

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 919

98TH GENERAL ASSEMBLY

2016

5244S.07T

AN ACT

To repeal sections 311.090, 311.195, 311.200, 311.205, 311.220, 311.328, and 311.665, RSMo, and to enact in lieu thereof ten new sections relating to intoxicating liquor, with an effective date for a certain section and penalty provisions.

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

Section A. Sections 311.090, 311.195, 311.200, 311.205, 311.220, 311.328, 2 and 311.665, RSMo, are repealed and ten new sections enacted in lieu thereof, to 3 be known as sections 311.090, 311.195, 311.198, 311.200, 311.201, 311.205, 4 311.220, 311.328, 311.665, and 311.915, to read as follows:

311.090. 1. Any person who possesses the qualifications required by this 2 chapter, and who meets the requirements of and complies with the provisions of 3 this chapter, and the ordinances, rules and regulations of the incorporated city 4 in which such licensee proposes to operate his business, may apply for, and the 5 supervisor of alcohol and tobacco control may issue, a license to sell intoxicating 6 liquor, as defined in this chapter, by the drink at retail for consumption on the 7 premises described in the application; provided, that no license shall be issued 8 for the sale of intoxicating liquor, other than malt liquor [containing alcohol not 9 in excess of five percent by weight] **as defined in section 311.490**, and light 10 wines containing not in excess of fourteen percent of alcohol by weight made 11 exclusively from grapes, berries and other fruits and vegetables, by the drink at 12 retail for consumption on the premises where sold to any person other than a 13 charitable, fraternal, religious, service or veterans' organization which has

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

14 obtained an exemption from the payment of federal income taxes as provided in
15 section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or
16 501(d) of the United States Internal Revenue Code of 1954, as amended, in any
17 incorporated city having a population of less than nineteen thousand five hundred
18 inhabitants, until the sale of such intoxicating liquor, by the drink at retail for
19 consumption on the premises where sold, shall have been authorized by a vote of
20 the majority of the qualified voters of the city. Such authority shall be
21 determined by an election to be held in those cities having a population of less
22 than nineteen thousand five hundred inhabitants as determined by the last
23 preceding federal decennial census, under the provisions and methods set out in
24 this chapter. Once such licenses are issued in a city with a population of at least
25 nineteen thousand five hundred inhabitants, any subsequent loss of population
26 shall not require the qualified voters of such a city to approve the sale of such
27 intoxicating liquor prior to the issuance or renewal of such licenses. No license
28 shall be issued for the sale of intoxicating liquor, other than malt liquor
29 [containing alcohol not in excess of five percent by weight] **as defined in**
30 **section 311.490**, and light wines containing not in excess of fourteen percent of
31 alcohol by weight made exclusively from grapes, berries and other fruits and
32 vegetables, by the drink at retail for consumption on the premises where sold,
33 outside the limits of such incorporated cities unless the licensee is a charitable,
34 fraternal, religious, service or veterans' organization which has obtained an
35 exemption from the payment of federal income taxes as provided in section
36 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d)
37 of the United States Internal Revenue Code of 1954, as amended.

38 2. If any charitable, fraternal, religious, service, or veterans' organization
39 has a license to sell intoxicating liquor on its premises pursuant to this section
40 and such premises includes two or more buildings in close proximity, such permit
41 shall be valid for the sale of intoxicating liquor at any such building.

311.195. 1. As used in this section, the term "microbrewery" means a
2 business whose primary activity is the brewing and selling of beer, with an
3 annual production of ten thousand barrels or less.

4 2. A microbrewer's license shall authorize the licensee to manufacture
5 beer and malt liquor in quantities not to exceed ten thousand barrels per annum.
6 In lieu of the charges provided in section 311.180, a license fee of five dollars for
7 each one hundred barrels or fraction thereof, up to a maximum license fee of two
8 hundred fifty dollars, shall be paid to and collected by the director of revenue.

9 3. Notwithstanding any other provision of this chapter to the contrary, the

10 holder of a microbrewer's license may apply for, and the supervisor of alcohol and
11 tobacco control may issue, a license to sell **all kinds of** intoxicating liquor, **as**
12 **defined in this chapter**, by the drink at retail for consumption on the premises
13 **of the microbrewery or in close proximity to the microbrewery**. No
14 holder of a microbrewer's license, or any employee, officer, agent, subsidiary, or
15 affiliate thereof, shall have more than ten licenses to sell intoxicating liquor by
16 the drink at retail for consumption on the premises. [The authority for the
17 collection of fees by cities and counties as provided in section 311.220, and all
18 other laws and regulations relating to the sale of liquor by the drink for
19 consumption on the premises where sold, shall apply to the holder of a license
20 issued under the provisions of this section in the same manner as they apply to
21 establishments licensed under the provisions of section 311.085, 311.090, 311.095,
22 or 311.097.]

