



Legislation Text

File #: 17-1859, **Version:** 1

An Ordinance to Amend Sections 9:81 and 9:82 of Chapter 109 (Liquor) of Title IX of the Code of the City of Ann Arbor (Ordinance No. ORD-17-23)

This ordinance amendment reflects the Legislature's changes to the penalties under state law for possession or consumption of alcohol by a minor. Effective January 1, 2018, a first offense is a civil infraction. Under the current ordinance, a first offense is a misdemeanor.

Under the ordinance amendment, as in state law, second and subsequent offenses are misdemeanors. However, a minor who pleads guilty to a second offense may qualify to have it discharged and dismissed as detailed in the ordinance amendment, in which case the court record of the case is not available to the public.

Kristen D. Larcom, Senior Assistant City Attorney

ORDINANCE NO. ORD-17-23

First Reading: December 4, 2017

Approved: December 18, 2017

Public Hearing: December 18, 2017

Published: December 28, 2017

Effective: January 7, 2018

MINOR IN POSSESSION OF ALCOHOL

AN ORDINANCE TO AMEND SECTIONS 9:81 AND 9:82 OF CHAPTER 109 (LIQUOR) OF TITLE IX OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Section 9:81 of Chapter 109 be amended to read as follows:

9:81. - Possession or consumption by minors.

(1) Except as permitted by state law, a minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content.

(2) A minor who violates this section is responsible for a civil infraction or is guilty of a misdemeanor as follows:

(a) For the first violation, the minor is responsible for a civil infraction and shall be fined not more than \$100.00. A court may order the minor to participate in substance use disorder services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in state law. A minor may be found responsible or admit responsibility for a first violation of this section only once.

(b) If a violation of this section occurs after 1 prior judgment, the minor is guilty of a misdemeanor punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$200.00, or both. A court may order the minor to participate in substance use disorder services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in state law.

If the minor pleads guilty to a misdemeanor under this subsection, the court, without entering a judgment of guilt, may defer further proceedings and place the minor on probation with terms and conditions as specified in state law. If the minor fulfills the terms and conditions of probation, the court shall discharge the minor and dismiss the proceedings. A discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law on conviction of a crime. A minor may obtain only 1 discharge and dismissal under this subsection.

If the court finds that the minor violated a term or condition of probation or that the minor is utilizing this subsection in another court, the court may enter an adjudication of guilt and proceed as otherwise provided by law.

(c) If a violation of this section occurs after 2 or more prior judgments, the minor is guilty of a misdemeanor punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$500.00, or both, as applicable. A court may order the minor to participate in substance use disorder services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in state law.

(3) The terms used in this section shall have the same meaning as they have in MCL 436.1703, as amended.

Section 2. That Section 9:82 of Chapter 109 be amended to read as follows:

9:82. - Penalties for liquor violations.

(1) Licensees shall comply with all applicable state and city regulations, this chapter, and the plan of operation approved by the city's Liquor License Review Committee. Any change to the Plan of Operation shall be approved by the city's Liquor License Review Committee prior to implementation of the change by the licensee. Failure of such compliance or variance from an approved plan is a violation of this chapter and may result in the City Council recommending to the State Liquor Control Commission that the license be revoked and not renewed.

(2) Any person who violates sections 9:73, 9:75, or 9:80 of this chapter shall be guilty of a misdemeanor punishable by a fine and costs not to exceed \$500.00 or imprisonment not to

exceed 90 days or by both such fine and imprisonment.

(3) Any minor who violates section 9:81 shall be punishable as follows:

- (a) For the first violation a fine of not more than \$100.00 and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services, to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in state law.
- (b) For a violation following a prior conviction or juvenile adjudication for a violation of section 9:81 or a substantially corresponding state law, by imprisonment for not more than 30 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$200.00 and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in state law.
- (c) For a violation following 2 or more prior convictions or juvenile adjudications for a violation of Section 9:81 or a substantially corresponding state law, by imprisonment for not more than 60 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$500.00 and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in state law.
- (d) In accordance with and as provided in state law, when an individual who has not previously been convicted of or received a juvenile adjudication for a violation of section 9:81 or a substantially corresponding state law pleads guilty to a violation of section 9:81, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions as provided in state law. Upon violation of a term or condition of probation or upon a finding that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings, which shall have the same effect as provided in state law.

(4)(3) Any person who violates section 9:83 shall be guilty of a misdemeanor punishable as follows:

- (a) If a person has no prior convictions, by imprisonment for not more than 93 days or a fine of not more than \$250.00 or both.
- (b) If the person has 1 prior conviction, by imprisonment for not more than 93 days or a fine of not more than \$500.00 or both.

(c) For purposes of this section, "prior conviction" means a conviction for violation of section 9.83 or substantially corresponding state law.

(d) Conviction under section 9.83 does not prohibit a person from being convicted of or found responsible for any other violation of law arising out of the same transaction as the violation of section 9.83.

(5)(4) Any minor who violates section 9:84 shall be guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00 or both.

Section 3. This Ordinance shall take effect on the tenth day following legal publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan at its regular session of December 18, 2017.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's webpage on December 28, 2017.

Jacqueline Beaudry, Ann Arbor City Clerk