

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 340, 303 & 316
91ST GENERAL ASSEMBLY

Reported from the Committee on Local Government and Related Matters, April 9, 2001, with recommendation that the House Committee Substitute for House Bills Nos. 340, 303 & 316 Do Pass.

TED WEDEL, Chief Clerk

1123L.02C

AN ACT

To repeal sections 311.102, 311.178, 311.290, 311.660 and 311.680, RSMo 2000, and to enact in lieu thereof seven new sections relating to liquor control.

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

Section A. Sections 311.102, 311.178, 311.290, 311.660 and 311.680, RSMo 2000, are
2 repealed and seven new sections enacted in lieu thereof, to be known as sections 311.102,
3 311.178, 311.290, 311.635, 311.660, 311.680 and 311.805, to read as follows:

311.102. 1. Notwithstanding any other provisions of this chapter to the contrary, any
2 person who possesses the qualifications required by this chapter, and who meets the requirements
3 of and complies with the provisions of this chapter may apply for, and the supervisor of liquor
4 control may issue, a license to sell intoxicating liquor by the drink at retail for consumption on
5 the premises of any place of entertainment, as defined in this section, between the hours of 11:00
6 a.m. on Sunday and midnight on Sunday. As used in this section, the term "place of
7 entertainment" means any establishment located in a city not within a county or in a county of
8 the first classification having a charter form of government with a population of at least nine
9 hundred thousand or more inhabitants or in a county of the first classification having a charter
10 form of government containing any portion of a city with a population of three hundred eighty
11 thousand or more or in any city with a population of three hundred eighty thousand or more
12 which is located in more than one county [which has occupancy capacity for patrons of at least
13 three hundred and] which has gross annual sales in excess of two hundred fifty thousand dollars
14 and the establishment has been in operation for at least one year.

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

15 2. The authority for the collection of fees by cities and counties as provided in section
16 311.220, and all other laws and regulations of the state relating to the sale of liquor by the drink
17 for consumption on the premises where sold, shall apply to a place of entertainment in the same
18 manner as they apply to establishments licensed pursuant to sections 311.085, 311.090, and
19 311.095, and in addition to all other fees required by law, a place of entertainment shall pay an
20 additional fee of two hundred dollars a year payable at the same time and in the same manner as
21 its other license fees.

 311.178. 1. Any person possessing the qualifications and meeting the requirements of
2 this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on
3 the premises in a [first class] county **of the first classification** having a charter form of
4 government and not containing all or part of a city with a population of over three hundred
5 thousand, may apply to the supervisor of liquor control for a special permit to remain open on
6 each day of the week until 3:00 a.m. of the morning of the following day. The time of opening
7 on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097
8 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail
9 for consumption on the premises on Sunday. The premises of such an applicant [must] **shall** be
10 located in an area which has been designated as a convention trade area by the governing body
11 of the county and the applicant [must] **shall** meet at least one of the following conditions:

12 (1) The business establishment's annual gross sales for the year immediately preceding
13 the application for extended hours equals one hundred fifty thousand dollars or more; or

14 (2) The business is a resort. For purposes of this [section] **subsection**, a "resort" is
15 defined as any establishment having at least sixty rooms for the overnight accommodation of
16 transient guests and having a restaurant located on the premises.

17 2. **Any person possessing the qualifications and meeting the requirements of this**
18 **chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on**
19 **the premises in a county of the third classification having a population of more than fifteen**
20 **thousand four hundred but less than fifteen thousand nine hundred inhabitants, a county**
21 **of the third classification having a population of more than twenty thousand four hundred**
22 **but less than twenty thousand nine hundred inhabitants or a county of the first**
23 **classification without a charter form of government with a population of at least**
24 **twenty-five thousand inhabitants but not more than forty thousand inhabitants, may apply**
25 **to the supervisor of liquor control for a special permit to remain open on each day of the**
26 **week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday**
27 **may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding**
28 **the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for**
29 **consumption on the premises on Sunday. The applicant shall meet all of the following**

30 **conditions:**

31 **(1) The business establishment's annual gross sales for the year immediately**
32 **preceding the application for extended hours equals one hundred thousand dollars or**
33 **more; and**

34 **(2) The business is a resort. For purposes of this subsection, a "resort" is defined**
35 **as any establishment having at least twenty rooms for the overnight accommodation of**
36 **transient guests, having at least three thousand square feet of meeting space and having**
37 **a restaurant located on the premises.**

38 **3.** An applicant granted a special permit [under] **pursuant to** this section shall, in
39 addition to all other fees required by this chapter, pay an additional fee of three hundred dollars
40 a year payable at the time and in the same manner as its other license fees.

