

SECOND REGULAR SESSION

SENATE BILL NO. 947

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

Read 1st time January 28, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5093S.011

AN ACT

To repeal section 311.070, RSMo, and to enact in lieu thereof one new section relating to alcohol trade practices, with existing penalty provisions.

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

Section A. Section 311.070, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 311.070, to read as follows:

311.070. 1. Distillers, wholesalers, winemakers, brewers or their
2 employees, officers or agents shall not, except as provided in this section, directly
3 or indirectly, have any financial interest in the retail business for sale of
4 intoxicating liquors, and shall not, except as provided in this section, directly or
5 indirectly, loan, give away or furnish equipment, money, credit or property of any
6 kind, except ordinary commercial credit for liquors sold to such retail
7 dealers. However, notwithstanding any other provision of this chapter to the
8 contrary, for the purpose of the promotion of tourism, a distiller whose
9 manufacturing establishment is located within this state may apply for and the
10 supervisor of liquor control may issue a license to sell intoxicating liquor, as in
11 this chapter defined, by the drink at retail for consumption on the premises
12 where sold; and provided further that the premises so licensed shall be in close
13 proximity to the distillery and may remain open between the hours of 6:00 a.m.
14 and 1:30 a.m., Monday through Saturday and between the hours of 9:00 a.m. and
15 midnight, Sunday. The authority for the collection of fees by cities and counties
16 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
18 apply to the holder of a license issued under the provisions of this section in the
19 same manner as they apply to establishments licensed under the provisions of

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

20 section 311.085, 311.090, or 311.095.

21 2. Any distiller, wholesaler, winemaker, or brewer who shall violate the
22 provisions of subsection 1 of this section, or permit his **or her** employees, officers
23 or agents to do so, shall be guilty of a misdemeanor, and upon conviction thereof
24 shall be punished as follows:

25 (1) For the first offense, by a fine of one thousand dollars;

26 (2) For a second offense, by a fine of five thousand dollars; and

27 (3) For a third or subsequent offense, by a fine of ten thousand dollars or
28 the license of such person shall be revoked.

29 3. As used in this section, the following terms mean:

30 (1) "Consumer advertising specialties", advertising items that are
31 designed to be carried away by the consumer, such items include, but are not
32 limited to: trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle
33 or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets,
34 cards, leaflets, blotters, postcards, pencils, shirts, caps and visors;

35 (2) "Equipment and supplies", glassware (or similar containers made of
36 other [material] **materials**), [dispensing accessories,] carbon dioxide (and other
37 gasses used in dispensing equipment) [or], ice[. "Dispensing accessories" include
38 standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers,
39 couplings, gas gauges, vent tongues, shanks, and check valves], **nonrefrigerated**
40 **rolling coolers, portable bars, agitating tanks, tubs, tents not to exceed**
41 **one hundred square feet in size, and any permanently inscribed or**
42 **securely affixed brand identified nonrefrigerated item that promotes**
43 **intoxicating liquor;**

44 (3) "Nonrefrigeration dispensing accessories", includes regulators,
45 gauges, vents, nuts, clamps, splicers, keg stackers, washers, shanks,
46 wall brackets, beer and air distributors, beer line insulation, beer and
47 gas hoses, faucets, taps, tap standards, couplers, air pumps draft arms,
48 blankets or other coverings for temporary wrapping of barrels, and
49 tavern head and their internal parts;

50 (4) "Permanent point-of-sale advertising materials", advertising items
51 designed to be used within a retail business establishment for an extended period
52 of time to attract consumer attention to the products of a distiller, wholesaler,
53 winemaker or brewer. Such materials shall only include inside signs (electric,
54 mechanical or otherwise), mirrors, **table umbrellas**, and sweepstakes/contest
55 prizes displayed on the licensed premises;

56 [(4)] (5) "Product display", wine racks, **portable branded**
57 **nonrefrigerated coolers**, bins, barrels, casks, shelving or similar items the
58 primary function of which is to hold and display consumer products;

59 [(5)] (6) "Promotion", an advertising and publicity campaign to further
60 the acceptance and sale of the merchandise or products of a distiller, wholesaler,
61 winemaker, or brewer;

62 [(6)] (7) "Temporary point-of-sale advertising materials", advertising
63 items designed to be used for short periods of time. Such materials include, but
64 are not limited to: banners, decorations reflecting a particular season or a
65 limited-time promotion, or paper napkins, coasters, cups, **tap handles, ice**
66 **buckets, condiment caddies, napkin holders, bar rail mats, shakers, salt**
67 **rimmers**, or menus.

