

FIRST REGULAR SESSION

# HOUSE BILL NO. 184

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE JOHNSON (47).

Read 1<sup>st</sup> time January 14, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0921L.02I

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### AN ACT

To repeal sections 311.080, 311.097, 311.098, 311.102, 311.200, 311.290, 311.293, 311.325, 311.328, 311.360, 311.630, 312.407, and 312.410, RSMo, and to enact in lieu thereof thirteen new sections relating to liquor control, with penalty provisions.

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

Section A. Sections 311.080, 311.097, 311.098, 311.102, 311.200, 311.290, 311.293, 311.325, 311.328, 311.360, 311.630, 312.407, and 312.410, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 311.080, 311.097, 311.098, 311.102, 311.200, 311.290, 311.293, 311.325, 311.328,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.

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. In such cases, and where the ordinance has been lawfully enacted, no license of any character shall issue in conflict with the

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is new proposed language.**

13 ordinance while it is in effect; except, that when a school, church or place of worship is  
14 established within the prohibited distance from any place of business licensed to sell intoxicating  
15 liquor, the license shall not be denied [for lack of consent in writing as herein provided] **for this**  
16 **reason.**

311.097. 1. Notwithstanding any other provisions of this chapter to the contrary, any  
2 person who possesses the qualifications required by this chapter, and who now or hereafter meets  
3 the requirements of and complies with the provisions of this chapter, may apply for, and the  
4 supervisor of liquor control may issue, a license to sell intoxicating liquor, as in this chapter  
5 defined, between the hours of [11:00 a.m.] **9:00 a.m.** on Sunday and midnight on Sunday by the  
6 drink at retail for consumption on the premises of any restaurant bar as described in the  
7 application. As used in this section, the term "restaurant bar" means any establishment having  
8 a restaurant or similar facility on the premises at least fifty percent of the gross income of which  
9 is derived from the sale of prepared meals or food consumed on such premises or which has an  
10 annual gross income of at least two hundred thousand dollars from the sale of prepared meals  
11 or food consumed on such premises.

2. The authority for the collection of fees by cities and counties as provided in section  
13 311.220, and all other laws and regulations of the state relating to the sale of liquor by the drink  
14 for consumption on the premises where sold, shall apply to a restaurant bar in the same manner  
15 as they apply to establishments licensed under sections 311.085, 311.090 and 311.095, and in  
16 addition to all other fees required by law, a restaurant bar shall pay an additional fee of two  
17 hundred dollars a year payable at the same time and in the same manner as its other license fees.

3. Any new restaurant bar having been in operation for less than ninety days may be  
19 issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on  
20 the premises between the hours of [11:00 a.m.] **9:00 a.m.** and midnight on Sunday for a period  
21 not to exceed ninety days if the restaurant bar can show a projection of annual business from  
22 prepared meals or food consumed on the premises of at least fifty percent of the total gross  
23 income of the restaurant bar for the year or can show a projection of annual business from  
24 prepared meals or food consumed on the premises which would exceed not less than two  
25 hundred thousand dollars. The license fee shall be prorated for the period of the temporary  
26 license based on the cost of the annual license for the establishment.

4. In counties of the first class having a charter form of government and which contain  
28 all or a part of a city having a population of at least three hundred fifty thousand, any restaurant  
29 bar licensed under the provisions of this section which is located on the grounds of a sports  
30 stadium primarily used for professional sporting events may sell intoxicating liquor by the drink  
31 at retail for consumption within the premises of the restaurant bar on Sunday between the hours  
32 of [11:00 a.m.] **9:00 a.m.** and 12:00 midnight notwithstanding the hours of limitation set forth

33 in subsection 1 of this section.

34 5. The provisions of this section regarding the time of closing shall not apply to any  
35 person who possesses a special permit issued under section 311.174, 311.176, or 311.178.