23 4. The holder of a microbrewer's license may also sell beer and malt liquor
24 produced on the brewery premises to duly licensed wholesalers. However, holders
25 of a microbrewer's license shall not, under any circumstances, directly or
26 indirectly, have any financial interest in any wholesaler's business, and all such
27 sales to wholesalers shall be subject to the restrictions of sections 311.181 and
28 311.182.

29 5. A microbrewer who is a holder of a license to sell intoxicating liquor by
30 the drink at retail for consumption on the premises shall be exempt from the
31 provisions of section 311.280, for such intoxicating liquor that is produced on the
32 premises in accordance with the provisions of this chapter. For all other
33 intoxicating liquor sold by the drink at retail for consumption on the premises
34 that the microbrewer possesses a license for must be obtained in accordance with
35 section 311.280.

311.198. 1. **Notwithstanding any other provision of law, rule, or**
2 **regulation to the contrary, a brewer may lease to the retail licensee and**
3 **the retail licensee may accept portable refrigeration units at a total**
4 **lease value equal to the cost of the unit to the brewer plus two percent**
5 **of the total lease value as of the execution of the lease. Such portable**
6 **refrigeration units shall remain the property of the brewer. The**
7 **brewer may also enter into lease agreements with wholesalers, who**
8 **may enter into sublease agreements with retail licensees in which the**
9 **value contained in the sublease is equal to the unit cost to the brewer**
10 **plus two percent of the total lease value as of the execution of the lease.**
11 **If the lease agreement is with a wholesaler, the portable refrigeration**

12 units shall become the property of the wholesaler at the end of the
13 lease period, which is to be defined between the brewer and the
14 wholesaler. A wholesaler may not directly or indirectly fund the cost
15 or maintenance of the portable refrigeration units. Brewers shall be
16 responsible for maintaining adequate records of retailer payments to
17 be able to verify fulfillment of lease agreements. No portable
18 refrigeration unit may exceed forty cubic feet in storage space. A
19 brewer may lease, or wholesaler may sublease, not more than one
20 portable refrigeration unit per retail location. Such portable
21 refrigeration unit may bear in a conspicuous manner substantial
22 advertising matter about a product or products of the brewer and shall
23 be visible to consumers inside the retail outlet. Notwithstanding any
24 other provision of law, rule, regulation, or lease to the contrary, the
25 retail licensee is hereby authorized to stock, display, and sell any
26 product in and from the portable refrigeration units. No dispensing
27 equipment shall be attached to a leased portable refrigeration unit, and
28 no beer, wine, or intoxicating liquor shall be dispensed directly from
29 a leased portable refrigeration unit. Any brewer or wholesaler that
30 provides portable refrigeration units shall within thirty days thereafter
31 notify the division of alcohol and tobacco control on forms designated
32 by the division of the location, lease terms, and total cubic storage
33 space of the units. The division is hereby given authority, including
34 rulemaking authority, to enforce this section and to ensure compliance
35 by having access to and copies of lease, payment, and portable
36 refrigeration unit records and information.

37 2. Any lease or sublease executed under this section shall not
38 exceed five years in duration and shall not contain any provision
39 allowing for or requiring the automatic renewal of the lease or
40 sublease.

41 3. Any rule or portion of a rule, as that term is defined in section
42 536.010 that is created under the authority delegated in this section
43 shall become effective only if it complies with and is subject to all of
44 the provisions of chapter 536, and, if applicable, section 536.028. This
45 section and chapter 536 are nonseverable and if any of the powers
46 vested with the general assembly pursuant to chapter 536, to review, to
47 delay the effective date, or to disapprove and annul a rule are
48 subsequently held unconstitutional, then the grant of rulemaking
49 authority and any rule proposed or adopted after January 1, 2017, shall

50 **be invalid and void.**

51 **4. This section shall expire on January 1, 2020. Any lease or**
52 **sublease executed under this section prior to January 1, 2020, shall**
53 **remain in effect until the expiration of such lease or sublease.**

311.200. 1. No license shall be issued for the sale of intoxicating liquor
2 in the original package, not to be consumed upon the premises where sold, except
3 to a person engaged in, and to be used in connection with, the operation of one
4 or more of the following businesses: a drug store, a cigar and tobacco store, a
5 grocery store, a general merchandise store, a confectionery or delicatessen store,
6 nor to any such person who does not have and keep in his store a stock of goods
7 having a value according to invoices of at least one thousand dollars, exclusive of
8 fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall
9 be consumed on the premises where sold nor shall any original package be opened
10 on the premises of the vendor except as otherwise provided in this law. For every
11 license for sale at retail in the original package, the licensee shall pay to the
12 director of revenue the sum of one hundred dollars per year.

