

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 433
99TH GENERAL ASSEMBLY

0051H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 311.020, 311.185, 311.201, 311.355, 311.420, 311.462, and 311.510, RSMo, and to enact in lieu thereof nine new sections relating to intoxicating liquor.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 311.020, 311.185, 311.201, 311.355, 311.420, 311.462, 311.510, 2 RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as section 3 311.020, 311.185, 311.186, 311.187, 311.188, 311.201, 311.355, 311.420, and 311.510, to read 4 as follows:

311.020. The term "intoxicating liquor" as used in this chapter shall mean and include 2 alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, 3 or combination of liquors, a part of which is spirituous, vinous, or fermented, and all 4 preparations or mixtures for beverage purposes, containing in excess of one-half of one percent 5 by volume. **The term "intoxicating liquor" shall include "powdered alcohol", which means 6 alcohol that is prepared in a powdered, crystalline, or capsule form either for direct use 7 or for reconstitution in a nonalcoholic liquid.** All beverages having an alcoholic content of 8 less than one-half of one percent by volume shall be exempt from the provisions of this chapter, 9 but subject to inspection as provided by sections 196.365 to 196.445.

311.185. 1. Notwithstanding any rule, law, or regulation to the contrary, any person 2 currently licensed in this state or any other state as a wine manufacturer may apply for and the 3 supervisor of alcohol and tobacco control may issue a wine direct shipper license, as provided 4 in this section, which allows a wine manufacturer to ship up to two cases of wine per month 5 directly to a ~~resident of~~ **person within** this state who is at least twenty-one years of age for 6 such ~~resident's~~ **person's** personal use and not for resale. Before sending any shipment to a

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 ~~[resident of]~~ **person within** this state, the wine manufacturer shall first obtain a wine direct
8 shipper license as follows:

9 (1) File an application with the division of alcohol and tobacco control; ~~and~~

10 (2) Provide to the division of alcohol and tobacco control a true copy of its current
11 alcoholic beverage license issued in this state or any other state, as well as a copy of the winery
12 license from the Alcohol and Tobacco Tax and Trade Bureau; **and**

13 **(3) Pay a license fee of one hundred dollars per year.**

14 2. All wine direct shipper licensees shall:

15 (1) Not ship more than two cases of wine per month to any person for his or her personal
16 use and not for resale;

17 (2) Not use any carrier for shipping of wine that is not licensed under ~~[this]~~ section
18 **311.186;**

19 (3) Only ship wine that is properly registered with the Alcohol and Tobacco Tax and
20 Trade Bureau;

21 (4) Only ship wine **that is** manufactured on the winery premises;

22 (5) Ensure that all containers of wine delivered directly to ~~[a resident of]~~ **persons within**
23 this state are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF
24 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY" or are conspicuously labeled
25 with wording preapproved by the division of alcohol and tobacco control;

26 (6) If the winery is located outside of this state, by January thirty-first, make a report
27 under oath to the supervisor of alcohol and tobacco control setting out the total amount of wine
28 shipped into the state the preceding year;

29 (7) If the winery is located outside of this state, pay the division of alcohol and tobacco
30 control all excise taxes due on the amount to be calculated as if the sale were in this state at the
31 location where the delivery is made;

32 (8) If the winery is located within this state, provide the division of alcohol and tobacco
33 control any additional information deemed necessary beyond that already required for retail sales
34 from the winery tasting room to ensure compliance with this section;

35 (9) Permit the division of alcohol and tobacco control to perform an audit of the wine
36 direct shipper licensees' records upon request; and

37 (10) Be deemed to have consented to the jurisdiction of the division of alcohol and
38 tobacco control or any other state agency and the Missouri courts concerning enforcement of this
39 section and any related laws, rules, or regulations.

40 3. The wine direct shipper licensee may annually renew its license with the division of
41 alcohol and tobacco control by providing the division of alcohol and tobacco control all required
42 items provided in subsection 1 of this section.