68 4. Notwithstanding other provisions contained herein, the distiller,
69 wholesaler, winemaker or brewer, or their employees, officers or agents may
70 engage in the following activities with a retail licensee licensed pursuant to this
71 chapter:

72 (1) The distiller, wholesaler, winemaker, or brewer may give or sell
73 product displays to a retail business if all of the following requirements are met:

74 (a) The total value of all product displays given or sold to a retail business
75 shall not exceed three hundred dollars per brand at any one time in any one
76 retail outlet. There shall be no combining or pooling of the three hundred dollar
77 limits to provide a retail business a product display in excess of three hundred
78 dollars per brand. The value of a product display is the actual cost to the
79 distiller, wholesaler, winemaker, or brewer who initially purchased such product
80 display. Transportation and installation costs shall be excluded;

81 (b) All product displays shall bear in a conspicuous manner substantial
82 advertising matter on the product or the name of the distiller, wholesaler,
83 winemaker, or brewer. The name and address of the retail business may appear
84 on the product displays; and

85 (c) The giving or selling of product displays may be conditioned on the
86 purchase of intoxicating beverages advertised on the displays by the retail
87 business in a quantity necessary for the initial completion of the product display.
88 No other condition shall be imposed by the distiller, wholesaler, winemaker, or
89 brewer on the retail business in order for such retail business to obtain the
90 product display;

91 (2) Notwithstanding any provision of law to the contrary, the distiller,

92 wholesaler, winemaker, or brewer may provide, give or sell any permanent
93 point-of-sale advertising materials, temporary point-of-sale advertising materials,
94 and consumer advertising specialties to a retail business if all the following
95 requirements are met:

96 (a) The total value of all permanent point-of-sale advertising materials
97 provided to a retail business by a distiller, wholesaler, winemaker, or brewer
98 shall not exceed five hundred dollars per calendar year, per brand, per retail
99 outlet. **The replacement of similar in appearance, type, and dollar value**
100 **permanent point-of-sale advertising materials that are damaged and**
101 **nonfunctioning shall not count towards the maximum of five hundred**
102 **dollars per calendar year, per brand, per retail outlet.** The value of
103 permanent point-of-sale advertising materials is the actual cost to the distiller,
104 wholesaler, winemaker, or brewer who initially purchased such
105 item. Transportation and installation costs shall be excluded. All permanent
106 point-of-sale advertising materials provided to a retailer shall be recorded, and
107 records shall be maintained for a period of three years;

108 (b) The provider of permanent point-of-sale advertising materials shall
109 own and otherwise control the use of permanent point-of-sale advertising
110 materials that are provided by any distiller, wholesaler, winemaker, or brewer;

111 (c) All permanent point-of-sale advertising materials, temporary
112 point-of-sale advertising materials, and consumer advertising specialties shall
113 bear in a conspicuous manner substantial advertising matter about the product
114 or the name of the distiller, wholesaler, winemaker, or brewer. The name,
115 address and logos of the retail business may appear on the permanent
116 point-of-sale advertising materials, temporary point-of-sale advertising materials,
117 or the consumer advertising specialties; and

118 (d) The distiller, wholesaler, winemaker, or brewer shall not directly or
119 indirectly pay or credit the retail business for using or distributing the permanent
120 point-of-sale advertising materials, temporary point-of-sale advertising materials,
121 or consumer advertising specialties or for any incidental expenses arising from
122 their use or distribution;

123 (3) A distiller, wholesaler, winemaker, or brewer may give a gift not to
124 exceed a value of one thousand dollars per year to a holder of a temporary permit
125 as [defined] **described** in section 311.482;

126 (4) The distiller, wholesaler, winemaker, or brewer may sell equipment
127 [or] **and** supplies to a retail business if all the following requirements are met:

128 (a) The equipment and supplies shall be sold at a price not less than the
129 cost to the distiller, wholesaler, winemaker, or brewer who initially purchased
130 such equipment and supplies; and

131 (b) The price charged for the equipment and supplies shall be collected in
132 accordance with credit regulations as established in the code of state regulations;

