

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 279

98TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, April 30, 2015, with recommendation that the Senate Committee Substitute do pass.

0979S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 311.091 and 311.730, RSMo, and to enact in lieu thereof six new sections relating to intoxicating liquor.

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

Section A. Sections 311.091 and 311.730, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 311.067, 311.091, 311.201, 311.730, 311.735, and 311.910, to read as follows:

311.067. 1. Notwithstanding any other provisions of law or rule to the contrary, any advertising provided or paid for by any retailer offering any sale or price discount for any intoxicating liquor sold or provided at retail in the original package for consumption off the premises or sold or provided at retail by the drink for consumption on or off the premises is hereby permitted so long as the retailer is responsible for assuming the cost of the sale or price discount and no advertised retail price is below the retailer's cost.

2. The supervisor of the division of alcohol and tobacco control within the Missouri department of public safety may consider the implications of the First and Twenty First Amendments of the Constitution of the United States and any other constitutional requirements if deciding whether to promulgate any new regulations not specifically required by general law and if considering the repeal or modification of existing regulations as allowed by general law.

311.091. 1. [Except as provided under subsection 2 of this section and] Notwithstanding any other provisions of this chapter to the contrary, any person

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

3 who possesses the qualifications required by this chapter and who meets the
4 requirements of and complies with the provisions of this chapter may apply for
5 and the supervisor of alcohol and tobacco control may issue a license to sell
6 intoxicating liquor, as defined in this chapter, by the drink at retail for
7 consumption on the premises of any boat, or other vessel licensed by the United
8 States Coast Guard to carry [one hundred] **thirty** or more passengers for hire on
9 navigable waters in or adjacent to this state, which has a regular place of
10 mooring in a location in this state or within two hundred yards of a location
11 which would otherwise be licensable under this chapter. The license shall be
12 valid even though the boat, or other vessel, leaves its regular place of mooring
13 during the course of its operation.

14 2. [Any person who possesses the qualifications required by this chapter
15 and who meets the requirements of, and complies with the provisions of, this
16 chapter may apply for, and the supervisor of alcohol and tobacco control may
17 issue, a license to sell intoxicating liquor by the drink at retail for consumption
18 on the premises of any boat or other vessel licensed by the United States Coast
19 Guard to carry forty-five to ninety-nine passengers for hire on a lake with a
20 shoreline that is in three counties, one of which is any county of the third
21 classification without a township form of government and with more than
22 thirty-three thousand but fewer than thirty-seven thousand inhabitants and with
23 a city of the fourth classification with more than three thousand but fewer than
24 three thousand seven hundred inhabitants as the county seat, one of which is any
25 county of the third classification without a township form of government and with
26 more than twenty-nine thousand but fewer than thirty-three thousand
27 inhabitants and with a city of the fourth classification with more than four
28 hundred but fewer than four hundred fifty inhabitants as the county seat, and
29 one of which is any county of the first classification with more than fifty thousand
30 but fewer than seventy thousand inhabitants. The boat must have a regular
31 place of mooring in a location in this state or within two hundred yards of a
32 location which would otherwise be licensable under this chapter. The license
33 shall be valid even though the boat, or other vessel, leaves its regular place of
34 mooring during the course of its operation.

35 3.] For every license for sale of liquor by the drink at retail for
36 consumption on the premises of any boat or other vessel issued under the
37 provisions of this section, the licensee shall pay to the director of revenue the sum
38 of three hundred dollars per year.

311.201. 1. Any person who is licensed to sell intoxicating liquor
2 in the original package at retail as provided in subsection 1 of section
3 311.200 may sell from thirty-two to one hundred twenty-eight fluid
4 ounces of draft beer to customers in containers filled by any employee
5 of the retailer on the premises for consumption off such
6 premises. Before such beer may be sold, an employee of the licensee
7 shall first close the filled container with a one-time-use tamper-proof
8 seal. Any employee of the licensee shall be at least twenty-one years of
9 age to fill containers with draft beer.

