

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 298
92ND GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, March 6, 2003, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1128S.05C

AN ACT

To repeal sections 311.080, 311.200, 311.260, 311.280, 311.290, 311.293, 311.325, 311.328, 311.360, 311.630, 312.407, and 312.410, RSMo, and to enact in lieu thereof twelve new sections relating to liquor control, with penalty provisions.

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

Section A. Sections 311.080, 311.200, 311.260, 311.280, 311.290, 311.293, 311.325, 311.328, 311.360, 311.630, 312.407, and 312.410, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 311.080, 311.200, 311.260, 311.280, 311.290, 311.293, 311.325, 311.328, 311.360, 311.630, 312.407, and 312.410, to read as follows:

311.080. 1. No license shall be granted for the sale of intoxicating liquor, as defined in this chapter, within one hundred feet of any school, church or other building regularly used as a place of religious worship, [unless the applicant for the license shall first obtain the consent in writing of the board of directors of the school, or the consent in writing of the majority of the managing board of the church or place of worship;] except that when a school, church or place of worship shall hereafter be established within one hundred feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied [for lack of consent in writing as herein provided] **for this reason.**

2. The board of aldermen, city council or other proper authorities, of any incorporated city, town or village, may by ordinance, prohibit the granting of a license for the sale of intoxicating liquor within a distance as great as three hundred feet **of any school, church, or other building regularly used as a place of religious worship.** In such cases, and where

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

the ordinance has been lawfully enacted, no license of any character shall [issue] **be issued** in conflict with the ordinance while it is in effect; except, that when a school, church or place of worship is established within the prohibited distance from any place of business licensed to sell intoxicating liquor, the license shall not be denied [for lack of consent in writing as herein provided] **for this reason.**

3. Subsection 1 of this section shall not apply to a holder of a license issued pursuant to section 311.090, section 311.218, section 311.482, or to any premises holding a license issued before January 1, 2004, by the supervisor of liquor control for the sale of intoxicating liquor.

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

2. For a permit authorizing the sale of malt liquor containing alcohol in excess of three and two-tenths percent by weight and not in excess of five percent by weight by grocers and other merchants and dealers in the original package direct to consumers but not for resale, **a fee of fifteen dollars per year payable to the director of the department of revenue shall be required.** The phrase "original package" shall be construed and held to refer to any package containing three or more standard bottles of beer. This license shall also permit the holders thereof to sell nonintoxicating beer in the original package direct to consumers, but not for resale. **Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.**

3. **For every license issued for the sale of malt liquor at retail by the drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of twenty-five dollars per year, which license shall also permit the holder thereof to sell nonintoxicating beer as defined in chapter 312, RSMo. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.**

4. For every license issued for the sale of malt liquor and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of thirty-five dollars per year, which license shall also permit the holder thereof to sell nonintoxicating beer as defined in chapter 312, RSMo.

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

[5.] 6. For every license issued to any railroad company, railway sleeping car company operated in this state, for sale of all kinds of intoxicating liquor, as defined in this chapter, at retail for consumption on its dining cars, buffet cars and observation cars, the sum of one hundred dollars per year; except that such license shall not permit sales at retail to be made while such cars are stopped at any station. A duplicate of such license shall be posted in every car where such beverage is sold or served, for which the licensee shall pay a fee of one dollar for each duplicate license.

[6.] 7. All applications for licenses shall be made upon such forms and in such manner as the supervisor of liquor control shall prescribe. No license shall be issued until the sum prescribed by this section for such license shall be paid to the director of revenue.

311.260. No person or corporation, or any employee, officer, agent, subsidiary, or affiliate thereof, shall have more than three licenses, nor be directly or indirectly interested in any business of any other person or corporation, or of any employee, officer, agent, subsidiary, or affiliate thereof, to sell intoxicating liquor, at retail by the drink for consumption on the premises described in any license, nor shall any intoxicating liquor be sold at retail by the drink for consumption at the place of sale at more than three places in this state, by any person or corporation, or by any employee, officer, agent, subsidiary, or affiliate thereof, except that, notwithstanding any other provision of this chapter or municipal ordinance to the contrary, in determining whether any person, corporation, or any employee, officer, agent, subsidiary, or affiliate thereof, has a disqualifying interest in more than three licenses, there shall not be counted any license to sell intoxicating liquor at retail by the drink for consumption on premises which include a restaurant at least fifty percent of the gross income of which is derived from the sale of prepared meals or food consumed on premises where sold or which has an annual gross income of at least two hundred thousand dollars from the sale of prepared meals or food consumed on premises where sold, or which include a facility for the performance of live entertainment and where the receipts for admission to such performances exceed one hundred thousand dollars per calendar year, **or any establishment having at least thirty rooms for the overnight accommodation of transient guests.**

311.280. 1. It shall be unlawful for any person in this state holding a retail liquor license to purchase any intoxicating liquor except from, by or through a duly licensed wholesale liquor dealer in this state. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this section. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

2. Any retailer licensed pursuant to this chapter shall not:

(1) Sell intoxicating liquor or nonintoxicating beer with an alcohol content of less than five percent by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart, or cut apart; or

(2) Repackage intoxicating liquor or nonintoxicating beer with an alcohol content of less than five percent by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

311.290. [1.] No person having a license under this law, nor any employee of such person, [except as provided in subsection 2 of this section,] shall sell, give away, or [otherwise dispose of, or suffer the same to be done upon or about his premises] **permit the consumption of**, any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday, **upon or about his or her premises**. If the person has a license to sell intoxicating liquor by the drink, his premises shall be and remain a closed place as defined in this section between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels, this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants whose business is conducted in one room only and substantial quantities of food and merchandise other than intoxicating liquors are dispensed, then the licensee shall keep securely locked during the hours and on the days specified in this section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating liquor is dispensed. A "closed place" is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this section shall be deemed guilty of a class A misdemeanor. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 to a person licensed to sell the intoxicating liquor at retail.

