

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 450**  
**93RD GENERAL ASSEMBLY**

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Reported from the Committee on Economic Development, Tourism and Local Government, April 12, 2005, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0929S.04C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 311.325 and 311.554, RSMo, and to enact in lieu thereof seventeen new sections relating to wine, with penalty provisions.

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

Section A. Sections 311.325 and 311.554, RSMo, are repealed and seventeen new  
2 sections enacted in lieu thereof, to be known as sections 262.820, 262.823, 262.826,  
3 262.829, 262.832, 262.835, 262.838, 262.841, 262.844, 262.847, 262.850, 262.853, 262.856,  
4 262.859, 311.101, 311.325, and 311.554, to read as follows:

**262.820. There is hereby created the "Missouri Wine and Grape Board",**  
2 **a body politic and corporate, an independent instrumentality exercising**  
3 **essential public functions, with duties and powers as set forth in sections**  
4 **262.820 to 262.859.**

**262.823. The purpose of the board shall be to further the growth and**  
2 **development of the grape growing industry in the state of Missouri. The**  
3 **board shall have a correlate purpose of fostering the expansion of the grape**  
4 **market for Missouri grapes. To effectuate these goals, the board may:**

5 **(1) Participate in cooperation with state, regional, national, or**  
6 **international activities, groups, and organizations whose objectives are that**  
7 **of developing new and better grape varieties to determine their suitability for**  
8 **growing in Missouri;**

9 **(2) Participate in and develop research projects on improved wine**  
10 **making methods utilizing the new grape varieties to be grown in Missouri;**

11 **(3) Utilize the individual and collective expertise of the board members**  
12 **as well as experts in the fields of enology and viticulture selected by the**

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

13 board, to update and improve the quality of grapes grown in Missouri and  
14 advanced methods of producing wines from these Missouri grapes;

15 (4) Furnish current information and associated data on research  
16 conducted by and for the board to grape growers and vintners in Missouri as  
17 well as to interested persons considering entering these fields within the  
18 state; and

19 (5) Participate in subsequent studies, programs, research, and  
20 information and data dissemination in the areas of sales, promotions, and  
21 effective distribution of Missouri wines.

262.826. As used in sections 262.820 to 262.859, the following terms shall  
2 mean:

3 (1) "Board", the Missouri wine and grape board established pursuant  
4 to section 262.820;

5 (2) "Council", the Missouri wine marketing and research council  
6 established pursuant to section 275.462, RSMo.

262.829. The principal office of the board shall be located in Jefferson  
2 City, Missouri. The board may have offices at such other places as the board  
3 may from time to time designate. The board shall act as the organization  
4 within the department of agriculture charged with the promotion, research,  
5 and advisement of grapes and grape products in Missouri, and shall be the  
6 sole recipient of funding as provided for in section 311.554, RSMo.

262.832. Notwithstanding the provisions of any other law to the  
2 contrary, no officer or employee of this state shall be deemed to have  
3 forfeited or shall forfeit his or her office or employment by reason of his or  
4 her acceptance of membership on the board or his or her service thereto.

262.835. The powers of the board shall be vested in eleven members,  
2 who shall be residents of this state. The board shall be composed of seven  
3 industry members who shall represent the Missouri grape and wine industry,  
4 food service industry, or media marketing industry. These seven members  
5 shall be current members of the Missouri grape and wine advisory board as  
6 of the effective date of this act. Such members shall serve the remainder of  
7 their terms established for the advisory board. Upon the expiration of the  
8 terms of such members, the members of the board representing the industry  
9 shall be appointed by the governor, with the advice and consent of the  
10 senate. Except for ex-officio members, each board member appointed by the  
11 governor shall serve a four-year term ending four years from the date of  
12 expiration of the term for which his or her predecessor was appointed; except

13 that a person appointed to fill a vacancy prior to the expiration of such a  
14 term shall be appointed for the remainder of the term. No board member  
15 appointed under sections 262.820 to 262.859 by the governor shall serve more  
16 than two consecutive full terms. Each appointed board member shall hold  
17 office for the term of the members appointment and until a successor is  
18 appointed and qualified. The board shall have four ex-officio members,  
19 including the president of the Missouri Grape Growers Association, the  
20 president of the Missouri Vintners Association, the president of the Missouri  
21 Wine Marketing and Research Council, and the director of the department of  
22 agriculture. Ex-officio members shall be voting members of the board and  
23 their terms will coincide with the time they hold the elected or appointed  
24 office qualifying them to be a member of the board.

262.838. A board member shall be removed from office by the governor  
2 for malfeasance, willful neglect of duty, or other cause after notice and public  
3 hearing, unless such notice or hearing shall be expressly waived in writing.

262.841. The board members shall annually elect from among their  
2 number a chairperson and vice chairperson, and such other officers as they  
3 may deem necessary.