43 4. ~~[Notwithstanding any law, rule, or regulation to the contrary, any carrier may apply~~
44 ~~for and the supervisor of alcohol and tobacco control may issue an alcohol carrier license, as~~
45 ~~provided in this section, which allows the carrier to transport and deliver shipments of wine~~
46 ~~directly to a resident of this state who is at least twenty-one years of age or older. Before~~
47 ~~transporting any shipment of wine to a resident of this state, the carrier shall first obtain an~~
48 ~~alcohol carrier license by filing an application with the division of alcohol and tobacco control.~~

49 ~~5. All alcohol carrier licensees shall:~~

50 ~~—— (1) Not deliver to any person under twenty-one years of age, or to any intoxicated person,~~
51 ~~or any person appearing to be in a state of intoxication;~~

52 ~~—— (2) Require valid proof of identity and age;~~

53 ~~—— (3) Obtain the signature of an adult as a condition of delivery; and~~

54 ~~—— (4) Keep records of wine shipped which include the license number and name of the~~
55 ~~winery or retailer, quantity of wine shipped, recipient's name and address, and an electronic or~~
56 ~~paper form of signature from the recipient of the wine.~~

57 ~~6.] The division of alcohol and tobacco control may promulgate rules to effectuate the~~
58 ~~provisions of this section. Any rule or portion of a rule, as that term is defined in section~~
59 ~~536.010, that is created under the authority delegated in this section shall become effective only~~
60 ~~if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section~~
61 ~~536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the~~
62 ~~general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove~~
63 ~~and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority~~
64 ~~and any rule proposed or adopted after August 28, 2007, shall be invalid and void.~~

311.186. 1. Notwithstanding any other provision of law, rule, or regulation to the
2 **contrary, any carrier may apply for, and the supervisor of alcohol and tobacco control may**
3 **issue, an alcohol carrier license, as provided in this section, which allows the carrier to**
4 **transport and deliver shipments of intoxicating liquor for personal use and not for resale**
5 **directly to a person within this state who is at least twenty-one years of age. Before**
6 **transporting any such shipment of intoxicating liquor to a person within this state, the**
7 **carrier shall first obtain an alcohol carrier license by filing an application with the division**
8 **of alcohol and tobacco control and paying a license fee of five hundred dollars per year.**

9 **2. Prior to sending any shipment through a licensed alcohol carrier, retailers shall**
10 **ensure that all containers of intoxicating liquor delivered directly to a person within this**
11 **state for personal use and not for resale are conspicuously labeled with the words**
12 **"CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED**
13 **FOR DELIVERY" or are conspicuously labeled with wording preapproved by the division**
14 **of alcohol and tobacco control.**

15 **3. It shall be unlawful for any person, firm, partnership, or corporation to deliver**
16 **intoxicating liquor, as defined in section 311.020, from outside the state of Missouri, in any**
17 **quantity, directly to a person within this state for personal use and not for resale without**
18 **first obtaining an alcohol carrier license.**

19 **4. All alcohol carrier licensees shall:**

20 **(1) Not deliver intoxicating liquor to any person under twenty-one years of age, or**
21 **to any intoxicated person or any person appearing to be in a state of intoxication;**

22 **(2) Require valid proof of identity and age when delivering intoxicating liquor;**

23 **(3) Obtain the signature of a person at least twenty-one years of age as a condition**
24 **of delivery of intoxicating liquor;**

25 **(4) Keep records for a period of two years of intoxicating liquor shipped which**
26 **include the name of the winery or retailer, weight of intoxicating liquor shipped,**
27 **purchaser's name, recipient's name and address, and an electronic or paper form of**
28 **signature from the recipient of the intoxicating liquor;**

29 **(5) Only deliver intoxicating liquor to persons within this state for personal use and**
30 **not for resale from persons licensed by the division of alcohol and tobacco control as:**

31 **(a) Wine direct shippers, licensed under section 311.185; or**

32 **(b) Retailers, licensed under chapter 311; and**

33 **(6) Provide the division of alcohol and tobacco control a quarterly report of all**
34 **intoxicating liquor shipments made by each shipper to persons within this state for**
35 **personal use and not for resale during the preceding quarter. The alcohol carrier's**
36 **quarterly report shall detail the:**

37 **(a) Business name for each shipper of intoxicating liquor;**

38 **(b) Name and address of the person within this state who received the intoxicating**
39 **liquor;**

40 **(c) Weight of intoxicating liquor shipped; and**

41 **(d) Date of delivery.**

42 **5. Upon request by the licensed alcohol carrier, the division of alcohol and tobacco**
43 **control shall provide an electronic copy of all licensees that may ship intoxicating liquor**
44 **to persons within this state for personal use and not for resale.**