41 [3.] **4.** The provisions of this section allowing for extended hours of business shall not
42 apply in any incorporated area wholly located in any [first class] county **of the first**
43 **classification** having a charter form of government which does not contain all or part of a city
44 with a population of over three hundred thousand inhabitants until the governing body of such
45 incorporated area shall have by ordinance or order adopted the extended hours authorized by this
46 section.

311.290. 1. No person having a license under this law, nor any employee of such person,
2 except as provided in subsection 2 of this section, shall sell, give away, or otherwise dispose of,
3 or suffer the same to be done upon or about his **or her** premises, any intoxicating liquor in any
4 quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of
5 1:30 a.m. Sunday and 6:00 a.m. Monday. If the person has a license to sell intoxicating liquor
6 by the drink, his **or her** premises shall be and remain a closed place as defined in this section
7 between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m.
8 Sunday and 6:00 a.m. Monday. Where such licenses authorizing the sale of intoxicating liquor
9 by the drink are held by clubs or hotels, this section shall apply only to the room or rooms in
10 which intoxicating liquor is dispensed; and where such licenses are held by restaurants whose
11 business is conducted in one room only and substantial quantities of food and merchandise other
12 than intoxicating liquors are dispensed, then the licensee shall keep securely locked during the
13 hours and on the days specified in this section all refrigerators, cabinets, cases, boxes, and taps
14 from which intoxicating liquor is dispensed. A "closed place" is defined to mean a place where
15 all doors are locked and where no patrons are in the place or about the premises. **For the**
16 **purposes of this chapter, the term "patron" shall not include any licensee or employee or**
17 **agent of a licensee while engaged in the performance of duties associated with the operation**
18 **of any business licensed pursuant to this chapter.** Any person violating any provision of this
19 section shall be deemed guilty of a class A misdemeanor. Nothing in this section shall be

20 construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on
21 any of the days specified in this section by a wholesaler licensed [under] **pursuant to the**
22 provisions of section 311.180 to a person licensed to sell the intoxicating liquor at retail.

23 2. Any person licensed pursuant to section 311.200 shall not be permitted to sell, give
24 away, or otherwise dispose of, or suffer the same to be done upon or about his **or her** premises,
25 any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays
26 and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday.

**311.635. An on-duty peace officer for the division of liquor control, unless working
2 undercover, shall immediately upon entering the premises of a retail licensee present such
3 officer's identification to the licensee or employee in charge.**

311.660. 1. The supervisor of liquor control shall have the authority to suspend or
2 revoke for cause all such licenses; and to make the following regulations, without limiting the
3 generality of provisions empowering the supervisor of liquor control as in this chapter set forth
4 as to the following matters, acts and things:

5 (1) Fix and determine the nature, form and capacity of all packages used for containing
6 intoxicating liquor of any kind, to be kept or sold [under this law] **pursuant to this chapter;**

7 (2) Prescribe an official seal and label and determine the manner in which such seal or
8 label shall be attached to every package of intoxicating liquor so sold [under this law] **pursuant**
9 **to this chapter;** this includes prescribing different official seals or different labels for the
10 different classes, varieties or brands of intoxicating liquor;

11 (3) Prescribe all forms, applications and licenses and such other forms as are necessary
12 to carry out the provisions of this chapter, except that when a licensee substantially complies
13 with all requirements for the renewal of a license by the date on which the application for
14 renewal is due, such licensee shall be permitted at least an additional ten days from the date
15 notice is sent that the application is deficient, in which to complete the application;

16 (4) Prescribe the terms and conditions of the licenses issued and granted [under this law]
17 **pursuant to this chapter;**

18 (5) Prescribe the nature of the proof to be furnished and conditions to be observed in the
19 issuance of duplicate licenses, in lieu of those lost or destroyed;