133 (5) The [distiller,] wholesaler[, winemaker] or brewer may install
134 **nonrefrigeration** dispensing accessories at the retail business establishment,
135 which shall include for the purposes of beer equipment to properly preserve and
136 serve draught beer only and to facilitate the delivery to the retailer the brewers
137 and wholesalers may lend, give, rent or sell and they may install or repair [any
138 of the following items or render to retail licensees any of the following services:
139 beer coils and coil cleaning, sleeves and wrappings, box couplings and draft arms,
140 beer faucets and tap markers, beer and air hose, taps, vents and washers, gauges
141 and regulators, beer and air distributors, beer line insulation, coil flush hose,
142 couplings and bucket pumps; portable coil boxes, air pumps, blankets or other
143 coverings for temporary wrappings of barrels, coil box overflow pipes, tilting
144 platforms, bumper boards, skids, cellar ladders and ramps, angle irons, ice box
145 grates, floor runways;] **nonrefrigeration dispensing accessories** and damage
146 caused by any beer delivery excluding normal wear and tear [and a]. A complete
147 record of [equipment] **nonrefrigeration dispensing accessories** furnished
148 and installed and repairs and service made or rendered must be kept by the
149 brewer or wholesalers furnishing, making or rendering same for a period of not
150 less than one year;

151 (6) The distiller, wholesaler, winemaker, or brewer may furnish, give, or
152 sell [coil] cleaning **and sanitation** [service] **services** to a retailer to **preserve**
153 **product integrity** of distilled spirits, wine, or malt beverages;

154 (7) A wholesaler of intoxicating liquor may furnish or give and a retailer
155 may accept a sample of distilled spirits or wine as long as the retailer has not
156 previously purchased the brand from that wholesaler, if all the following
157 requirements are met:

158 (a) The wholesaler may furnish or give not more than seven hundred fifty
159 milliliters of any brand of distilled spirits and not more than seven hundred fifty
160 milliliters of any brand of wine; if a particular product is not available in a size
161 within the quantity limitations of this subsection, a wholesaler may furnish or
162 give to a retailer the next larger size;

163 (b) The wholesaler shall keep a record of the name of the retailer and the

164 quantity of each brand furnished or given to such retailer;

165 (c) For the purposes of this subsection, no samples of intoxicating liquor
166 provided to retailers shall be consumed on the premises nor shall any sample of
167 intoxicating liquor be opened on the premises of the retailer except as provided
168 by the retail license;

169 (d) For the purpose of this subsection, the word "brand" refers to
170 differences in brand name of product or differences in nature of product; examples
171 of different brands would be products having a difference in: brand name; class,
172 type or kind designation; appellation of origin (wine); viticulture area (wine);
173 vintage date (wine); age (distilled spirits); or proof (distilled spirits); differences
174 in packaging such a different style, type, size of container, or differences in color
175 or design of a label are not considered different brands;

176 (8) The distiller, wholesaler, winemaker, or brewer may package and
177 distribute intoxicating beverages in combination with other nonalcoholic items as
178 originally packaged by the supplier for sale ultimately to consumers;
179 notwithstanding any provision of law to the contrary, for the purpose of this
180 subsection, intoxicating liquor and wine wholesalers are not required to charge
181 for nonalcoholic items any more than the actual cost of purchasing such
182 nonalcoholic items from the supplier;

183 (9) The distiller, wholesaler, winemaker, or brewer may sell or give the
184 retail business newspaper cuts, mats, or engraved blocks for use in the
185 advertisements of the retail business;

186 (10) The distiller, wholesaler, winemaker, or brewer may in an
187 advertisement list the names and addresses of two or more unaffiliated retail
188 businesses selling its product if all of the following requirements are met:

189 (a) The advertisement shall not contain the retail price of the product;

190 (b) The listing of the retail businesses shall be the only reference to such
191 retail businesses in the advertisement;

192 (c) The listing of the retail businesses shall be relatively inconspicuous in
193 relation to the advertisement as a whole; and

194 (d) The advertisement shall not refer only to one retail business or only
195 to a retail business controlled directly or indirectly by the same retail business;

196 (11) Distillers, winemakers, wholesalers, brewers or retailers may conduct
197 a local or national sweepstakes/contest upon a licensed retail premise. The
198 sweepstakes/contest prize dollar amount shall not be limited and can be displayed
199 in a photo, banner, or other temporary point-of-sale advertising materials on a

200 licensed premises, if the following requirements are met:

201 (a) No money or something of value is given to the retailer for the
202 privilege or opportunity of conducting the sweepstakes or contest; and

203 (b) The actual sweepstakes/contest prize is not displayed on the licensed
204 premises if the prize value exceeds the permanent point-of-sale advertising
205 materials dollar limit provided in this section;

206 (12) The distiller, wholesaler, winemaker, or brewer may stock, rotate,
207 rearrange or reset the products sold by such distiller, wholesaler, winemaker, or
208 brewer at the establishment of the retail business so long as the products of any
209 other distiller, wholesaler, winemaker, or brewer are not altered or disturbed;