311.187. 1. Notwithstanding any provision of law, rule, or regulation to the
2 **contrary, any retailer located and conducting business in this state and who is licensed**
3 **under this chapter may deliver intoxicating liquor directly to persons within this state for**
4 **personal use and not for resale, excluding powdered alcohol as prohibited under section**
5 **311.188.**

6 **2. Missouri retailers who make deliveries directly to persons within this state for**
7 **personal use and not for resale shall:**

8 **(1) Consummate the sale of intoxicating liquor on the licensed premises. The sale**
9 **may be made in person, by phone, or by other electronic means;**

10 **(2) Ensure that all containers of intoxicating liquor delivered directly to a person**
11 **within this state for personal use and not for resale are conspicuously labeled with the**
12 **words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER**
13 **REQUIRED FOR DELIVERY" or are conspicuously labeled with wording preapproved**
14 **by the division of alcohol and tobacco control;**

15 **(3) Ensure the delivery driver is at least twenty-one years of age;**

16 **(4) Not deliver to any person under twenty-one years of age, or to any intoxicated**
17 **person, or any person appearing to be in a state of intoxication;**

18 **(5) Require valid proof of identity and age;**

19 **(6) Obtain the signature of a person at least twenty-one years of age as a condition**
20 **of delivery; and**

21 **(7) Keep records for a period of two years of intoxicating liquor delivered, which**
22 **include the name of the purchaser, the weight of intoxicating liquor delivered, a copy of the**
23 **invoice or receipt, the recipient's name and address, and an electronic or paper form of**
24 **signature from the receipt of the intoxicating liquor.**

311.188. Notwithstanding any other provision of law to the contrary, no person
2 **shall ship or deliver powdered alcohol, as defined in section 311.020, to a resident of this**
3 **state for personal use and not for resale except through an alcohol carrier licensed under**
4 **section 311.186.**

 311.201. 1. Any person who is licensed to sell intoxicating liquor in the original
2 package at retail as provided in subsection 1 of section 311.200 **or by drink at retail as**
3 **provided in subsection 5 of section 311.200** may sell from thirty-two to one hundred
4 twenty-eight fluid ounces of draft beer to customers in containers filled by any employee of the
5 retailer on the premises for consumption off such premises. Any employee of the licensee shall
6 be at least twenty-one years of age to fill containers with draft beer.

7 2. No provision of law, rule, or regulation of the supervisor of alcohol and tobacco
8 control shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating
9 liquor to furnish dispensing or cooling equipment, or containers that are filled or refilled under
10 subsection 1 of this section, to any person who is licensed to sell intoxicating liquor in the
11 original package at retail as provided in subsection 1 of section 311.200.

12 3. (1) Containers that are filled or refilled under subsection 1 of this section shall be
13 affixed with a label or a tag that shall contain the following information in type not smaller than
14 three millimeters in height and not more than twelve characters per inch:

15 (a) Brand name of the product dispensed;

16 (b) Name of brewer or bottler;

17 (c) Class of product, such as beer, ale, lager, bock, stout, or other brewed or fermented
18 beverage;

19 (d) Net contents;

20 (e) Name and address of the business that filled or refilled the container;

21 (f) Date of fill or refill;

22 (g) The following statement: "This product may be unfiltered and unpasteurized. Keep
23 refrigerated at all times."

24 (2) Containers that are filled or refilled under subsection 1 of this section shall be affixed
25 with the alcoholic beverage health warning statement as required by the Federal Alcohol
26 Administration Act, 27 CFR Sections 16.20 to 16.22.

27 4. (1) The filling and refilling of containers shall only occur on demand by a customer
28 and containers shall not be prefilled by the retailer or its employee.

29 (2) Containers shall only be filled or refilled by an employee of the retailer.

30 (3) Containers shall be filled or refilled as follows:

31 (a) Containers shall be filled or refilled with a tube as described in subdivision (4) of this
32 subsection and:

33 a. Food grade sanitizer shall be used in accordance with the Environmental Protection
34 Agency registered label use instructions;

35 b. A container of liquid food-grade sanitizer shall be maintained for no more than ten
36 malt beverage taps that will be used for filling and refilling containers;

37 c. Each container shall contain no less than five tubes that will be used only for filling
38 and refilling containers;

39 d. The container shall be inspected visually for contamination;

40 e. After each filling or refilling of a container, the tube shall be immersed in the
41 container with the liquid food-grade sanitizer; and

42 f. A different tube from the container shall be used for each filling or refilling of a
43 container; or

44 (b) Containers shall be filled or refilled with a contamination-free process and:

45 a. The container shall be inspected visually for contamination;

46 b. The container shall only be filled or refilled by the retailer's employee; and

47 c. The filling or refilling shall be in compliance with the Food and Drug Administration
48 Code 2009, Section 3-304.17(c).

