

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 919
98TH GENERAL ASSEMBLY

5244H.09C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 311.090, 311.195, 311.200, 311.205, and 311.328, RSMo, and to enact in lieu thereof eight 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, and 311.328, RSMo, are
2 repealed and eight new sections enacted in lieu thereof, to be known as sections 311.090,
3 311.195, 311.198, 311.200, 311.201, 311.205, 311.328, and 311.915, to read as follows:

311.090. 1. Any person who possesses the qualifications required by this chapter, and
2 who meets the requirements of and complies with the provisions of this chapter, and the
3 ordinances, rules and regulations of the incorporated city in which such licensee proposes to
4 operate his business, may apply for, and the supervisor of alcohol and tobacco control may issue,
5 a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for
6 consumption on the premises described in the application; provided, that no license shall be
7 issued for the sale of intoxicating liquor, other than malt liquor [containing alcohol not in excess
8 of five percent by weight] **as defined in section 311.490**, and light wines containing not in
9 excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other
10 fruits and vegetables, by the drink at retail for consumption on the premises where sold to any
11 person other than a charitable, fraternal, religious, service or veterans' organization which has
12 obtained an exemption from the payment of federal income taxes as provided in section
13 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the

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.

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

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

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

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

9 3. Notwithstanding any other provision of this chapter to the contrary, the holder of a
10 microbrewer's license may apply for, and the supervisor of alcohol and tobacco control may
11 issue, a license to sell **all kinds of** intoxicating liquor, **as defined in this chapter**, by the drink
12 at retail for consumption on the premises **of the microbrewery or in close proximity to the**
13 **microbrewery**. No holder of a microbrewer's license, or any employee, officer, agent,
14 subsidiary, or affiliate thereof, shall have more than ten licenses to sell intoxicating liquor by the

15 drink at retail for consumption on the premises. [The authority for the collection of fees by cities
16 and counties as provided in section 311.220, and all other laws and regulations relating to the
17 sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder
18 of a license issued under the provisions of this section in the same manner as they apply to
19 establishments licensed under the provisions of section 311.085, 311.090, 311.095, or 311.097.]

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

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

**311.198. 1. Notwithstanding any other provision of law, rule, or regulation to the
2 contrary, a brewer may lease to the retail licensee and the retail licensee may accept
3 portable refrigeration units at a total lease value equal to the cost of the unit to the brewer
4 plus two percent of the total lease value as of the execution of the lease. Such portable
5 refrigeration units shall remain the property of the brewer. The brewer may also enter
6 into lease agreements with wholesalers, who may enter into sublease agreements with retail
7 licensees in which the value contained in the sublease is equal to the unit cost to the brewer
8 plus two percent of the total lease value as of the execution of the lease. If the lease
9 agreement is with a wholesaler, the portable refrigeration units shall become the property
10 of the wholesaler at the end of the lease period, which is to be defined between the brewer
11 and the wholesaler. A wholesaler shall not directly or indirectly fund the cost or
12 maintenance of the portable refrigeration units. Brewers shall be responsible for
13 maintaining adequate records of retailer payments to be able to verify fulfillment of lease
14 agreements. No portable refrigeration unit may exceed forty cubic feet in storage space.
15 A brewer may lease, or wholesaler may sublease, not more than one portable refrigeration
16 unit per retail location. For the purposes of this section, a brewer shall include any
17 business whose primary activity is the brewing, manufacturing, and selling of intoxicating
18 liquor along with such business's wholly and partially owned subsidiaries, parent or
19 holding companies, interest holders, or affiliates thereof. Such portable refrigeration unit
20 may bear in a conspicuous manner substantial advertising matter about a product or**

21 **products of the brewer and shall be visible to consumers inside the retail outlet.**
22 **Notwithstanding any other provision of law, rule, regulation, or lease to the contrary, the**
23 **retail licensee is hereby authorized to stock, display, and sell any product in and from the**
24 **portable refrigeration units. No dispensing equipment shall be attached to a leased**
25 **portable refrigeration unit, and no beer, wine, or intoxicating liquor shall be dispensed**
26 **directly from a leased portable refrigeration unit. Any brewer or wholesaler that provides**
27 **portable refrigeration units shall within thirty days thereafter notify the division of alcohol**
28 **and tobacco control on forms designated by the division of the location, lease terms, and**
29 **total cubic storage space of the units. The division is hereby given authority, including**
30 **rulemaking authority, to enforce this section and to ensure compliance by having access**
31 **to and copies of lease, payment, and portable refrigeration unit records and information.**

32 **2. Any lease or sublease executed under this section shall not exceed five years in**
33 **duration and shall not contain any provision allowing for or requiring the automatic**
34 **renewal of the lease or sublease.**

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

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

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

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

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

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

29 5. For every license issued for the sale of all kinds of intoxicating liquor, at retail by the
30 drink for consumption on premises of the licensee, the licensee shall pay to the director of
31 revenue the sum of three hundred dollars per year, which shall include the sale of intoxicating
32 liquor in the original package.