20 (6) Establish rules and regulations for the conduct of the business carried on by each
21 specific licensee under the license, and such rules and regulations if not obeyed by [every] **the**
22 licensee shall be grounds for the revocation or suspension of the license; **except that the**
23 **supervisor of liquor control shall not establish any rule or regulation prohibiting a licensee**
24 **or any employee of a licensee who is on duty from drinking in such licensee's establishment**
25 **as long as such licensee or employee on duty is not obviously impaired, or allowing an**
26 **agent of the supervisor of liquor control to drink in any establishment while such agent is**

27 **on duty and not working under cover;**

28 (7) The right to examine books, records and papers of each licensee and to hear and
29 determine complaints against any licensee;

30 (8) To issue subpoenas and all necessary processes and require the production of papers,
31 to administer oaths and to take testimony;

32 (9) Prescribe all forms of labels to be affixed to all packages containing intoxicating
33 liquor of any kind; and

34 (10) To make such [other] rules and regulations as are necessary and feasible for carrying
35 out the provisions of this chapter[, as are not inconsistent with this law].

36 **2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
37 **that is created under the authority delegated in this chapter shall become effective only if**
38 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
39 **applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28,**
40 **2000, is of no force and effect and repealed. Nothing in this section shall be interpreted to**
41 **repeal or affect the validity of any rule filed or adopted prior to August 28, 2000, if it fully**
42 **complied with all applicable provisions of law. This section and chapter 536, RSMo, are**
43 **nonseverable and if any of the powers vested with the general assembly pursuant to**
44 **chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule**
45 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
46 **rule proposed or adopted after August 28, 2000, shall be invalid and void.**

311.680. 1. Whenever it shall be shown, or whenever the supervisor of liquor control
2 has knowledge, that a person licensed hereunder has not at all times kept an orderly place or
3 house, or has violated any of the provisions of this chapter, the supervisor of liquor control may,
4 warn, place on probation on such terms and conditions as the supervisor of liquor control deems
5 appropriate for a period not to exceed twelve months, suspend or revoke the license of that
6 person, but the person shall have ten days' notice of the application to warn, place on probation,
7 suspend or revoke the person's license prior to the order of warning, probation, revocation or
8 suspension issuing.

9 2. Any wholesaler licensed pursuant to this chapter or chapter 312, RSMo, in lieu of, or
10 in addition to, the warning, probation, suspension or revocation authorized in subsection 1 of this
11 section, may be assessed a civil penalty by the supervisor of liquor control of not less than one
12 hundred dollars or more than twenty-five hundred dollars for each violation.

13 **3. Any solicitor licensed pursuant to this chapter or chapter 312, RSMo, in lieu of**
14 **the suspension or revocation authorized in subsection 1 of this section, may be assessed a**
15 **civil penalty or fine by the supervisor of liquor control of not less than one hundred dollars**
16 **nor more than five thousand dollars for each violation.**

17 **4. Any retailer with less than five thousand occupant capacity, licensed pursuant**
18 **to this chapter or chapter 312, RSMo, in lieu of the suspension or revocation authorized**
19 **by subsection 1 of this section, may be assessed a civil penalty or fine by the supervisor of**
20 **liquor control of not less than fifty dollars nor more than one thousand dollars for each**
21 **violation.**

22 **5. Any retailer with five thousand or more occupant capacity, licensed pursuant to**
23 **this chapter or chapter 312, RSMo, in lieu of the suspension or revocation authorized by**
24 **subsection 1 of this section, may be assessed a civil penalty or fine by the supervisor of**
25 **liquor control of not less than fifty dollars nor more than five thousand dollars for each**
26 **violation.**

27 **6. The supervisor shall, pursuant to subsections 4 and 5 of this section, promulgate**
28 **rules identifying what violations are eligible for a civil penalty, the maximum amounts that**
29 **can be assessed for those violations and under what conditions, if any, these amounts can**
30 **be reduced.**

311.805. At least fifteen days prior to any administrative proceeding for a violation
2 **of any provision of this chapter, the division of liquor control shall provide copies of any**
3 **written or otherwise recorded evidence relating to such violation to the licensee.**