210 (13) The distiller, wholesaler, winemaker, or brewer may provide a
211 recommended shelf plan or shelf schematic for distilled spirits, wine, or malt
212 beverages;

213 (14) The distiller, wholesaler, winemaker, or brewer participating in the
214 activities of a retail business association may do any of the following:

215 (a) Display, serve, or donate its products at or to a convention or trade
216 show;

217 (b) Rent display booth space if the rental fee is the same paid by all
218 others renting similar space at the association activity;

219 (c) Provide its own hospitality which is independent from the association
220 activity;

221 (d) Purchase tickets to functions and pay registration or sponsorship fees
222 if such purchase or payment is the same as that paid by all attendees,
223 participants or exhibitors at the association activity;

224 (e) Make payments for advertisements in programs or brochures issued
225 by retail business associations if the total payments made for all such
226 advertisements are fair and reasonable;

227 (f) Pay dues to the retail business association if such dues or payments
228 are fair and reasonable;

229 (g) Make payments or donations for retail employee training on preventive
230 sales to minors and intoxicated persons, checking identifications, age verification
231 devices, and the liquor control laws;

232 (h) Make contributions not to exceed one thousand dollars per calendar
233 year for transportation services that shall be used to assist patrons from retail
234 establishments to his or her residence or overnight accommodations;

235 (i) Donate or serve up to five hundred dollars per event of alcoholic

236 products at retail business association activities; and

237 (j) Any retail business association that receives payments or donations
238 shall, upon written request, provide the division of alcohol and tobacco control
239 with copies of relevant financial records and documents to ensure compliance with
240 this subsection;

241 (15) The distiller, wholesaler, winemaker, or brewer may sell or give a
242 permanent outside sign to a retail business if the following requirements are met:

243 (a) The sign, which shall be constructed of metal, glass, wood, plastic, or
244 other durable, rigid material, with or without illumination, or painted or
245 otherwise printed onto a rigid material or structure, shall bear in a conspicuous
246 manner substantial advertising matter about the product or the name of the
247 distiller, wholesaler, winemaker, or brewer;

248 (b) The retail business shall not be compensated, directly or indirectly, for
249 displaying the permanent sign or a temporary banner;

250 (c) The cost of the permanent sign shall not exceed five hundred dollars;
251 and

252 (d) Temporary banners of a seasonal nature or promoting a specific event
253 shall not be constructed to be permanent outdoor signs and may be provided to
254 retailers. The total cost of temporary outdoor banners provided to a retailer in
255 use at any one time shall not exceed five hundred dollars per brand;

256 (16) A wholesaler may, but shall not be required to, exchange for an equal
257 quantity of identical product or allow credit against outstanding indebtedness for
258 intoxicating liquor with alcohol content of less than five percent by weight **and**
259 **malt liquor** that was delivered in a damaged condition or damaged while in the
260 possession of the retailer;

261 (17) To assure and control product quality, wholesalers at the time of a
262 regular delivery may, but shall not be required to, withdraw, with the permission
263 of the retailer, a quantity of intoxicating liquor with alcohol content of less than
264 five percent by weight **and malt liquor** in its undamaged original carton from
265 the retailer's stock, if the wholesaler replaces the product with an equal quantity
266 of identical product;

267 (18) In addition to withdrawals authorized pursuant to subdivision (17)
268 of this subsection, to assure and control product quality, wholesalers at the time
269 of a regular delivery may, but shall not be required to, withdraw, with the
270 permission of the retailer, a quantity of intoxicating liquor with alcohol content
271 of less than five percent by weight **and malt liquor** in its undamaged original

272 carton from the retailer's stock and give the retailer credit against outstanding
273 indebtedness for the product if:

274 (a) The product is withdrawn at least thirty days after initial delivery and
275 within twenty-one days of the date considered by the manufacturer of the product
276 to be the date the product becomes inappropriate for sale to a consumer; and

277 (b) The quantity of product withdrawn does not exceed the equivalent of
278 twenty-five cases of twenty-four twelve-ounce containers; and

279 (c) To assure and control product quality, a wholesaler may, but not be
280 required to, give a retailer credit for intoxicating liquor with an alcohol content
281 of less than five percent by weight **and malt liquor**, in a container with a
282 capacity of four gallons or more, delivered but not used, if the wholesaler removes
283 the product within seven days of the initial delivery; and

284 (19) Nothing in this section authorizes consignment sales.

