

98.000 - POSSESSION OR CONSUMPTION OF ALCOHOL BY PERSONS UNDER 21 Ord. No. 03-05 Adopted: October 20, 2003

An ordinance to prohibit persons under 21 from possessing or consuming alcohol and to provide penalties (436.1703).

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ATLAS ORDAINS:

Footnotes:

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Cross reference— *Liquor control, pt. 20; house parties; minors consuming alcoholic beverages and/or controlled substances, pt. 93; omnibus nuisance ordinance, pt. 94.*

98.001 - Purpose.

Sec. 1. This ordinance relates to persons under 21, unlawful purpose, consumption or possession; arrest based upon reasonable cause or upon results of preliminary chemical breath analysis; participation in undercover programs.

98.002 - [Possession or consumption by minors prohibited; violation; penalties.]

Sec. 2.

1. 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. Notwithstanding 436.1703 section 909 of the Michigan Liquor Control Code of 1998, a minor who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions, and is not subject to the penalties prescribed in 436.1703 section 909 of the Michigan Liquor Control Code of 1998.
 - a. 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, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, 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 (3).
 - b. 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 1933 (Ex Sess) PA 8, 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, 1978 PA 368, MCL 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 (3).

- c. For a violation of this subsection following 2 or more prior convictions or juvenile adjudications for a violation of this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, 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, 1978 PA 368, MCL 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 (3).
2. A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (1) 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.
3. The court may order the person convicted of violating subsection (1) 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, 1978 PA 368, 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.
4. The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of violating subsection (1) or (2) as provided in section 319 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.319.
5. A peace 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. 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 state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.
6. A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6 allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of subsection (1) shall notify the parent or parents, 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 (1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. 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 (1), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

7. This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.
8. 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 this act.
9. 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 act if the purpose of the consumption is solely educational and is a requirement of the course.
10. The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.
11. Subsection (1) does not apply to a minor who participates in either or both of the following:
 - a. 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 local prosecutor's office as part of an employer-sponsored internal enforcement action.
 - b. An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the 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.
12. 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 (1), section 801(2), or section 701(1).

98.003 - [Effective date.]

Sec. 3. This ordinance shall become effective thirty (30) days after publication.