

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2364
99TH GENERAL ASSEMBLY

6263H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 311.020, 311.185, 311.190, 311.300, 311.355, and 311.373, RSMo, and to enact in lieu thereof eight 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Section A. Sections 311.020, 311.185, 311.190, 311.300, 311.355, and 311.373, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 311.020, 311.185, 311.188, 311.190, 311.300, 311.355, 311.367, and 311.373, to read as follows:

311.020. The term "intoxicating liquor" as used in this chapter shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent by volume. **The term "intoxicating liquor" shall include "powdered alcohol", which means alcohol that is prepared in a powdered, crystalline, or capsule form either for direct use or for reconstitution in a nonalcoholic liquid; "powdered alcohol" shall also include gum or candy infused with powdered or other alcohol.** All beverages having an alcoholic content of less than one-half of one percent by volume shall be exempt from the provisions of this chapter, 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 currently licensed in this state or any other state as a wine manufacturer may apply for and the supervisor of alcohol and tobacco control may issue a wine direct shipper license, as provided in this section, which allows a wine manufacturer to ship up to two cases of wine per month directly to a resident of this state who is at least twenty-one years of age for such resident's personal use and not for resale. Before sending any shipment to a resident of this state, the wine manufacturer shall first obtain a wine direct shipper license as follows:

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.

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

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

12 2. All wine direct shipper licensees shall:

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

15 (2) Not use any carrier for shipping of wine that is not licensed under this section;

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

18 (4) Only ship wine manufactured on the winery premises;

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

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

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

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

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

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

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

40 4. Notwithstanding any law, rule, or regulation to the contrary, any carrier may apply for
41 and the supervisor of alcohol and tobacco control may issue an alcohol carrier license, as
42 provided in this section, which allows the carrier to transport and deliver shipments of wine **or**
43 **powdered alcohol, as defined in section 311.020**, directly to a resident of this state who is at

44 least twenty-one years of age or older. Before transporting any shipment of wine **or powdered**
45 **alcohol** to a resident of this state, the carrier shall first obtain an alcohol carrier license by filing
46 an application with the division of alcohol and tobacco control.

47 5. All alcohol carrier licensees shall:

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

50 (2) Require valid proof of identity and age;

51 (3) Obtain the signature of an adult as a condition of delivery; and

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

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

**311.188. No person shall ship or deliver powdered alcohol, as defined in section
2 311.020, to a resident of this state for personal use and not for resale except through an
3 alcohol carrier licensed under subsection 4 of section 311.185.**

311.190. 1. For the privilege of manufacturing wine or brandy, which manufacturing
2 shall be in accordance with all provisions of federal law applicable thereto except as may
3 otherwise be specified in this section, in quantities not to exceed five hundred thousand gallons,
4 not in excess of eighteen percent of alcohol by weight for wine, or not in excess of thirty-four
5 percent of alcohol by weight for brandy, from grapes, berries, other fruits, fruit products, honey,
6 and vegetables produced or grown in the state of Missouri, exclusive of sugar, water and spirits,
7 there shall be paid to and collected by the director of revenue, in lieu of the charges provided in
8 section 311.180, a license fee of five dollars for each five hundred gallons or fraction thereof of
9 wine or brandy produced up to a maximum license fee of three hundred dollars.

10 2. Notwithstanding the provisions of subsection 1 of this section, a manufacturer
11 licensed under this section may use in any calendar year such wine- and brandy-making material
12 produced or grown outside the state of Missouri in a quantity not exceeding fifteen percent of
13 the manufacturer's wine entered into fermentation in the prior calendar year.

14 3. In any year when a natural disaster causes substantial loss to the Missouri crop of
15 grapes, berries, other fruits, fruit products, honey or vegetables from which wines are made, the
16 director of the department of agriculture shall determine the percent of loss and allow a certain
17 additional percent, based on the prior calendar year's production of such products, to be
18 purchased outside the state of Missouri to be used and offered for sale by Missouri wineries.

19 4. **Notwithstanding any other provision of section 311.373 to the contrary**, a
20 manufacturer licensed under this section may purchase and sell bulk or packaged wines or
21 brandies received from other manufacturers licensed under this section and may also purchase
22 in bulk, bottle and sell to duly licensed wineries, wholesalers and retail dealers on any day except
23 Sunday, and a manufacturer licensed under this section may offer samples of wine, may sell wine
24 and brandy in its original package directly to consumers at the winery, and may open wine so
25 purchased by customers so that it may be consumed on the winery premises on Monday through
26 Saturday between 6:00 a.m. and midnight and on Sunday between 9:00 a.m. and 10:00 p.m.