49 (4) Containers shall be filled or refilled from the bottom of the container to the top with
50 a tube that is attached to the malt beverage faucet and extends to the bottom of the container or
51 with a commercial filling machine.

52 (5) When not in use, tubes to fill or refill shall be immersed and stored in a container
53 with liquid food-grade sanitizer.

54 (6) After filling or refilling a container, the container shall be sealed as set forth in
55 subsection 1 of this section.

311.355. 1. Manufacturers of intoxicating liquor [~~other than beer or wine~~] shall be
2 permitted to offer consumer cash rebate coupons as provided in this subsection:

3 (1) Consumer cash rebate coupons may be published or advertised by manufacturers in
4 newspapers, magazines and other mass media;

5 (2) Coupon advertisements may list the amount of the cash rebate, but not the retail price
6 of the intoxicating liquor after the rebate;

7 (3) Applications for cash rebates must be made directly from the consumer to the
8 manufacturer, and not through retailers or wholesalers;

9 (4) Cash rebates must be made directly to consumers by manufacturers;

10 (5) Wholesalers and manufacturers may deliver cash rebate coupons to retailers, either
11 for distribution at the point of sale or in connection with packaging.

12 2. Manufacturers of intoxicating liquor including beer and wine may offer coupons
13 redeemable for nonalcoholic merchandise, except that such redeemable coupons must be made
14 available without a purchase requirement to consumers at the point of sale, or by request through
15 the mail, or at the retailer's cash register. Redeemable coupons may be published or advertised
16 by manufacturers in newspapers, magazines and other mass media. Advertisements must state
17 that no purchase is required to obtain the nonalcoholic merchandise and provide information on
18 the procedure to obtain such merchandise. The retail value of the nonalcoholic merchandise
19 shall not be stated in the advertisement or on the product. Wholesalers and manufacturers may
20 deliver these redeemable coupons at the point of sale or in connection with packaging.

21 **3. A wholesaler shall not directly or indirectly fund the cost of any cash rebate**
22 **coupon program allowed under this section.**

23 **4. Notwithstanding any other provision of law to the contrary, except for the**
24 **provisions of 11 CSR 70-2.240(5)(I), retailers of intoxicating liquor:**

25 **(1) May offer any coupon, premium, prize, rebate, loyalty program, or discount of**
26 **any type to consumers as an inducement to purchase nonalcoholic merchandise or**
27 **intoxicating liquor;**

28 **(2) Who offer a loyalty program for nonalcoholic merchandise or intoxicating**
29 **liquor purchases shall include all nonalcoholic merchandise or intoxicating liquors in the**
30 **loyalty program and the rewards shall be applied at the same rate for all nonalcoholic**
31 **merchandise or intoxicating liquor purchases; and**

32 **(3) May purchase, publish, or display advertisements of intoxicating liquors that**
33 **list the amount of the rebate or discount and the retail price after the rebate or discount.**

311.420. 1. No person, except carriers regulated by the motor carrier and railroad safety
2 division of the department of economic development under chapters 387, 389 and 390, shall
3 transport into, within, or through the state of Missouri any intoxicating liquors in quantities
4 larger than five gallons unless such person holds a valid license or permit from the supervisor
5 of alcohol and tobacco control of the state of Missouri to do so. For such license, there shall be
6 paid to the director of revenue the sum of ten dollars per annum. Application for such license
7 shall be made to the supervisor of alcohol and tobacco control of the state of Missouri and each
8 applicant shall submit with his application a bond in the penal sum of one thousand dollars with
9 sufficient surety to be approved by the supervisor of alcohol and tobacco control, conditioned
10 that he will not violate any provisions of the liquor control laws of this state or any regulation
11 promulgated under such liquor control laws, and any violation of such condition shall work a
12 forfeiture of such bond to the state of Missouri. The license year shall end on June thirtieth, and
13 the applicant shall pay as many twelfths as there are months, with each part of a month being
14 counted as a month, remaining from the date of the license to the next succeeding July first. The
15 supervisor of alcohol and tobacco control may issue single transaction licenses, for which there
16 shall be paid to the director of revenue the sum of five dollars, and, if the value of the liquor to
17 be transported exceeds one hundred dollars, the permit shall not be issued until the bond
18 provided for above in this section is given to the state. No such transporter's license shall be
19 required of any person licensed by the supervisor of alcohol and tobacco control whose licensed
20 premises are located in the state of Missouri, nor shall it be necessary to procure a license to
21 transport liquor purchased from a retail liquor dealer duly licensed by the supervisor of alcohol
22 and tobacco control of the state of Missouri. No license or permit shall be required to transport
23 industrial alcohol.