13 2. For a permit authorizing the sale of malt liquor [not in excess of five
14 percent by weight], **as defined in section 311.490**, by grocers and other
15 merchants and dealers in the original package direct to consumers but not for
16 resale, a fee of fifty dollars per year payable to the director of the department of
17 revenue shall be required. The phrase "original package" shall be construed and
18 held to refer to any package containing one or more standard bottles, cans, or
19 pouches of beer. Notwithstanding the provisions of section 311.290, any person
20 licensed pursuant to this subsection may also sell malt liquor at retail between
21 the hours of 9:00 a.m. and midnight on Sunday.

22 3. For every license issued for the sale of malt liquor, **as defined in**
23 **section 311.490**, at retail by drink for consumption on the premises where sold,
24 the licensee shall pay to the director of revenue the sum of fifty dollars per
25 year. Notwithstanding the provisions of section 311.290, any person licensed
26 pursuant to this subsection may also sell malt liquor at retail between the hours
27 of 9:00 a.m. and midnight on Sunday.

28 4. For every license issued for the sale of malt liquor, **as defined in**
29 **section 311.490**, and light wines containing not in excess of fourteen percent of
30 alcohol by weight made exclusively from grapes, berries and other fruits and
31 vegetables, at retail by the drink for consumption on the premises where sold, the
32 licensee shall pay to the director of revenue the sum of fifty dollars per year.

33 5. For every license issued for the sale of all kinds of intoxicating liquor,

34 at retail by the drink for consumption on premises of the licensee, the licensee
35 shall pay to the director of revenue the sum of three hundred dollars per year,
36 which shall include the sale of intoxicating liquor in the original package.

37 6. For every license issued to any railroad company, railway sleeping car
38 company operated in this state, for sale of all kinds of intoxicating liquor, as
39 defined in this chapter, at retail for consumption on its dining cars, buffet cars
40 and observation cars, the sum of one hundred dollars per year. A duplicate of
41 such license shall be posted in every car where such beverage is sold or served,
42 for which the licensee shall pay a fee of one dollar for each duplicate license.

43 7. All applications for licenses shall be made upon such forms and in such
44 manner as the supervisor of alcohol and tobacco control shall prescribe. No
45 license shall be issued until the sum prescribed by this section for such license
46 shall be paid to the director of revenue.

**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 premises. Any
6 employee of the licensee shall be at least twenty-one years of age to fill
7 containers with draft beer.**

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

15 **3. (1) Containers that are filled or refilled under subsection 1 of
16 this section shall be affixed with a label or a tag that shall contain the
17 following information in type not smaller than three millimeters in
18 height and not more than twelve characters per inch:**

19 **(a) Brand name of the product dispensed;**

20 **(b) Name of brewer or bottler;**

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

23 **(d) Net contents;**

24 **(e) Name and address of the business that filled or refilled the
25 container;**

26 (f) Date of fill or refill;

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

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

33 4. (1) The filling and refilling of containers shall only occur on
34 demand by a customer and containers shall not be prefilled by the
35 retailer or its employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

311.205. 1. Any person licensed to sell liquor at retail by the drink for
2 consumption on the premises where sold may use a [table tap dispensing] **self-**
3 **dispensing** system [to allow], **which is monitored and controlled by the**
4 **licensee and allows** patrons of the licensee to [dispense] **self-dispense** beer
5 [at a table] **or wine**. Before a patron may dispense beer **or wine**, an employee
6 of the licensee must first authorize an amount of beer **or wine**, not to exceed
7 thirty-two ounces **of beer or sixteen ounces of wine** per patron per
8 authorization, to be dispensed by the [table tap dispensing] **self-dispensing**
9 system.

10 2. No provision of law or rule or regulation of the supervisor shall be
11 interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating
12 liquor to furnish [table tap dispensing] **self-dispensing** or cooling equipment or
13 provide services for the maintenance, sanitation, or repair of [table tap
14 dispensing] **self-dispensing** systems.