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

17 3. (1) Containers that are filled or refilled under subsection 1 of
18 this section shall be affixed with a label or a tag that shall contain the
19 following information in type not smaller than three millimeters in
20 height and not more than twelve characters per inch:

21 (a) Brand name of the product dispensed;

22 (b) Name of brewer or bottler;

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

25 (d) Net contents;

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

28 (f) Date of fill or refill;

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

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

35 4. (1) The filling and refilling of containers shall only occur on
36 demand by a customer and containers shall not be pre-filled by the
37 retailer or its employee.

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

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

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

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

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

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

50 **d. The container shall be inspected visually for contamination;**

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

53 **f. A different tube from the container shall be used for each**
54 **filling or refilling of a container; or**

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

57 **a. The container shall be inspected visually for contamination;**

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

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

62 **(4) Containers shall be filled or refilled from the bottom of the**
63 **container to the top with a tube that is attached to the malt beverage**
64 **faucet and extends to the bottom of the container or with a commercial**
65 **filling machine.**

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

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

 311.730. 1. **Except as otherwise provided under subsection 2 of**
2 **this section,** all fees collected by the director of revenue as provided for in this
3 chapter, including licenses, inspection and gauging fees, shall be paid into the
4 state treasury, to the credit of the ordinary state revenue fund.

5 **2. Seventy percent of all fees for licenses and permits collected**

6 under this chapter shall be paid to the credit of the division of alcohol
7 and tobacco control fund established under section 311.735.

311.735. 1. There is hereby created in the state treasury the
2 "Division of Alcohol and Tobacco Control Fund". The state treasurer
3 shall be custodian of the fund. In accordance with sections 30.170 and
4 30.180, the state treasurer may approve disbursements. The fund shall
5 be a dedicated fund and, upon appropriation, money in the fund shall
6 be used solely by the division of alcohol and tobacco control for the
7 administration of this chapter and sections 407.925 to 407.934, and any
8 duties under such chapter and sections relating to licensing, training,
9 technical assistance, and regulations.

10 2. Notwithstanding the provisions of section 33.080 to the
11 contrary, any moneys remaining in the fund at the end of the biennium
12 shall not revert to the credit of the general revenue fund.

13 3. Appropriation of funds by the general assembly from the fund
14 shall be used to support the division of alcohol and tobacco control for
15 the purposes provided under subsection 1 of this section.

311.910. 1. Upon receipt of an application, the division of alcohol
2 and tobacco control may issue a brew-on-premises license to a person
3 who provides brewing supplies and facilities to members of the public
4 for the private manufacture of beer, malt beverages, cider, mead, or
5 wine on the licensed premises.

6 2. No person shall permit the use of his or her property for any
7 consideration or remuneration for the production of beer, malt
8 beverages, cider, mead, or wine for personal consumption unless such
9 person has been issued a brew-on-premises license by the division of
10 alcohol and tobacco control.

11 3. The brew-on-premises license does not authorize the sale of
12 beer, malt beverages, cider, mead, or wine in any manner or the
13 consumption of alcoholic beverages on the premises.

14 4. The premises shall be considered suitable for operating a
15 brew-on-premises license if it is in compliance with all local building,
16 health, and fire codes, ordinances, and orders.

17 5. An application for a license under this section shall be
18 accompanied by an initial license fee of fifty dollars. The annual
19 license renewal fee thereafter shall be twenty-five dollars.

20 6. Any person issued a license under this section and any person

21 using the premises for the personal brewing of beer, malt beverages,
22 cider, mead, or wine is subject to federal regulations including, but not
23 limited to, 27 CFR 25.205, 27 CFR 25.206, and 27 CFR 24.75.

24 7. Any person issued a license under this section shall, in
25 addition to complying with any federal regulations, comply with the
26 following conditions:

27 (1) The licensee shall keep records relating to all persons using
28 the premises for the manufacture of any beer, malt beverages, cider,
29 mead, or wine. Information in these records shall include the name,
30 address, and age of the manufacturing individual, the number of adults
31 residing in the individual's household, and the quantity of beer, malt
32 beverages, cider, mead, or wine produced by that individual on the
33 licensed premises during each calendar year;

34 (2) The records shall be available for inspection by an authorized
35 investigator of the division of alcohol and tobacco control during the
36 business hours of the facility;

