

SECOND REGULAR SESSION

HOUSE BILL NO. 1858

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COX (Sponsor), RIDDLE, CROSS,
HOUGH AND BERNSKOETTER (Co-sponsors).

6043L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 311.180, RSMo, and to enact in lieu thereof two new sections relating to beer wholesalers.

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

Section A. Section 311.180, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 311.180 and 311.183, to read as follows:

311.180. 1. No person, partnership, association of persons or corporation shall manufacture, distill, blend, sell or offer for sale intoxicating liquor within this state at wholesale or retail, or solicit orders for the sale of intoxicating liquor within this state without procuring a license from the supervisor of alcohol and tobacco control authorizing them so to do. For such license there shall be paid to and collected by the director of revenue annual charges as follows:

(1) For the privilege of manufacturing and brewing in this state malt liquor containing not in excess of five percent of alcohol by weight and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquors containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred fifty dollars;

(2) For the privilege of manufacturing in this state intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred dollars;

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.

16 (3) For the privilege of manufacturing, distilling or blending intoxicating liquor of all
17 kinds within this state and the privilege of selling to duly licensed wholesalers and soliciting
18 orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler
19 within this state, the sum of four hundred and fifty dollars;

20 (4) For the privilege of selling to duly licensed wholesalers and soliciting orders for the
21 sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by or through
22 a duly licensed wholesaler within this state, the sum of fifty dollars;

23 (5) For the privilege of selling to duly licensed wholesalers and soliciting orders for the
24 sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight,
25 to, by or through a duly licensed wholesaler within this state, the sum of one hundred dollars;

26 (6) For the privilege of selling to duly licensed wholesalers and soliciting orders for the
27 sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this
28 state, the sum of two hundred and fifty dollars;

29 (7) For the privilege of selling intoxicating liquor containing not in excess of five percent
30 of alcohol by weight by a wholesaler to a person duly licensed to sell such malt liquor at retail
31 and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt
32 liquor containing not in excess of five percent of alcohol by weight, to, by or through a duly
33 licensed wholesaler within this state, the sum of one hundred dollars;

34 (8) For the privilege of selling intoxicating liquor containing not in excess of twenty-two
35 percent of alcohol by weight by a wholesaler to a person duly licensed to sell such intoxicating
36 liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for
37 the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by
38 weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred
39 dollars;

40 (9) For the privilege of selling intoxicating liquor of all kinds by a wholesaler to a person
41 duly licensed to sell such intoxicating liquor at retail and the privilege of selling to duly licensed
42 wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through
43 a duly licensed wholesaler within this state, the sum of five hundred dollars, except that a license
44 authorizing the holder to sell to duly licensed wholesalers and to solicit orders for sale of
45 intoxicating liquor, to, by or through a duly licensed wholesaler, shall not entitle the holder
46 thereof to sell within the state of Missouri, direct to retailers;

47 (10) For the privilege of selling to duly licensed wholesalers and soliciting orders for the
48 sale of vintage wine as defined in section 311.191, to, by, or through a duly licensed wholesaler
49 within this state, the sum of five hundred dollars.

50 2. Solicitors, manufacturers and blenders of intoxicating liquor shall not be required to
51 take out a merchant's license for the sale of their products at the place of manufacture or in
52 quantities of not less than one gallon.

53 3. The provisions of this section relating to the privilege of selling malt liquor are subject
54 to and limited by the provisions of sections 311.181 [and] , 311.182, **and 311.183.**

55 4. The licenses prescribed in this section for the privilege of selling intoxicating liquor
56 by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail shall allow such
57 wholesaler to sell intoxicating liquor to licensees licensed by the gaming commission to sell beer
58 or alcoholic beverages pursuant to section 313.840.

**311.183. 1. The provisions of subsection 2 of this section apply to the following
2 entities:**

3 **(1) A brewer;**

4 **(2) An officer, director, manager, agent, or employee of a brewer; and**

5 **(3) An affiliate of a person described in this subsection.**

6 **2. No person named in subsection 1 of this section may have any financial interest
7 in a beer wholesaler, or serve as a director, manager, employee, or agent of a beer
8 wholesaler, except:**

9 **(1) A security interest granted to the person by the wholesaler under the uniform
10 commercial code under chapter 400 in products sold to a wholesaler until the full purchase
11 price has been paid therefor;**

12 **(2) An interest in the wholesaler or assets of the wholesaler for no more than one
13 year and only for the purpose of facilitating an orderly transfer of the interest to a person
14 not affiliated with the brewer, when the interest is the result of:**

15 **(a) Obtaining a judgment against the wholesaler;**

16 **(b) Acquiring the wholesaler or the assets of the wholesaler as a result of a written
17 request of the wholesaler; however, such request may not be included in a franchise
18 agreement or required as a condition of receiving, renewing, or amending a franchise
19 agreement; or**

20 **(3) A minority interest of less than fifty percent in a beer wholesaler for a period
21 of not more than two years under a written agreement with the wholesaler.**

22 **3. Notwithstanding the provisions of subsection 2 of this section to the contrary, if
23 a wholesaler sold ten percent or more of a brewer's total production during two of the past
24 three calendar years and:**

25 **(1) Such wholesaler's franchise agreement for a brand of beer in a designated sales
26 territory is terminated for cause as permitted by sections 407.400 to 407.413 and the
27 termination is not stayed; or**

28 **(2) More than fifty percent of the ownership of the wholesaler is transferred;**
29
30 **then the brewer may serve as a wholesaler of its products in the designated area**
31 **indefinitely, upon obtaining a wholesaler's license for its products from the supervisor of**
32 **liquor control. No provision of this subsection shall eliminate any rights or remedies that**
33 **the wholesaler whose franchise was terminated may have under the franchise agreement**
34 **or sections 407.400 to 407.413.**

35 **4. Notwithstanding the provisions of subsection 2 of this section to the contrary, a**
36 **brewer that manufactures beer with an annual production of ten thousand barrels or less**
37 **may own or have an interest in a beer wholesaler that sells only the brewer's products.**
38 **This subsection shall not apply to a microbrewery licensed under section 311.195. This**
39 **section shall not be construed to prohibit a wine manufacturer from lawfully producing**
40 **and selling products under any other provision of this chapter.**

41 **5. No wholesaler may have a financial interest in a brewer, except that a wholesaler**
42 **may own up to five percent of the stock of a publicly traded brewer.**

43 **6. As used in this section, the following terms shall mean:**

44 **(1) "Affiliate", any person who, other than by means of franchise, is controlled by,**
45 **or is under common control with, any other person, whether through stock ownership or**
46 **otherwise;**

47 **(2) "Brewer", any person who brews beer;**

48 **(3) "Financial interest", a financial interest as defined in subsection 4 of section**
49 **311.060;**

50 **(4) "Person", any individual, firm, partnership, corporation, association, or other**
51 **entity;**

52 **(5) "Wholesaler", any person who is licensed to sell beer to retailers in this state.**

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