311.220. 1. In addition to the permit fees and license fees and inspection
2 fees by this law required to be paid into the state treasury, every holder of a
3 permit or license authorized by this law shall pay into the county treasury of the
4 county wherein the premises described and covered by such permit or license are
5 located, or in case such premises are located in the city of St. Louis, to the
6 collector of revenue of said city, a fee in such sum not in excess of the amount by
7 this law required to be paid into the state treasury for such state permit or
8 license, as the county commission, or the corresponding authority in the city of
9 St. Louis, as the case may be, shall by order of record determine, and shall pay
10 into the treasury of the municipal corporation, wherein said premises are located,
11 a license fee in such sum, not exceeding one and one-half times the amount by
12 this law required to be paid into the state treasury for such state permit or
13 license, as the lawmaking body of such municipality, including the city of St.
14 Louis may by ordinance determine.

15 2. The board of aldermen, city council or other proper authorities of
16 incorporated cities, may charge for licenses issued to manufacturers, distillers,
17 brewers, wholesalers and retailers of all intoxicating liquor, located within their
18 limits, fix the amount to be charged for such license, subject to the limitations of
19 this law, and provide for the collection thereof, make and enforce ordinances for

20 the regulation and control of the sale of all intoxicating liquors within their
21 limits, provide for penalties for the violation of such ordinances, where not
22 inconsistent with the provisions of this law.

23 **3. Every licensee shall keep displayed prominently at all times**
24 **on their licensed premises any city or county license designating their**
25 **premises as a place licensed by the city or county to sell intoxicating**
26 **liquors. Nonetheless, no application shall be disapproved by the**
27 **supervisor of alcohol and tobacco control for failure to possess a city**
28 **or county license when making application for a license. Within ten**
29 **days from the issuance of said city or county license, the licensee shall**
30 **file with the supervisor of alcohol and tobacco control a copy of such**
31 **city or county license.**

311.328. 1. A valid and unexpired operator's or chauffeur's license issued
2 under the provisions of section 302.177, or a valid and unexpired operator's or
3 chauffeur's license issued under the laws of any state or territory of the United
4 States to residents of those states or territories, or a valid and unexpired
5 identification card **or nondriver's license** as provided for under section
6 302.181, **or a valid and unexpired nondriver's license issued under the**
7 **laws of any state or territory of the United States to residents of those**
8 **states or territories**, or a valid and unexpired identification card issued by any
9 uniformed service of the United States, or a valid and unexpired passport shall
10 be presented by the holder thereof upon request of any agent of the division of
11 alcohol and tobacco control or any licensee or the servant, agent or employee
12 thereof for the purpose of aiding the licensee or the servant, agent or employee
13 to determine whether or not the person is at least twenty-one years of age when
14 such person desires to purchase or consume alcoholic beverages procured from a
15 licensee. Upon such presentation the licensee or the servant, agent or employee
16 thereof shall compare the photograph and physical characteristics noted on the
17 license, identification card or passport with the physical characteristics of the
18 person presenting the license, identification card or passport.

19 2. Upon proof by the licensee of full compliance with the provisions of this
20 section, no penalty shall be imposed if the supervisor of the division of alcohol
21 and tobacco control or the courts are satisfied that the licensee acted in good
22 faith.

23 3. Any person who shall, without authorization from the department of
24 revenue, reproduce, alter, modify, or misrepresent any chauffeur's license, motor
25 vehicle operator's license or identification card shall be deemed guilty of a

26 misdemeanor and upon conviction shall be subject to a fine of not more than one
27 thousand dollars, and confinement for not more than one year, or by both such
28 fine and imprisonment.

311.665. 1. Before any license is [issued or] renewed under the provisions
2 of this chapter, the supervisor of liquor control shall require a statement from the
3 director of revenue that the applicant has paid all sales and use taxes due,
4 including all penalties and interest or does not owe any sales or use tax.

5 **2. Within ten days from the issuance of a sales and use tax**
6 **statement by the director of revenue, the licensee shall file with the**
7 **supervisor of alcohol and tobacco control a copy of such sales and use**
8 **tax statement.**

311.915. A special permit shall be issued to an out of state
2 manufacturer of intoxicating liquor who is not licensed in the state of
3 Missouri for participation in festivals, bazaars, or similar
4 events. Registration requirements under section 311.275 shall be
5 waived for such event. The amount of intoxicating liquor shipped in
6 the state under this permit shall not exceed two hundred
7 gallons. Excise taxes shall be paid by the licensed manufacturer that
8 holds a retail license organizing the event in the same manner as if it
9 were produced or purchased by the manufacturer. A permit issued
10 under this section by the division of alcohol and tobacco control shall
11 be valid for no more than seventy-two hours. An applicant shall
12 complete a form provided by the supervisor of alcohol and tobacco
13 control and pay a fee of twenty-five dollars before a special permit
14 shall be issued.

Section B. The enactment of section 311.198 of section A of this act shall
2 become effective January 1, 2017.