "license," when used in this chapter, shall be as defined in Act No. 8 of the Public Acts of Michigan, 1933 Extra Session (MCL 436.1 et seq., MSA 18.971 et seq.) (Code 1977, § 9.171)

**Cross References:** Definitions and rules of construction generally, § 1-2.

#### Sec. 3-2. Consumption in public.

(a) Except as provided in paragraph (c) below, no alcoholic liquor shall be consumed on the public streets, alleys, parks, or in any other public places, including any store or establishment doing business with the public not licensed to sell alcoholic liquor for consumption on the premises; nor shall any one who owns, operates or controls any such public establishment or store permit the consumption of alcoholic liquor therein.

(b) Except as provided in paragraph (c) below, no person shall have in his or her possession any open bottle, open cans or other open containers, containing alcoholic beverages, on a public street, alley, park, or in any other public place.

(c) Provisions of this section to the contrary notwithstanding, and with the approval of the city council, alcoholic liquor may be consumed on the public streets and alleys immediately adjacent to business establishments licensed for the sale of alcoholic beverages for consumption on the premises in areas of the public streets and alleys for which an occupancy permit has been issued by the city engineer pursuant to the provisions of Chapter 29 of this code.

(Code 1977, § 9.172; Ord. No. 537, § 1, 7-5-95)

**Cross References:** Streets, sidewalks and other public places, Ch. 29.

**State Law References:** Consumption of liquor on public highways or in parts and places of amusement, MCL 436.34, MSA 18.1005.

#### Sec. 3-3. Sales restricted.

No licensee, by himself or herself, or another, shall sell, furnish, give or deliver any alcoholic liquor to any person:

(1) Who is so intoxicated as not to be in control of all his or her faculties;

(2) On any day during the hours not permitted by state law or the state liquor control commission.

(Code 1977, § 9.173)

**State Law References:** Sale of alcoholic liquor to intoxicated person, MCL 436.29, MSA 18.1000; hours and days of sale, MCL 436.19E, MSA 18.990(5).

**Sec. 3-4. Bars; rules of conduct.**

No licensee shall permit on licensed premises:

- (1) Spirits to be consumed if licensed to sell only beer or wine or both;
- (2) Any disorderly conduct or action which disturbs the peace and good order of the neighborhood;
- (3) Any resorting of thieves, prostitutes or other disorderly persons;
- (4) Any gambling, or the placing or using of any gambling apparatus or paraphernalia therein;
- (5) Any lewd or obscene exhibition or entertainment.

(Code 1977, § 9.174)

**Sec. 3-5. Purchases by minors.**

No person under the age of twenty-one (21) years shall at any time purchase, obtain, consume, or bring into any premises within the city, for which a license has been issued to sell intoxicating liquor on the premises, any alcoholic liquor as defined by this chapter. Nor shall any person under the age of twenty-one (21) years, make any false representations as to the age of the person for whom said alcoholic liquor is desired. Nor shall any person under the age of twenty-one (21) years furnish any false information regarding his or her age or make any false representations as to his or her age to any law enforcement officer, or to any person in charge of or employed in a place of business where alcoholic liquor is sold, for the purpose of obtaining a sale of any alcoholic liquor to himself or herself; provided, however, that nothing herein contained shall prohibit the purchase of alcoholic liquor by a minor under authority of and pursuant to a prescription of a duly licensed physician.

(Code 1977, § 9.175; Ord. No. 493, 8-3-92)

**Sec. 3-6. Underage purchase, consumption or possession.**

A person less than twenty-one (21) years of age 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 and section 3-10. A person less than twenty-one (21) years of age who violates this subsection is guilty of a misdemeanor punishable by the following civil fines and sanctions:

- (a) For the first violation of 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.
- (b) 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 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, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense. The person is also subject to sanctions against his or her operator's or chauffeur's license imposed by state law.

- (c) 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 No. 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. The person is also subject to sanctions against his or her operator's or chauffeur's license imposed by state law.
- (d) A peace officer who has reasonable cause to believe a person less than twenty-one (21) 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 (21) years of age has consumed or possessed alcoholic liquor if a preliminary chemical breath analysis or other acceptable blood alcohol test indicates the person's blood contained two-tenths (0.2) percent or more by weight of alcohol. A person less than twenty-one (21) 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.