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

311.293. 1. Notwithstanding the provisions of section 311.290 or any other law to the

contrary, any person possessing the qualifications and meeting the requirements of this chapter, who is licensed to sell intoxicating liquor in the original package at retail [under] **pursuant to** section 311.200, may apply to the supervisor of liquor control for a special license to sell intoxicating liquor in the original package at retail between the hours of [11:00 a.m.] **9:00 a.m.** and midnight on Sundays. A licensee under this section shall pay to the director of revenue an additional fee of two hundred dollars a year payable at the same time and in the same manner as its other license fees.

2. In addition to any fee collected pursuant to section 311.220, a city or county may charge and collect an additional fee not to exceed three hundred dollars from any licensee under this section for the privilege of selling intoxicating liquor in the original package at retail between the hours of 11:00 a.m. and midnight on Sundays in such city or county; however the additional fee shall not exceed the fee charged by that city or county for a special license issued pursuant to any provision of this chapter which allows a licensee to sell intoxicating liquor by the drink for consumption on the premises of the licensee on Sundays.

311.325. 1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his possession, any intoxicating liquor as defined in section 311.020 is guilty of a misdemeanor. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

2. For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of liquor control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

311.328. 1. [The] **A valid and unexpired** operator's or chauffeur's license issued under the provisions of section 302.177, RSMo, or [the] **a valid and unexpired** operator's or chauffeur's license issued under the laws of the states of Arkansas, Illinois, Oklahoma, Kansas, or Iowa to residents of those states, or [an] **a valid and unexpired** identification card as provided for under section 302.181, RSMo, or [the] **a valid and unexpired** identification card

issued by any uniformed service of the United States, or a valid **and unexpired** passport shall be presented by the holder thereof upon request of any agent of the division of liquor control or any licensee or the servant, agent or employee thereof for the purpose of aiding the licensee or the servant, agent or employee to determine whether or not the person is at least twenty-one years of age when such person desires to purchase or consume alcoholic beverages procured from a licensee. Upon such presentation the licensee or the servant, agent or employee thereof shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

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

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

311.360. [1.] No person holding a license or permit shall sell malt liquor, or any other intoxicating liquor in this state, or shall offer for sale any such malt liquor, or other intoxicating liquor, whatsoever, brewed, manufactured or distilled by one manufacturer, in substitution for, or with the representation that any such malt liquor or other intoxicating liquor, is the product of any other brewer, manufacturer or distiller. Whosoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor.

[2. Any malt liquor which is offered for sale in this state and manufactured at other than a facility owned by the person whose name appears on the label of the container shall include on the label the name and location of the owner of the facility which produced and packaged the malt liquor. This subsection shall become effective January 1, 1997.]

311.630. 1. The supervisor of liquor control and employees to be selected and designated as peace officers by the supervisor of liquor control are hereby declared to be peace officers of the state of Missouri, with full power and authority to make arrests **[only] and searches and seizures related to the incident in question** for violations of the provisions of chapters 311 and 312, RSMo, relating to intoxicating liquors and nonintoxicating beer, **[and to make searches and seizures thereunder,] and sections 407.924 to 407.934, RSMo, relating to tobacco products,** and to serve any process connected with the enforcement of such laws. The peace officers so designated shall have been previously appointed and qualified under the provisions of section 311.620 and shall **[have completed the mandatory standards for the basic training and certification of peace officers established by the peace officers standards and training commission]**

be required to hold a valid peace officer license pursuant to chapter 590, RSMo.

2. The supervisor of liquor control shall furnish such peace officers with credentials showing their authority and a special badge, which they shall carry on their person at all times while on duty. The names of the peace officers so designated shall be made a matter of public record in the office of the supervisor of liquor control.

3. All fees for the arrest and transportation of persons arrested and for the service of writs and process shall be the same as provided by law in criminal proceedings and shall be taxed as costs.

312.407. 1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his possession, any nonintoxicating beer as defined in section 312.010, is guilty of a misdemeanor. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of nonintoxicating beer to a person under twenty-one years of age, a manufacturer-sealed container describing that there is nonintoxicating beer therein need not be opened or the contents therein tested to verify that there is nonintoxicating beer in such container. The alleged violator may allege that there was not nonintoxicating beer in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is nonintoxicating beer therein contains nonintoxicating beer.

2. For purposes of determining violations of any provisions of this chapter or of any rule or regulation of the supervisor of liquor control, a manufacturer-sealed container describing that there is nonintoxicating beer therein need not be opened or the contents therein tested to verify that there is nonintoxicating beer in such container. The alleged violator may allege that there was not nonintoxicating beer in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is nonintoxicating beer therein contains nonintoxicating beer.

312.410. No person having a license under the provisions of this chapter, shall sell, give away or [otherwise dispose of, or suffer the same to be done, upon or about his premises] **permit the consumption of**, any nonintoxicating beer in any quantity between the hours of one-thirty a.m., and six a.m., **upon or about his or her premises**, and any person violating any provision of this section shall be deemed guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a term of not more than one year, or by a fine of not less than fifty dollars nor more than one thousand dollars or by both such fine and jail sentence.