285 5. (1) A distiller, wholesaler, winemaker, or brewer that is also in
286 business as a bona fide producer or vendor of nonalcoholic beverages shall not
287 condition the sale of its alcoholic beverages on the sale of its nonalcoholic
288 beverages nor combine the sale of its alcoholic beverages with the sale of its
289 nonalcoholic beverages, except as provided in subdivision (8) of subsection 4 of
290 this section. The distiller, wholesaler, winemaker, or brewer that is also in
291 business as a bona fide producer or vendor of nonalcoholic beverages may sell,
292 credit, market, and promote nonalcoholic beverages in the same manner in which
293 the nonalcoholic products are sold, credited, marketed, or promoted by a
294 manufacturer or wholesaler not licensed by the supervisor of alcohol and tobacco
295 control.

296 (2) Any fixtures, equipment, or furnishings provided by any distiller,
297 wholesaler, winemaker, or brewer in furtherance of the sale of nonalcoholic
298 products shall not be used by the retail licensee to store, service, display,
299 advertise, furnish, or sell, or aid in the sale of alcoholic products regulated by the
300 supervisor of alcohol and tobacco control. All such fixtures, equipment, or
301 furnishings shall be identified by the retail licensee as being furnished by a
302 licensed distiller, wholesaler, winemaker, or brewer.

303 6. Distillers, wholesalers, brewers, and winemakers, or their officers or
304 directors shall not require, by agreement or otherwise, that any retailer purchase
305 any intoxicating liquor from such distillers, wholesalers, brewers, or winemakers
306 to the exclusion in whole or in part of intoxicating liquor sold or offered for sale
307 by other distillers, wholesalers, brewers, or winemakers.

308 7. Notwithstanding any other provisions of this chapter to the contrary,
309 a distiller or wholesaler may install **nonrefrigeration** dispensing accessories at
310 the retail business establishment, which shall include for the purposes of distilled
311 spirits equipment to properly preserve and serve premixed distilled spirit
312 beverages only. To facilitate delivery to the retailer, the distiller or wholesaler
313 may lend, give, rent or sell and the distiller or wholesaler may install or repair
314 [any of the following items or render to retail licensees any of the following
315 services: coils and coil cleaning, draft arms, faucets and tap markers, taps, tap
316 standards, tapping heads, hoses, valves and other minor tapping equipment
317 components,] **nonrefrigeration dispensing accessories** and damage caused
318 by any delivery excluding normal wear and tear. A complete record of
319 [equipment] **nonrefrigeration dispensing accessories** furnished and
320 installed and repairs or service made or rendered shall be kept by the distiller or
321 wholesaler furnishing, making or rendering the same for a period of not less than
322 one year.

323 8. Distillers, wholesalers, winemakers, brewers or their employees or
324 officers shall be permitted to make contributions of money or merchandise to a
325 licensed retail liquor dealer that is a charitable, fraternal, civic, service,
326 veterans', or religious organization as defined in section 313.005, or an
327 educational institution if such contributions are unrelated to such organization's
328 retail operations.

329 9. Distillers, brewers, wholesalers, and winemakers may make payments
330 for advertisements in programs or brochures of tax-exempt organizations licensed
331 under section 311.090 if the total payments made for all such advertisements are
332 the same as those paid by other vendors.

333 10. A brewer or manufacturer, its employees, officers or agents may have
334 a financial interest in the retail business for sale of intoxicating liquors at
335 entertainment facilities owned, in whole or in part, by the brewer or
336 manufacturer, its subsidiaries or affiliates including, but not limited to, arenas
337 and stadiums used primarily for concerts, shows and sporting events of all kinds.

338 11. For the purpose of the promotion of tourism, a wine manufacturer, its
339 employees, officers or agents located within this state may apply for and the
340 supervisor of liquor control may issue a license to sell intoxicating liquor, as
341 defined in this chapter, by the drink at retail for consumption on the premises
342 where sold, if the premises so licensed is in close proximity to the winery. Such
343 premises shall be closed during the hours specified under section 311.290 and

344 may remain open between the hours of 9:00 a.m. and midnight on Sunday.

345 12. For the purpose of the promotion of tourism, a person may apply for
346 and the supervisor of liquor control may issue a license to sell intoxicating liquor
347 by the drink at retail for consumption on the premises where sold, but
348 seventy-five percent or more of the intoxicating liquor sold by such licensed
349 person shall be Missouri-produced wines received from manufacturers licensed
350 under section 311.190. Such premises may remain open between the hours of
351 6:00 a.m. and midnight, Monday through Saturday, and between the hours of
352 11:00 a.m. and 9:00 p.m. on Sundays.

Unofficial ✓

Bill

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