(Code 1977, § 9.175A; Ord. No. 550, § 1, 12-18-95)

**State Law References:** Similar provisions, MCL 436.33b, MSA 18.1004(2).

### **Sec. 3-7. Underage sale.**

No person, either directly or indirectly, by himself, his or her clerk, agent, servant, or employee, shall at any time sell, furnish, give or deliver any alcoholic liquor to any person unless such person shall have attained the age of twenty-one (21) years; nor shall any person, either directly or indirectly by himself, his or her clerk, agent, servant or employee, at any time, sell, furnish, give or deliver any alcoholic liquor to any person who is so intoxicated as not to be in control of all his faculties; provided, however, that nothing herein contained shall prohibit the sale of alcoholic liquor to a minor upon authority of and pursuant to a prescription of a duly licensed physician.

(Code 1977, § 9.175B; Ord. No. 492, 8-3-92)

**State Law References:** Similar provisions, MCL 436.33, MSA 18.1004.

### **Sec. 3-8. False representations.**

It shall be unlawful for any person under the age of twenty-one (21) years to falsely represent himself or herself to be twenty-one (21) years of age or over and thereby procure or attempt to procure the sale or furnishing to himself or herself of any alcoholic liquor, or for any person to make false representations as to the age of another and thereby procure or attempt to procure the sale or furnishing to any person under the age of twenty-one (21) years of any alcoholic liquor.

(Code 1977, § 9.176)

**State Law References:** Similar provisions, MCL 436.33b, (3); MSA 18.1004(2), (3).

### **Sec. 3-9. Right to demand proof of age.**

The person in charge of any beer garden, tavern, restaurant, store or place where alcoholic liquor is sold

or furnished for consumption, either on or away from the premises, shall have the right at any time to demand of any person offering to buy, buying, obtaining or drinking any alcoholic liquor in such establishment who may appear to him or her to be under the age of twenty-one (21), proof of age and identity, and on failure of such person to produce the same, shall refuse to serve, sell and furnish such person with any alcoholic liquor and may exclude such person from such place of business. It shall be unlawful for any such person to refuse to leave such place of business.

(Code 1977, § 9.177)

**State Law References:** Proof of age defensive evidence in prosecution, MCL 436.33, (2); MSA 18.1004, (2).

### **Sec. 3-10. Possessing or transporting alcoholic liquor by an underage person.**

No person under the age of twenty-one (21) years shall possess or transport any alcoholic liquor, nor shall any person less than twenty-one (21) years of age knowingly possess, transport, or have under the person's control in any motor vehicle any alcoholic liquor unless the person is employed by a duly licensed dealer in alcoholic liquors or beverages under the state laws and is possessing, transporting, or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of a person's employment.

(Code 1977, § 9.178)

**State Law References:** Similar provisions, MCL 436.33a, (1); MSA 18.1004(1), (1).

### **Sec. 3-11. Transporting open containers.**

It shall be unlawful to transport in the passenger compartment of any motor vehicle any open bottles, cans or other containers containing any alcoholic beverage. Bottles of spirits containing alcoholic in excess of sixteen (16) percent by volume shall be deemed to be open if the state seal is broken.

(Code 1977, § 9.179)

### **Sec. 3-12. Renewal and revocation of licenses.**

(a) The city manager shall cause an annual review of each alcoholic beverage license for on-premises consumption. All applicants and licensees should be aware that, once a license is received, compliance with all state and city regulations is necessary and that failure of such compliance can result in the council requesting the state liquor control commission not to renew the license.

(b) It is recognized that the locations and establishments of tavern licensees lawfully existing in the city on January 29, 1973 may not conform to all of its present or future standards. It is not the general intent of this section to now require conformance and the council may waive such requirements as would be impossible, impractical or which would cause undue hardship.

(c) The city manager shall, at least sixty (60) days before a license is due for renewal, inform the licensee of the city manager's intent to recommend to the council that the city should or should not file an objection with the state liquor control commission, and if an objection is to be recommended by the council, what corrective action the licensee must take to be subject for approval. In no way will recommended action by the city manager be considered as approval by the council.

(Code 1977, § 9.180(5))

**State Law References:** State licenses, MCL 436.17 et seq., MSA 18.988 et seq.