 311.300. 1. Except as provided in [~~subsections 2, 3 and 4 of~~] this section, no person
2 under the age of twenty-one years shall sell or assist in the sale or dispensing of intoxicating
3 liquor.

4 2. In any place of business licensed in accordance with section 311.200, persons at least
5 eighteen years of age may stock, arrange displays, operate the cash register or scanner connected
6 to a cash register and accept payment for, [~~and~~] sack, [~~for carryout~~] **and carry out to the**
7 **customer's vehicle**, intoxicating liquor. Delivery of intoxicating liquor away from the licensed
8 business premises cannot be performed by anyone under the age of twenty-one years. Any
9 licensee who employs any person under the age of twenty-one years, as authorized by this
10 subsection, shall, when at least fifty percent of the licensee's gross sales does not consist of
11 nonalcoholic sales, have an employee twenty-one years of age or older on the licensed premises
12 during all hours of operation.

13 3. In any distillery, warehouse, wholesale distributorship, or similar place of business
14 which stores or distributes intoxicating liquor but which does not sell intoxicating liquor at retail,
15 persons at least eighteen years of age may be employed and their duties may include the handling
16 of intoxicating liquor for all purposes except consumption, sale at retail, or dispensing for
17 consumption or sale at retail.

18 4. Any wholesaler licensed pursuant to this chapter may employ persons of at least
19 eighteen years of age to:

20 (1) Rotate, stock and arrange displays at retail establishments licensed to sell intoxicating
21 liquor; **and**

22 **(2) Unload delivery vehicles and transfer intoxicating liquor into retail licensed**
23 **premises if such persons are supervised by the delivery vehicle drivers who are twenty-one**
24 **years of age or older.**

25 ~~[4.]~~ **5.** Persons eighteen years of age or older may, when acting in the capacity of a
26 waiter or waitress, accept payment for or serve intoxicating liquor in places of business which
27 sell food for consumption on the premises if at least fifty percent of all sales in those places
28 consists of food; provided that nothing in this section shall authorize persons under twenty-one
29 years of age to mix or serve across the bar intoxicating beverages.

 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 subsection 6 of this section, 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 intoxicating liquor purchases shall include all**
29 **intoxicating liquors in the loyalty program and the rewards shall be applied at the same**
30 **rate for all intoxicating liquor purchases; and**

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

33 **5. The retailer shall assume the cost of the sale or discounted price permitted under**
34 **subsection 4 of this section. No manufacturer shall directly or indirectly fund the cost of**
35 **any cash rebate coupon program or loyalty program allowed under this subsection.**

36 **6. No advertisement of intoxicating liquor or nonintoxicating beer authorized under**
37 **subsection 4 of this section shall contain a price that is below the retailer's actual cost,**
38 **including any combination of coupons, premiums, prizes, rebates, loyalty programs, or**
39 **other discounts.**

311.367. 1. The provisions of this section shall apply to all persons, firms, or
2 **corporations who own and operate more than one premises licensed to sell intoxicating**
3 **liquor containing alcohol in excess of five percent by weight at retail.**

4 **2. Any person, firm, or corporation described in subsection 1 of this section, with**
5 **the permission of the supervisor of liquor control, may designate one or more places in this**
6 **state as a central warehouse to which intoxicating liquors, except beer and other**
7 **intoxicating malt liquor, ordered and purchased by a person, firm, or corporation from**
8 **licensed wholesalers in this state may be delivered by licensed wholesalers in this state and**
9 **at which intoxicating liquors so owned by a person, firm, or corporation may be stored.**

10 **3. Any person, firm, or corporation described in subsection 1 of this section who**
11 **owns and stores intoxicating liquors in a central warehouse may transfer all or any part**
12 **of the intoxicating liquors, except beer and other intoxicating malt liquor due to the**
13 **perishability and limited life span of beer and intoxicating malt liquor, so stored from the**
14 **central warehouse in this state to any premises licensed to sell intoxicating liquors at retail**
15 **which is owned and operated by the same person, firm, or corporation and which is located**
16 **in the state.**

311.373. All [~~malt beverages~~] intoxicating liquor purchased for resale in this state prior
2 **to being resold at retail shall physically come into the possession of a licensed wholesaler and**
3 **be unloaded in and distributed from the licensed wholesaler's warehouse in this state.**

✓