24 2. The qualifications prescribed for the issuance of other licenses by the provisions of
25 the liquor control law shall not apply to licenses issued under this section, but no license shall
26 be issued to any person who is not of good moral character or who has been convicted since the
27 ratification of the twenty-first amendment to the Constitution of the United States of the violation
28 of any law applicable to the manufacture or sale of intoxicating liquor, nor to any person who
29 has had a license from the supervisor of alcohol and tobacco control revoked. If applicant is a

30 corporation, the managing officer thereof must possess the qualifications prescribed in this
31 section.

32 3. Carriers licensed under this section or carriers exempt from holding a permit under
33 this section shall not deliver ~~[wine]~~ **intoxicating liquor from outside the state of Missouri, in**
34 **any quantity, directly** to a ~~[resident of]~~ **person within** this state without obtaining an alcohol
35 carrier license under section ~~[311.185]~~ **311.186**.

311.510. 1. It shall be the duty of the supervisor of liquor control to cause to be
2 inspected all beer, as defined in this chapter, or other intoxicating malt liquors, brewed,
3 manufactured or sold in this state, and he **or she** shall determine whether such beer or other
4 intoxicating malt liquor has been made from pure hops or the pure extract of hops, or of pure
5 barley malt or other wholesome grains or cereals, or wholesome yeast, and pure water, and
6 whether the package containing such beer or intoxicating malt liquor has been correctly labeled
7 to show that the same has been made from wholesome ingredients.

8 2. Notwithstanding the provisions of subsection 1 of this section, the supervisor of liquor
9 control shall not require product samples and shall not require the testing of product samples to
10 determine alcohol content prior to granting approval for the sale of any such beer or other
11 intoxicating malt liquor product in the state of Missouri if the supervisor of liquor control is
12 provided with a copy of a certificate of label approval issued by the ~~[Federal Bureau of Alcohol,~~
13 ~~Tobacco and Firearms]~~ **Alcohol and Tobacco Tax and Trade Bureau** which verifies the
14 alcohol content of the product.

15 3. **Notwithstanding the provisions of subsection 1 of this section, the supervisor of**
16 **liquor control shall not require product samples prior to granting approval for the sale of**
17 **any beer or other intoxicating malt liquors brewed, manufactured, and sold exclusively in**
18 **this state if the supervisor of liquor control is provided a label and the results of a test of**
19 **a product sample to confirm the alcohol content. The supervisor of liquor control shall**
20 **have sole authority to approve all labels for keg collars, bottles, and cans of such beer or**
21 **other intoxicating malt liquor and any inspections to determine labeling compliance for**
22 **such products shall be under the sole authority of the supervisor of liquor control, with no**
23 **approval or inspection by the Alcohol and Tobacco Tax and Trade Bureau required.**

~~[311.462. 1. Notwithstanding any other provision of law, a holder of a
2 retailer alcoholic beverage license in this state or a state which affords Missouri
3 licensees an equal reciprocal shipping privilege may ship, for personal use and
4 not for resale, not more than two cases of wine, each case containing not more
5 than nine liters, per year to any adult resident of this state. Delivery of a
6 shipment pursuant to this section shall not be deemed to constitute a sale in this
7 state.~~

~~8 2. The shipping container of any wine sent into or out of this state under
9 this section shall be clearly labeled to indicate that the package cannot be~~

10 ~~delivered to a person under the age of twenty-one years or to an intoxicated~~
11 ~~person.~~

12 ~~3. No broker within this state may solicit consumers to engage in~~
13 ~~interstate reciprocal wine shipments under this section. No shipper located~~
14 ~~outside this state may advertise such interstate reciprocal wine shipments in this~~
15 ~~state.]~~

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