262.844. The board shall meet in Jefferson City within sixty days of the  
2 effective date of this act to elect a chairperson and vice chairperson of the  
3 board. The committee shall thereafter meet annually, within sixty days of  
4 July first, to elect officers and conduct business of the board. Additional  
5 meetings shall be held at the call of the chairperson or whenever two board  
6 members so request. Six members of the board shall constitute a quorum, and  
7 any action taken by the board under the provisions of sections 262.820 to  
8 262.859 may be authorized by resolution approved by a majority, but not less  
9 than five, of the board members present at any regular or special meeting. In  
10 the absence of the chairman, the vice chairman may preside over the annual  
11 meeting of the board or in the absence of the chairman, any meeting  
12 requested by two or more board members. No vacancy in the membership of  
13 the board shall impair the right of a quorum to exercise all the rights and  
14 perform all the duties of the board.

262.847. Board members shall receive no compensation for the  
2 performance of their duties under sections 262.820 to 262.859, but each board  
3 member shall be reimbursed from the funds of the board for actual and  
4 necessary expenses incurred in carrying out the member's official duties  
5 under sections 262.820 to 262.859.

262.850. The board shall employ an executive director. The executive  
2 director shall be the secretary of the board and shall administer, manage, and  
3 direct the affairs and business of the board, subject to the policies, control,  
4 and direction of the board. The board may employ technical experts and such  
5 other officers, agents, and employees as they deem necessary, and may fix  
6 their qualifications, duties, and compensation. The executive director of the  
7 board shall be paid an amount to be determined by the board, but not to  
8 exceed that of a division director of the department of agriculture. The  
9 executive director and all other employees of the board shall be state  
10 employees and eligible for all corresponding benefits. The board may  
11 delegate to the executive director, or to one or more of its agents or  
12 employees, such powers and duties as it may deem proper.

262.853. The secretary shall keep a record of the proceedings of the  
2 board and shall be custodian of all books, documents, and papers filed with  
3 the board and of its minute book. The secretary shall have the authority to  
4 cause to be made copies of all minutes and other records and documents of  
5 the board.

262.856. The board shall have all of the powers necessary and  
2 convenient to carry out and effectuate the purposes and provisions of sections  
3 262.820 to 262.859, including, but not limited to, the power to:

4 (1) Receive and accept from any source, aid, or contributions of money,  
5 property, labor, or other things of value to be held, used, and applied to carry  
6 out the purposes of sections 262.820 to 262.859, subject to the conditions upon  
7 which the grants or contributions are made, including, but not limited to,  
8 gifts, or grants from any department, agency, or instrumentality of the United  
9 States for any purpose consistent with sections 262.820 to 262.859;

10 (2) To work with and counsel the viticulture and enology experts on  
11 the needs and requirements of grape producers and wine makers so as to  
12 optimize their work in developing the best strains of all grape varieties  
13 related to soil and climate conditions throughout the state and developing the  
14 art of wine making utilizing Missouri produced grapes;

15 (3) To review progress and final reports from these experts to  
16 determine the potential of economic forecasts for developing the Missouri  
17 grape and wine industries;

18 (4) To confer and cooperate with similar boards or councils in other  
19 states to further understandings and accords on the grape and wine  
20 industries;

21           **(5) To approve and recommend desirable amendments to these powers**  
22 **of the board; and**

23           **(6) To perform such other duties as may be necessary to proper**  
24 **operations of the board.**

**262.859. The board shall, following the close of each fiscal year, submit**  
2 **an annual report of its activities for the preceding year to the governor and**  
3 **the general assembly. Each report shall set forth a complete operating and**  
4 **financial statement for the board during the fiscal year it covers.**

**311.101. 1. Notwithstanding any other provision of law to the contrary,**  
2 **it shall not be unlawful for the owner, operator, or employees of a restaurant**  
3 **bar, as defined in section 311.097, to allow patrons to carry out one or more**  
4 **bottles of unfinished wine, nor shall it be unlawful for patrons of such**  
5 **restaurant bar to carry out one or more bottles of unfinished wine under the**  
6 **following conditions:**

7           **(1) The patron must have ordered a meal;**

8           **(2) The bottle or bottles of wine must have been at least partially**  
9 **consumed during the meal;**

10          **(3) The restaurant bar must provide a dated receipt for the unfinished**  
11 **bottle or bottles of wine; and**

12          **(4) The restaurant bar must securely reseal the bottle or bottles of wine**  
13 **and place them in one or more one-time-use, tamper-proof, transparent bags**  
14 **and securely seal the bags.**

15          **2. Notwithstanding any other provision of law, no person who**  
16 **transports one or more bottles of unfinished wine which came from a**  
17 **restaurant bar under the circumstances described in subsection 1 of this**  
18 **section, in a vehicle, shall be considered to have violated any state law or**  
19 **local ordinance regarding open containers in vehicles so long as such person**  
20 **has in his or her possession the dated receipt from the restaurant bar and the**  
21 **bottle or bottles of wine remain in the restaurant bar furnished, one-time-use,**  
22 **tamper-proof, transparent bags with the seals intact.**