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

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

**311.201. 1. Any person who is licensed to sell intoxicating liquor in the original
2 package at retail as provided in subsection 1 of section 311.200 may sell from thirty-two
3 to one hundred twenty-eight fluid ounces of draft beer to customers in containers filled by
4 any employee of the retailer on the premises for consumption off such premises. Any**

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

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

13 3. (1) Containers that are filled or refilled under subsection 1 of this section shall
14 be affixed with a label or a tag that shall contain the following information in type not
15 smaller than three millimeters in height and not more than twelve characters per inch:

16 (a) Brand name of the product dispensed;

17 (b) Name of brewer or bottler;

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

20 (d) Net contents;

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

22 (f) Date of fill or refill;

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

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

28 4. (1) The filling and refilling of containers shall only occur on demand by a
29 customer and containers shall not be pre-filled by the retailer or its employee.

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

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

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

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

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

38 c. Each container shall contain no fewer than five tubes that will be used only for
39 filling and refilling containers;

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

- 41 e. After each filling or refilling of a container, the tube shall be immersed in the
42 container with the liquid food-grade sanitizer; and
- 43 f. A different tube from the container shall be used for each filling or refilling of
44 a container; or
- 45 (b) Containers shall be filled or refilled with a contamination-free process and:
46 a. The container shall be inspected visually for contamination;
47 b. The container shall only be filled or refilled by the retailer's employee; and
48 c. The filling or refilling shall be in compliance with the Food and Drug
49 Administration Code 2009, Section 3-304.17(c).
- 50 (4) Containers shall be filled or refilled from the bottom of the container to the top
51 with a tube that is attached to the malt beverage faucet and extends to the bottom of the
52 container or with a commercial filling machine.
- 53 (5) When not in use, tubes to fill or refill shall be immersed and stored in a
54 container with liquid food-grade sanitizer.
- 55 (6) After filling or refilling a container, the container shall be sealed as set forth in
56 subsection 1 of this section.

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

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

311.328. 1. A valid and unexpired operator's or chauffeur's license issued under the
2 provisions of section 302.177, or a valid and unexpired operator's or chauffeur's license issued
3 under the laws of any state or territory of the United States to residents of those states or
4 territories, or a valid and unexpired identification card **or nondriver's license** as provided for
5 under section 302.181, **or a valid and unexpired nondriver's license issued under the laws**
6 **of any state or territory of the United States to residents of those states or territories**, or a
7 valid and unexpired identification card issued by any uniformed service of the United States, or
8 a valid and unexpired passport shall be presented by the holder thereof upon request of any agent
9 of the division of alcohol and tobacco control or any licensee or the servant, agent or employee

10 thereof for the purpose of aiding the licensee or the servant, agent or employee to determine
11 whether or not the person is at least twenty-one years of age when such person desires to
12 purchase or consume alcoholic beverages procured from a licensee. Upon such presentation the
13 licensee or the servant, agent or employee thereof shall compare the photograph and physical
14 characteristics noted on the license, identification card or passport with the physical
15 characteristics of the person presenting the license, identification card or passport.

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

19 3. Any person who shall, without authorization from the department of revenue,
20 reproduce, alter, modify, or misrepresent any chauffeur's license, motor vehicle operator's license
21 or identification card shall be deemed guilty of a misdemeanor and upon conviction shall be
22 subject to a fine of not more than one thousand dollars, and confinement for not more than one
23 year, or by both such fine and imprisonment.

**311.915. A special permit may be issued to an out-of-state manufacturer of beer or
2 malt liquor who is licensed in another state but is not licensed in the state of Missouri for
3 participation in festivals, bazaars, or similar events. Permit holders under this section may
4 provide beer or malt liquor for sampling purposes in organized events, exhibitions, or
5 competitions. Samples of beer or malt liquor used at an organized event where an
6 admission fee is paid for entry, and if the beer or malt liquor is available without a separate
7 charge, shall not be deemed a sale of beer or malt liquor pursuant to a temporary retail
8 license issued under section 311.218, 311.482, 311.485, 311.486, or 311.487, or any tax
9 exempt organization's licensed premises as described in section 311.090, provided that the
10 permit holder licensed under this section receives no proceeds from the admission fee, and
11 all consumption is conducted off licensed retail premises. Before a permit is issued under
12 this section, the applicant's product shall be approved by the federal Alcohol and Tobacco
13 Tax and Trade Bureau. The amount of beer or malt liquor shipped into the state under
14 this permit shall not exceed two hundred gallons. Excise taxes shall be paid by the holder
15 of the special permit issued under this section. A permit issued under this section by the
16 division of alcohol and tobacco control shall be valid for no more than seventy-two hours.
17 An applicant shall complete a form provided by the supervisor of alcohol and tobacco
18 control and pay a fee of twenty-five dollars before a special permit shall be issued.**

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

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