

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 197
100TH GENERAL ASSEMBLY

Reported from the Committee on General Laws, February 14, 2019, with recommendation that the Senate Committee Substitute do pass.

1202S.02C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 311.198, RSMo, and to enact in lieu thereof one new section relating to portable refrigeration units.

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

Section A. Section 311.198, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 311.198, to read as follows:

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 the retail
3 licensee may accept portable refrigeration units at a total lease value equal to the
4 cost of the unit to the brewer plus two percent of the total lease value as of the
5 execution of the lease. Such portable refrigeration units shall remain the
6 property of the brewer. The brewer may also enter into lease agreements with
7 wholesalers, who may enter into sublease agreements with retail licensees in
8 which the value contained in the sublease is equal to the unit cost to the brewer
9 plus two percent of the total lease value as of the execution of the lease. If the
10 lease agreement is with a wholesaler, the portable refrigeration units shall
11 become the property of the wholesaler at the end of the lease period, which is to
12 be defined between the brewer and the wholesaler. A wholesaler may not directly
13 or indirectly fund the cost or maintenance of the portable refrigeration
14 units. Brewers shall be responsible for maintaining adequate records of retailer
15 payments to be able to verify fulfillment of lease agreements. No portable
16 refrigeration unit may exceed forty cubic feet in storage space. A brewer may
17 lease, or wholesaler may sublease, not more than one portable refrigeration unit
18 per retail location. Such portable refrigeration unit may bear in a conspicuous

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

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

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

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

43 4. This section shall expire on January 1, [2020] **2026**. Any lease or
44 sublease executed under this section prior to January 1, [2020] **2026**, shall
45 remain in effect until the expiration of such lease or sublease.

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