311.098. 1. Notwithstanding any other provisions of this chapter to the contrary, any  
2 person who possesses the qualifications required by this chapter, and who now or hereafter meets  
3 the requirements of and complies with the provisions of this chapter, may apply for, and the  
4 supervisor of liquor control may issue, a license to sell intoxicating liquor, as defined in this  
5 chapter, between the hours of [11:00 a.m.] **9:00 a.m.** and midnight on Sunday by the drink at  
6 retail for consumption on the premises of any amusement place as described in the application.  
7 As used in this section the term "amusement place" means any establishment whose business  
8 building contains a square footage of at least six thousand square feet, and where games of skill  
9 commonly known as billiards, volleyball, indoor golf, bowling or soccer are usually played, or  
10 has a dance floor of at least two thousand five hundred square feet, or any outdoor golf course  
11 with a minimum of nine holes, and which has annual gross receipts of at least one hundred  
12 thousand dollars of which at least fifty thousand dollars of such gross receipts is in nonalcoholic  
13 sales.

14 2. The authority for the collection of fees by cities and counties as provided in section  
15 311.220, and all other laws and regulations of the state relating to the sale of liquor by the drink  
16 for consumption on the premises where sold, shall apply to an amusement place in the same  
17 manner as they apply to establishments licensed under sections 311.085, 311.090 and 311.095,  
18 and in addition to all other fees required by law, an amusement place shall pay an additional fee  
19 of two hundred dollars a year payable at the same time and in the same manner as its other fees.

20 3. Any new amusement place having been in operation for less than ninety days may be  
21 issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on  
22 the premises between the hours of [11:00 a.m.] **9:00 a.m.** and midnight on Sunday for a period  
23 not to exceed ninety days if the amusement place can show a projection of gross receipts of at  
24 least one hundred thousand dollars of which at least fifty thousand dollars of such gross receipts  
25 are in nonalcoholic sales for the first year of operation. The license fee shall be prorated for the  
26 period of the temporary license based on the cost of the annual license for the establishment.

311.102. 1. Notwithstanding any other provisions of this chapter to the contrary, any  
2 person who possesses the qualifications required by this chapter, and who meets the requirements  
3 of and complies with the provisions of this chapter may apply for, and the supervisor of liquor  
4 control may issue, a license to sell intoxicating liquor by the drink at retail for consumption on  
5 the premises of any place of entertainment, as defined in this section, between the hours of  
6 [11:00 a.m.] **9:00 a.m.** on Sunday and midnight on Sunday. As used in this section, the term  
7 "place of entertainment" means any establishment located in a city not within a county or in a

8 county of the first classification having a charter form of government with a population of at least  
9 nine hundred thousand or more inhabitants or in a county of the first classification having a  
10 charter form of government containing any portion of a city with a population of three hundred  
11 eighty thousand or more or in any city with a population of three hundred eighty thousand or  
12 more which is located in more than one county which has occupancy capacity for patrons of at  
13 least three hundred and which has gross annual sales in excess of two hundred fifty thousand  
14 dollars and the establishment has been in operation for at least one year.

15 2. The authority for the collection of fees by cities and counties as provided in section  
16 311.220, and all other laws and regulations of the state relating to the sale of liquor by the drink  
17 for consumption on the premises where sold, shall apply to a place of entertainment in the same  
18 manner as they apply to establishments licensed pursuant to sections 311.085, 311.090, and  
19 311.095, and in addition to all other fees required by law, a place of entertainment shall pay an  
20 additional fee of two hundred dollars a year payable at the same time and in the same manner as  
21 its other license fees.

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

20 3. **For every license issued for the sale of malt liquor at retail by drink for**  
21 **consumption on the premises where sold, the licensee shall pay to the director of revenue**  
22 **the sum of twenty-five dollars per year, which license shall also permit the holder thereof**

23 to sell nonintoxicating beer as defined in chapter 312, RSMo. Notwithstanding the  
24 provisions of section 311.290, any person licensed pursuant to this subsection may also sell  
25 malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

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

31 [4.] 5. For every license issued for the sale of all kinds of intoxicating liquor, at retail by  
32 the drink for consumption on premises of the licensee, the licensee shall pay to the director of  
33 revenue the sum of three hundred dollars per year, which shall include the sale of intoxicating  
34 liquor in the original package.