37 (3) The licensee shall not provide physical assistance to
38 individuals in the production of or bottling of beer, malt beverages,
39 cider, mead, or wine on the premises, but may provide advice and
40 instruction;

41 (a) Physical assistance in the production of beer, malt beverages,
42 cider, mead, or wine includes:

43 a. Filling of vessels with brewing ingredients;

44 b. Mixing of ingredients;

45 c. Movement of beer, malt beverages, cider, mead, or wine from
46 one container to another container; or

47 d. Filtering and bottling of the final product;

48 (b) The following activities do not constitute providing physical
49 assistance in the production of beer, malt beverages, cider, mead, and
50 wine:

51 a. Cleaning, maintenance, and repair of brewing and bottling
52 equipment;

53 b. Maintenance of climate and temperature control;

54 c. Disposal of spent grains and wastes;

55 d. Quality control, including laboratory examination, of beer,
56 malt beverages, cider, mead, and wine; or

57 e. Preheating of vessels or containers.

58 8. An individual using the licensee's premises for personal
59 brewing use is responsible for brewing, handling, or transporting the
60 beer, malt beverages, cider, mead, and wine produced, and shall be at
61 least twenty-one years of age or older.

62 9. An individual using the licensee's premises for personal
63 brewing may produce beer, malt beverages, cider, mead, or wine within
64 the prescribed quantity of limitations prescribed below, shall not
65 transport in excess of twenty gallons of beer, malt beverages, cider,
66 mead, or wine produced on any particular day, and shall not sell beer,
67 malt beverages, cider, mead, or wine produced. Beer, malt beverages,
68 cider, mead, or wine produced at a brew-on-premises facility shall be
69 removed only for the personal use of the customer.

70 (1) Any beer, malt beverages, cider, mead, or wine produced on
71 the premises shall not exceed the alcohol by volume limits for beer as
72 defined by Missouri law;

73 (2) The production of beer, malt beverages, cider, mead, or wine
74 per household for personal or family use shall not exceed:

75 (a) Two hundred gallons per calendar year if there are two or
76 more adults twenty-one years of age or older residing in the household;
77 or

78 (b) One hundred gallons per calendar year if there is only one
79 adult twenty-one years of age or older residing in the household;

80 (3) Partnerships, corporations, associations, or any entity other
81 than an individual person shall not use the brew-on-premises facility
82 and shall not produce beer, malt beverages, cider, mead, or wine for
83 personal use; and

84 (4) Brewed beer, malt beverages, cider, mead, or wine produced
85 shall be taken away from the premises at the time of bottling. The
86 brew-on-premises facility shall not allow more than twenty cases to
87 remain on the premises at any given time.

88 10. Any violation of the provisions of this section shall be
89 enforced in accordance with any of the appropriate enforcement
90 provisions contained in this chapter.

91 11. The division of alcohol and tobacco control may promulgate
92 rules and regulations necessary to effectuate the provisions of this
93 section. Any rule or portion of a rule, as that term is defined in section
94 536.010, that is created under the authority delegated in this section

95 shall become effective only if it complies with and is subject to all of
96 the provisions of chapter 536 and, if applicable, section 536.028. This
97 section and chapter 536 are nonseverable and if any of the powers
98 vested with the general assembly under chapter 536 to review, to delay
99 the effective date, or to disapprove and annul a rule are subsequently
100 held unconstitutional, then the grant of rulemaking authority and any
101 rule proposed or adopted after August 28, 2015, shall be invalid and
102 void.

103 12. A special permit shall be issued to an out of state
104 manufacturer who is not licensed in the state of Missouri for
105 participation in festivals, bazaars, or similar events. Registration
106 requirements under section 311.275 shall be waived for the event. The
107 amount of intoxicating liquor shipped in the state under this permit
108 shall not exceed two hundred gallons. Excise taxes shall be paid by the
109 licensed manufacturer that holds a retail license organizing the event
110 in the same manner as if it were produced or purchased by the
111 manufacturer. A permit issued under this section by the division shall
112 be valid for no more than seventy-two hours. An applicant shall
113 complete a form provided by the supervisor of liquor control and pay
114 a fee of twenty-five dollars before a special permit shall be issued.

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