**311.325. 1. Any person under the age of twenty-one years, who purchases or**  
2 **attempts to purchase, or has in his possession, any intoxicating liquor as defined in**  
3 **section 311.020 is guilty of a misdemeanor. For purposes of prosecution under this**  
4 **section or any other provision of this chapter involving an alleged illegal sale or transfer**  
5 **of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed**  
6 **container describing that there is intoxicating liquor therein need not be opened or the**  
7 **contents therein tested to verify that there is intoxicating liquor in such container. The**

8 alleged violator may allege that there was not intoxicating liquor in such container, but  
9 the burden of proof of such allegation is on such person, as it shall be presumed that  
10 such a sealed container describing that there is intoxicating liquor therein contains  
11 intoxicating liquor.

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

20 **3. The provisions of this section shall not apply to a student who:**

21 **(1) Is eighteen years of age or older;**

22 **(2) Is enrolled in an accredited college or university and is a student**  
23 **in a culinary course;**

24 **(3) Is required to taste, but not consume or imbibe, any beer, ale,**  
25 **porter, wine, or other similar malt or fermented beverage as part of the**  
26 **required curriculum; and**

27 **(4) Tastes a beverage under subdivision (3) of subsection 3 of this**  
28 **section only for instructional purposes during classes that are part of the**  
29 **curriculum of the accredited college or university.**

30 **The beverage must at all times remain in the possession and control of an**  
31 **authorized instructor of the college or university, who must be twenty-one**  
32 **years of age or older. Nothing in this subsection may be construed to allow**  
33 **a student under the age of twenty-one to receive any beer, ale, porter, wine,**  
34 **or other similar malt or fermented beverage unless the beverage is delivered**  
35 **as part of the student's required curriculum and the beverage is used only for**  
36 **instructional purposes during classes conducted as part of the curriculum.**

311.554. 1. In addition to the charges imposed by section 311.550, there shall  
2 be paid to and collected by the director of revenue for the privilege of selling wine, an  
3 additional charge of six cents per gallon or fraction thereof. The additional charge shall  
4 be paid and collected in the same manner and at the same time that the charges imposed  
5 by section 311.550 are paid and collected.

6 2. **Until June 30, 2006,** the revenue derived from the additional charge imposed  
7 by subsection 1 shall be deposited by the state treasurer to the credit of a separate

8 account in the marketing development fund created by section 261.035,  
9 RSMo. **Beginning July 1, 2006, the revenue derived from such additional**  
10 **charge shall be deposited by the state treasurer in the Missouri wine and**  
11 **grape fund created by this section.** Moneys to the credit of the account **and the**  
12 **Missouri wine and grape fund** shall be appropriated annually [for use by the division  
13 of the state department of agriculture concerned with] **to be used only for** market  
14 development in developing programs for growing, selling, and marketing of grapes and  
15 grape products grown in Missouri, including all necessary funding for the employment  
16 of experts in the fields of viticulture and enology as deemed necessary, and programs  
17 aimed at improving marketing of all varieties of grapes grown in Missouri; and shall be  
18 appropriated and used for no other purpose.

19 **3. There is hereby created in the state treasury the "Missouri Wine and**  
20 **Grape Fund", which shall consist of money collected under this section. The**  
21 **state treasurer shall be custodian of the fund and shall approve**  
22 **disbursements from the fund to the department of agriculture for use solely**  
23 **by the Missouri wine and grape board created under section 262.820, RSMo,**  
24 **in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation,**  
25 **money in the fund shall be used solely for the administration of this**  
26 **section. Notwithstanding the provisions of section 33.080, RSMo, to the**  
27 **contrary, any moneys remaining in the fund at the end of the biennium shall**  
28 **not revert to the credit of the general revenue fund. The state treasurer shall**  
29 **invest moneys in the fund in the same manner as other funds are**  
30 **invested. Any interest and moneys earned on such investments shall be**  
31 **credited to the fund.**

32 [3.] **4. In addition to the charges imposed by subsection 1 of this section and**  
33 **section 311.550, there shall be paid to and collected by the director of revenue for the**  
34 **privilege of selling wine an additional charge of six cents per gallon or fraction**  
35 **thereof. Until June 30, 2006, this additional six cents per gallon shall be deposited by**  
36 **the state treasurer to the credit of a separate account in the marketing development fund**  
37 **created by section 261.035, RSMo. Beginning July 1, 2006, the revenue derived**  
38 **from such additional charge shall be deposited by the state treasurer in the**  
39 **Missouri wine and grape fund created by this section.** Moneys to the credit of  
40 **the account and the Missouri grape and wine fund** shall be appropriated annually  
41 [for the use by the division of the Missouri department of agriculture concerned with]  
42 **to be used only for** the research and advisement of grapes and grape products in  
43 Missouri, including all necessary funding for the employment of experts in the fields of

44 viticulture and enology.