35 [5.] 6. For every license issued to any railroad company, railway sleeping car company  
36 operated in this state, for sale of all kinds of intoxicating liquor, as defined in this chapter, at  
37 retail for consumption on its dining cars, buffet cars and observation cars, the sum of one  
38 hundred dollars per year; except that such license shall not permit sales at retail to be made while  
39 such cars are stopped at any station. A duplicate of such license shall be posted in every car  
40 where such beverage is sold or served, for which the licensee shall pay a fee of one dollar for  
41 each duplicate license.

42 [6.] 7. All applications for licenses shall be made upon such forms and in such manner  
43 as the supervisor of liquor control shall prescribe. No license shall be issued until the sum  
44 prescribed by this section for such license shall be paid to the director of revenue.

311.290. [1.] No person having a license under this law, nor any employee of such  
2 person, [except as provided in subsection 2 of this section,] shall sell, give away, or [otherwise  
3 dispose of, or suffer the same to be done upon or about his premises] **permit the consumption**  
4 **of**, any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on  
5 weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday, **upon or about**  
6 **his or her premises**. If the person has a license to sell intoxicating liquor by the drink, his  
7 premises shall be and remain a closed place as defined in this section between the hours of 1:30  
8 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m.  
9 Monday. Where such licenses authorizing the sale of intoxicating liquor by the drink are held  
10 by clubs or hotels, this section shall apply only to the room or rooms in which intoxicating liquor  
11 is dispensed; and where such licenses are held by restaurants whose business is conducted in one  
12 room only and substantial quantities of food and merchandise other than intoxicating liquors are  
13 dispensed, then the licensee shall keep securely locked during the hours and on the days specified  
14 in this section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating liquor

15 is dispensed. A "closed place" is defined to mean a place where all doors are locked and where  
16 no patrons are in the place or about the premises. Any person violating any provision of this  
17 section shall be deemed guilty of a class A misdemeanor. Nothing in this section shall be  
18 construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on  
19 any of the days specified in this section by a wholesaler licensed under the provisions of section  
20 311.180 to a person licensed to sell the intoxicating liquor at retail.

21 [2. Any person licensed pursuant to section 311.200 shall not be permitted to sell, give  
22 away, or otherwise dispose of, or suffer the same to be done upon or about his premises, any  
23 intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays  
24 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  
2 contrary, any person possessing the qualifications and meeting the requirements of this chapter,  
3 who is licensed to sell intoxicating liquor in the original package at retail [under] **pursuant to**  
4 section 311.200, may apply to the supervisor of liquor control for a special license to sell  
5 intoxicating liquor in the original package at retail between the hours of [11:00 a.m.] **9:00 a.m.**  
6 and midnight on Sundays. A licensee under this section shall pay to the director of revenue an  
7 additional fee of two hundred dollars a year payable at the same time and in the same manner as  
8 its other license fees.

9 2. In addition to any fee collected pursuant to section 311.220, a city or county may  
10 charge and collect an additional fee not to exceed three hundred dollars from any licensee under  
11 this section for the privilege of selling intoxicating liquor in the original package at retail  
12 between the hours of 11:00 a.m. and midnight on Sundays in such city or county; however the  
13 additional fee shall not exceed the fee charged by that city or county for a special license issued  
14 pursuant to any provision of this chapter which allows a licensee to sell intoxicating liquor by  
15 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  
2 to purchase, or has in his possession, any intoxicating liquor as defined in section 311.020 is  
3 guilty of a misdemeanor. For purposes of prosecution under this section or any other provision  
4 of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under  
5 twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating  
6 liquor therein need not be opened or the contents therein tested to verify that there is intoxicating  
7 liquor in such container. The alleged violator may allege that there was not intoxicating liquor  
8 in such container, but the burden of proof of such allegation is on such person, as it shall be  
9 presumed that such a sealed container describing that there is intoxicating liquor therein contains  
10 intoxicating liquor.

11 **2. For purposes of determining violations of any provision of this chapter, or of any**

12 **rule or regulation of the supervisor of liquor control, a manufacturer-sealed container**  
13 **describing that there is intoxicating liquor therein need not be opened or the contents**  
14 **therein tested to verify that there is intoxicating liquor in such container. The alleged**  
15 **violate may allege that there was not intoxicating liquor in such container, but the burden**  
16 **of proof of such allegation is on such person, as it shall be presumed that such a sealed**  
17 **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  
2 the provisions of section 302.177, RSMo, or [the] **a valid and unexpired** operator's or  
3 chauffeur's license issued under the laws of the states of Arkansas, Illinois, Oklahoma, Kansas,  
4 or Iowa to residents of those states, or [an] **a valid and unexpired** identification card as  
5 provided for under section 302.181, RSMo, or [the] **a valid and unexpired** identification card  
6 issued by any uniformed service of the United States, or a valid **and unexpired** passport shall  
7 be presented by the holder thereof upon request of any agent of the division of liquor control or  
8 any licensee or the servant, agent or employee thereof for the purpose of aiding the licensee or  
9 the servant, agent or employee to determine whether or not the person is at least twenty-one years  
10 of age when such person desires to purchase or consume alcoholic beverages procured from a  
11 licensee. Upon such presentation the licensee or the servant, agent or employee thereof shall  
12 compare the photograph and physical characteristics noted on the license, identification card or  
13 passport with the physical characteristics of the person presenting the license, identification card  
14 or passport.

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

18 3. Any person who shall, without authorization from the department of revenue,  
19 reproduce, alter, modify, or misrepresent any chauffeur's license, motor vehicle operator's license  
20 or identification card shall be deemed guilty of a misdemeanor and upon conviction shall be  
21 subject to a fine of not more than one thousand dollars, and confinement for not more than one  
22 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  
2 intoxicating liquor in this state, or shall offer for sale any such malt liquor, or other intoxicating  
3 liquor, whatsoever, brewed, manufactured or distilled by one manufacturer, in substitution for,  
4 or with the representation that any such malt liquor or other intoxicating liquor, is the product  
5 of any other brewer, manufacturer or distiller. Whosoever shall violate the provisions of this  
6 section shall be deemed guilty of a misdemeanor.

7 [2. Any malt liquor which is offered for sale in this state and manufactured at other than  
8 a facility owned by the person whose name appears on the label of the container shall include on

9 the label the name and location of the owner of the facility which produced and packaged the  
10 malt liquor. This subsection shall become effective January 1, 1997.]

311.630. 1. The supervisor of liquor control and employees to be selected and  
2 designated as peace officers by the supervisor of liquor control are hereby declared to be peace  
3 officers of the state of Missouri, with full power and authority to make arrests [only] **and**  
4 **searches and seizures** for violations of the provisions of chapters 311 and 312, RSMo, relating  
5 to intoxicating liquors and nonintoxicating beer, [and to make searches and seizures thereunder,]  
6 **and sections 407.924 to 407.934, RSMo, relating to tobacco products,** and to serve any  
7 process connected with the enforcement of such laws. The peace officers so designated shall  
8 have been previously appointed and qualified under the provisions of section 311.620 and shall  
9 [have completed the mandatory standards for the basic training and certification of peace officers  
10 established by the peace officers standards and training commission] **be required to hold a**  
11 **valid peace officer license pursuant to chapter 590, RSMo.**

12 2. **Notwithstanding the provisions of subsection 1 of this section, employees selected**  
13 **and designated as peace officers by the supervisor of the division of liquor control shall**  
14 **also have full power and authority to make arrests:**

15 (1) **For all offenses incident to an investigation pursuant to chapter 311 or 312, or**  
16 **sections 407.924 to 407.934, RSMo, and in such cases the peace officers shall notify the local**  
17 **law enforcement agency of the investigation; and**

18 (2) **In connection with any offenses when aiding and assisting the sheriff of any**  
19 **county or the chief of police of any municipality, or their designated representatives, or**  
20 **other state law enforcement agency, at their request.**

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

25 [3.] 4. All fees for the arrest and transportation of persons arrested and for the service  
26 of writs and process shall be the same as provided by law in criminal proceedings and shall be  
27 taxed as costs.

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



8 nonintoxicating beer in such container, but the burden of proof of such allegation is on such  
9 person, as it shall be presumed that such a sealed container describing that there is  
10 nonintoxicating beer therein contains nonintoxicating beer.

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

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